



City of Tigard  
**Tigard Business Meeting – Agenda**

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**TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD AND CITY CENTER DEVELOPMENT AGENCY MEETING**

**MEETING DATE AND TIME:** November 24, 2015 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

**MEETING LOCATION:** City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

**PUBLIC NOTICE:**

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are *estimated*; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. *Business agenda items can be heard in any order after 7:30 p.m.*

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

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**VIEW LIVE VIDEO STREAMING ONLINE:**

<http://live.tigard-or.gov>

**CABLE VIEWERS:** The regular City Council meeting is shown live on Channel 28 at 7:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday	6:00 p.m.	Sunday	11:00 a.m.
Friday	10:00 p.m.	Monday	6:00 a.m.

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## Tigard Business Meeting – Agenda

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### **TIGARD CITY COUNCIL, LOCAL CONTRACT REVIEW BOARD AND CITY CENTER DEVELOPMENT AGENCY MEETING**

**MEETING DATE AND TIME:** November 24, 2015 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

**MEETING LOCATION:** City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

6:30 PM

- **STUDY SESSION**

- A. COUNCIL LIAISON REPORTS **6:30 p.m. estimated time**
- B. DISCUSS PARTICIPATION IN THE NATURAL HAZARD MITIGATION PLAN MANDATED FIVE-YEAR REVIEW **6:45 p.m. estimated time**
- C. BRIEFING ON LAKE OSWEGO/TIGARD WATER PARTNERSHIP **6:55 p.m. estimated time**

- **EXECUTIVE SESSION:** The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

- 1. BUSINESS MEETING
  - A. Call to Order
  - B. Roll Call
  - C. Pledge of Allegiance
  - D. Council Communications & Liaison Reports
  - E. Call to Council and Staff for Non-Agenda Items
- 2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- A. Follow-up to Previous Citizen Communication
  - B. Tigard Area Chamber of Commerce
  - C. Citizen Communication – Sign Up Sheet
3. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board) These items are considered routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to: **7:35 p.m. estimated time**
- A. APPROVE CITY COUNCIL MINUTES:
    - November 10, 2015
  - B. CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN A METRO NATURE IN NEIGHBORHOODS GRANT FOR THE DIRKSEN NATURE PARK
  - C. LOCAL CONTRACT REVIEW BOARD: CONSIDERATION OF CONTRACT AWARD FOR STREET SWEEPING
- Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council/City Center Development Agency has voted on those items which do not need discussion.*
4. RECEIVE PROGRESS REPORT ON THE IMPLEMENTATION OF THE STRATEGIC PLAN **7:40 p.m. estimated time**
5. ADOPT 2016 STATE AND FEDERAL LEGISLATIVE AGENDA **7:50 p.m. estimated time**
6. CCDA BOARD CONSIDERATION TO AMEND THE CITY CENTER URBAN RENEWAL PLAN TO ACQUIRE 12533-12537 SW MAIN STREET **8:05 p.m. estimated time**
7. COUNCIL CONSIDERATION OF AMENDMENT TO THE CITY CENTER URBAN RENEWAL PLAN TO ACQUIRE 12533-12537 SW MAIN STREET **8:10 p.m. estimated time**
8. COUNCIL CONSIDERATION OF SALE OF 12533-12537 SW MAIN STREET (THE "SAXONY PROPERTIES") **8:15 p.m. estimated time**
9. CCDA BOARD CONSIDERATION OF RESOLUTION TO PURCHASE THE SAXONY PROPERTY **8:20 p.m. estimated time**
10. NON AGENDA ITEMS

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to discuss pending litigation and litigation likely to be filed, under ORS 192.660(2) (h). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public. **8:30 p.m. estimated time**

11. ADJOURNMENT **9:00 p.m. estimated time**

**AIS-2076**

**A.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 15 Minutes

**Agenda Title:** Council Liaison Reports

**Submitted By:** Norma Alley, Central Services

**Item Type:** Update, Discussion, Direct Staff

**Meeting Type:** Council  
Business  
Mtg - Study  
Sess.

**Public Hearing:** No

**Publication Date:**

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**Information**

**ISSUE**

Council will present liaison reports.

**STAFF RECOMMENDATION / ACTION REQUEST**

**KEY FACTS AND INFORMATION SUMMARY**

**OTHER ALTERNATIVES**

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A

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**Attachments**

*No file(s) attached.*

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**AIS-2388**

**B.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 10 Minutes

**Agenda Title:** Natural Hazard Mitigation Plan Mandated Five-year Review

**Prepared For:** Mike Lueck

**Submitted By:** Mike Lueck, Public Works

**Item Type:** Motion Requested

**Meeting Type:** Council Workshop Mtg.

**Public Hearing** No

**Newspaper Legal Ad Required?:**

**Public Hearing Publication**

**Date in Newspaper:**

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**Information**

**ISSUE**

Should the council approve a draft intergovernmental agreement (IGA) with Washington County to allow Tigard to contribute in-kind services to participate in a joint effort to review and update the city's and the county's Natural Hazard Mitigation Plans (NHMP)?

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff recommends that council approve the draft IGA.

**KEY FACTS AND INFORMATION SUMMARY**

Washington County is in the process of updating the countywide Natural Hazard Mitigation Plan (NHMP) and is receiving assistance from the University of Oregon (UO) to complete the project. The county has allocated funds for this five-year mandated review and Tigard, among several other entities, can benefit from participating. Tigard's NHMP can also be updated along with the county's plan by contributing matching resources in the amount of \$7,000 in the form of in-kind services. Tigard's emergency services coordinator has been participating in this project since it was started in April 2015 and has been maintaining a detailed accounting of his time and activities associated with the project. He forecasts that the value of his time in participation will exceed the threshold requirement.

Washington County and their legal representatives have reviewed and made appropriate revisions to the draft IGA and are expected to sign it soon. In-kind matching for Washington

County parties is effective as of April 1, 2015. Staff is requesting council's approval of the draft IGA.

**OTHER ALTERNATIVES**

Council could choose to not participate in the countywide project and review Tigard's NHMP independently. This approach would not be as timely, cost-effective or as closely coordinated.

**COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS**

N/A

**DATES OF PREVIOUS CONSIDERATION**

Council last reviewed, approved and adopted the current NHMP in June, 2009.

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**Fiscal Impact**

**Cost:** \$7000.00

**Budgeted (yes or no):** Yes

**Where Budgeted (department/program):** PW Admin

**Additional Fiscal Notes:**

There is a requirement for a \$7000 in-kind match requirement to participate in the update project. The city's emergency service coordinator (ESC) has been maintaining a detailed accounting of time and activities and forecasts that we will exceed the threshold requirement.

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**Attachments**

WACO IGA-NHMP

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## INTERGOVERNMENTAL AGREEMENT

This Agreement is entered into, by and between Washington County, a political subdivision of the State of Oregon, the City of Tigard.

WHEREAS ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Now, therefore, the parties agree as follows:

1. The effective date is: July 1, 2015, or upon final signature, whichever is later.  
  
The expiration date is March 1, 2016; unless otherwise amended.
2. The parties agree to the terms and conditions set forth in Attachment A, which is incorporated herein, and describes the responsibilities of the parties, including compensation, if any.
3. Each party shall comply with all applicable federal, state, and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.
4. To the extent applicable, the provisions of ORS 279B.220 through ORS 279B.235 and ORS 279C.500 through 279C.870 are incorporated by this reference as though fully set forth.
5. Each party is an independent contractor with regard to each other party(s) and agrees that the performing party has no control over the work and the manner in which it is performed. No party is an agent or employee of any other.
6. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
7. This Agreement may be terminated, with or without cause and at any time, by a party by providing \_\_\_\_\_ (30 if not otherwise marked) days written notice of intent to the other party(s).
8. Modifications to this Agreement are valid only if made in writing and signed by all parties.
9. Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.
10. Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.

11. Each party agrees to maintain insurance or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274.
12. Each party agrees to comply with all local, state and federal ordinances, statutes, laws, and regulations that are applicable to the services provided under this Agreement.
13. This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.
14. This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

**CITY OF TIGARD**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address: \_\_\_\_\_

**WASHINGTON COUNTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Address: \_\_\_\_\_

\_\_\_\_\_  
Mail Stop # \_\_\_\_\_  
Hillsboro, OR 97123

# ATTACHMENT “A”

## WASHINGTON COUNTY / UNIVERSITY OF OREGON INTERGOVERNMENTAL AGREEMENT SCOPE OF WORK FOR NATURAL HAZARDS MITIGATION PLAN

### ROLES AND RESPONSIBILITIES

#### University of Oregon (UO):

- Serve as the primary contact for information about the natural hazard mitigation plan update process
- Serve as a technical advisor to Washington County emergency management staff
- Provide plan development support to the County through training sessions, conference calls, e-mails, completion of plan update tasks as identified in the objectives section, and face-to-face meetings
- Communicate with the Washington County project lead a minimum of once per month
- Participate in local Natural Hazards Mitigation Action Plan (NHMAP) update meetings as needed on invitation from the Washington County Project Lead
- Provide the following planning resources:
  - FEMA plan update resources and UO's 2009-10 Natural Hazards Mitigation Plan Update Manual
  - Washington County NHMAP resource website on UO's website (<http://csc.uoregon.edu/UO>)
  - UO's Natural Hazard Mitigation Plan Templates
  - Sample Action Item Report
  - UO's Action Item Form
  - Plan Appendix – Cost-Benefit Analysis of Mitigation Actions
- Write the Natural Hazard Mitigation Plan
- Guide the draft plan through the FEMA review process and local adoption process
- Grant administration

#### Washington County:

- Convene, coordinate and staff the Washington County NHMAP Steering Committee. This committee will serve as an advisory board to Washington County Emergency Management (WCEM) (See Task 2)
- Coordinate and support development Tigard's NHMAP within the county NHMAP document (See Task 1)
- Coordinate and implement public outreach process (See Task 3)
- Facilitate and document the local planning process as defined in the tasks of this Scope of Work (See Task 1 – 11)
- Develop, design and co-facilitate with UO three plan update work session meetings with the Washington County steering committee (See Task 4, Mtg. 1; Task 5 – 6, Mtg. 2; Task 7 – 8, Mtg. 3)

- Document plan updates and amendments throughout the process (See Task 1 – 11)
- Track and fulfill agreement deliverables and complete and submit quarterly progress reports (See Task 1 - 11)
- Work with UO to submit the draft NHMAP to WCEM and FEMA for review and pre-approval (See Task 10)
- Present the FEMA pre-approved plan to the Washington County Board of Commissioners for local adoption (See Task 12)
- Submit a record of hours worked on the NHMAP update by Washington County, Tigard, and other staff and cost per hour or submit payment for up to \$3,350.00 to meet the 25% non-federal cost share

### Tigard:

- Convene a local NHMAP steering committee (e.g. planning commission, city council or ad hoc committee)
- Provide at least one representative and actively participate in the county steering committee meetings and Plan Update Work Sessions
- Participate in the County's public outreach and engagement process
- Develop locally relevant mitigation strategies
- Track project in-kind or financial contributions for project cost-share requirements
- Present the FEMA pre-approved plan to the City Council for adoption

## PROJECT BUDGET AND COMMITMENTS

### Project Budget:

Total project cost: \$28,000.00

25% matching cost: \$7,000.00

Washington County has allocated funds in the FY15-16 budget in the amount of \$3,350.00, and this is the amount Washington County has committed under this agreement for matching funds in the form of direct financial contribution; however, it is anticipated that in-kind matching sources by participating organizations will meet the 25% cost share requirement of approximately \$7,000.00. Project organizations eligible for matching requirements include (additional organizations may be included):

- City of Hillsboro
- City of Tigard
- Clean Water Services
- Tualatin Valley Water District
- Tualatin Valley Fire and Rescue
- Washington County Department of Land Use and Transportation

Organizations eligible for contributing toward the cost share through in-kind match will keep detailed records of time spent on the project, hourly costs, and activities conducted. In-kind matching for Washington County parties is effective as of March 1, 2015.

## OVERVIEW OF TASKS AND TIMELINES

### Local NHMAP Update Technical Assistance and Support

The following section outlines the tasks that UO will implement to assist Washington County in updating their natural hazards mitigation action plan.

#### Objective 1: Project Kickoff and Coordination

Task 1.1: UO will participate in monthly update conference calls with Washington County Emergency Management (WCEM) to provide project updates.

Task 1.1 Timeline: Monthly

Task 1.2: UO will meet with the WCEM staff (Emergency Management Supervisor and DLUT Emergency Management Coordinator) to clarify the goals and objectives of the project and discuss the project timeline and potential participants. UO will work with the WCEM staff to identify steering committee participants. This meeting will be held in-person at the WCEM office.

Task 1.2 Timeline: March 11, 2015

Task 1.2 Product(s): Project lead identified (DLUT Emergency Management Coordinator)

#### Objective 2: Finalize Project Work Plan

Task 2.1: Project lead [DLUT Emergency Management Coordinator] will identify project steering committee members with guidance from UO. Project lead will recruit steering committee members and solidify project commitments. Project lead will identify and recruit participation from cities wishing to join the mitigation plan update process and have county and city mitigation plans coupled in this update.

Task 2.1 Timeline: Project weeks 2 and 3 (June, 2015)

Task 2.1 Product(s): Mitigation Plan Steering Committee identified

Task 2.2: Project lead will obtain and review sample Intergovernmental Agreements (IGA) and Scopes of Work (SOW) which will be used to solidify relationships between Washington County and UO for the plan update. UO will provide sample IGA and SOW documents to support the development for this plan update.

Task 2.2 Timeline: Project week 1 (June 2015)

Task 2.2 Product(s): IGA and SOW examples provided by UO

Task 2.3: Project lead will coordinate with Washington County Support Services, Purchasing to identify the project relationship with partnering organizations, which will be formalized through an IGA.

Task 2.3 Timeline: Project weeks 4 and 5 (July 2015)

Task 2.3 Product(s): Draft IGA ready for review by Washington County Purchasing and UO

Task 2.4: Project lead will create a Scope of Work (SOW)

Task 2.4 Timeline: Project weeks 4 and 5 (July 2015)

Task 2.4 Product(s): Draft SOW to be included as Attachment "A" for the IGA (this document)

Task 2.5: Project lead will provide the draft IGA to Washington County, Purchasing for review. Upon approval, will provide the draft to UO for review and approval

Task 2.5 Timeline: Project weeks 4 through 6 (July, 2015)

Task 2.5 Product(s): Approved project IGA

Task 2.6: Project lead will coordinate a project kick off meeting where UO will provide to the Washington County NHMAP Steering Committee an overview of the NHMAP update process, review the scope of work, present a draft Community Profile (if ready), and discuss the project timeline. Topics to discuss at this meeting include:

- Overview of Natural Hazards Mitigation. Committee members will be briefed on natural hazard mitigation, its purpose, and the benefits that a mitigation plan can provide a community.
- Plan update process and timeline. This meeting will discuss the planning process for updating or developing a NHMAP, and a rough timeline for completing before the plan expires February 11, 2016.
- Hazard Identification: UO will provide an overview of hazards impacting the County and discuss what variations exist, if any, for the participating jurisdictions.
- Discuss Risk Assessment: Risk assessment methodologies, common risk assessment barriers and ways to deal with them will be discussed. The County will have a chance to review the existing risk assessment.
- Mitigation Strategy: The Disaster Mitigation Act of 2000 requires that mitigation plans include a set of plan goals. Plan goals will be discussed and developed. The steering committee will preview existing mitigation actions items and begin a discussion on their update.

Task 2.6 Timeline: Project week 9 (August, 2015)

Task 2.6 Product(s): Project Kickoff Meeting

### Objective 3: Distribute Planning Resources

Task 3.1: Once the project leads and steering committee are established, UO will distribute planning resources to include UO's Pre-Disaster Mitigation Training Manual and the Pre-Disaster Mitigation Plan Update Manual. These documents describe the process, resources and steps needed to update a NHMAP to meet and in most cases, exceed the minimum FEMA planning requirements. Additional resources are available on the UO website.

Task 3.2 Timeline: Project week 7 (July, 2015)

Task 3.2 Product(s): UO's Pre-Disaster Mitigation Training Manual and the Pre-Disaster Mitigation Plan Update Manual

Task 3.2: In addition to the plan development training manual, UO will provide a planning initiative website for this project. The website will be part of the UO's website and will include all available electronic documents and resources presented at the work sessions. The website, in cooperation with the University of Oregon's Scholars' Bank, will also serve as the repository for final adopted plans, making them web accessible to the general public.

Task 3.2 Timeline: Project week 7 (July, 2015)

Task 3.2 Product(s): Project website: <http://UO.uoregon.edu/current/Washington>

### Objective 4: Update Community Profile

Task 4.1: UO will update existing community profile information for Washington County and participating cities and make any necessary changes to relate information in the profile to natural hazards mitigation. The profiles will include information about the county environment, climate, and geography; population and demographic data for the 16 Washington County cities and unincorporated areas; information on vulnerable populations; land use and development data; the economy including critical infrastructure and key resources and the labor force; infrastructure and critical facilities data; and cultural and historic assets. Potential data sources for completing community profiles include: comprehensive plans, storm water ordinances, community wildfire protection plans, US Census, national register of historic places, and the Portland State University Population Research Center. Additionally, the community profile will describe the government structure, existing plans and policies, and community organizations and programs.

Task 4.1 Timeline: Project weeks 4 through 9 (July through August, 2015)

Task 4.1 Product(s): Draft Community Profile for Washington County (Section 2 of updated NHMAP)  
Draft Community Profiles for Hillsboro and Tigard

Task 4.2: UO will review the comprehensive plans of each of the participating communities and will identify opportunities to integrate information from the mitigation plans therein through completion of a "Goal 7 Crosswalk." UO will prepare a Comprehensive Plan Crosswalk summary as well as a Conclusions and Recommendations Memo that identifies specific areas within the Comprehensive Plan to be updated.

Task 4.2 Timeline: Project weeks 11 through 14 (August and September, 2015)

Task 4.2 Product(s): Comprehensive Plan Crosswalks and Conclusions and Recommendations Memo

### Objective 5: Update Natural Hazard Identification and Risk Assessment

Task 5.1: UO will work with local, regional and state partners to identify and compile the best available hazard data for the following hazards: flood, landslide, winter storm, wildfire, earthquake, and volcanic eruption. UO will query partners at OEM, DOGAMI, DLCD, USGS, USFS and others to ensure the most current, relevant hazard data for the region is captured. UO will partner with Washington County GIS or a contractor for any updates to hazard maps.

Task 5.1 Timeline: Project weeks 5 through 17 (July through September, 2015)

Task 5.1 Product(s): Updated draft hazard description and history information in Section 3: Natural Hazard Identification and Risk Assessment; Updated draft hazard description and history information for Hillsboro and Tigard

Task 5.2: As part of this objective, UO will work with the staff leads in the county and each participating city (Hillsboro and Tigard) to obtain lists of all known local hazard data sets. NHMAP Steering Committee members and city leads will provide current hazard data to compliment the query results.

Task 5.2 Timeline: Project weeks 9 through 12 (August 2015)

Task 5.2 Product(s): Updated draft hazard information in Section 3: Natural Hazard Identification and Risk Assessment; Updated draft hazard information for Hillsboro and Tigard

Task 5.3: UO will work with Washington County and participating cities staff (Hillsboro and Tigard) to compile and analyze best available hazard and development trend data to support the development of a vulnerability analysis, using 2012 Washington County Hazard Analysis as the basis for this task.

Task 5.3 Timeline: Project weeks 11 through 17 (August and September, 2015)

Task 5.3 Product(s): Updated draft vulnerability analysis information in Section 3: Natural Hazard Identification and Risk Assessment; Updated draft vulnerability analysis information for Hillsboro and Tigard

Task 5.4: The Washington County NHMAP Risk Assessment utilizes a hazard analysis matrix and a scoring system dependent upon four factors: history, vulnerability, maximum threat, and probability. Using updated hazard information from Tasks 5.1 and 5.2, the Steering Committee will update the Risk Assessment in a risk assessment update meeting. The steering committee will conduct the risk assessment for the county and cities and update Section 3: Natural Hazard Identification & Risk Assessment. UO will work with Washington County to ensure that updated information developed through this task is available for incorporation into other existing emergency management documents (e.g. Hazard Analysis, Emergency Operations Plan, Continuity of Operations, etc.).

Task 5.4 Timeline: Project weeks 16 through 20 (September and October, 2015); Risk Assessment Update Meeting project weeks 18, 19, or 20 (October, 2015)

Task 5.4 Product(s): Updated draft risk assessment information in Section 3: Natural Hazard Identification and Risk Assessment; Updated draft risk assessment information for Hillsboro and Tigard; Project lead facilitated risk assessment update meeting with NHMAP Steering Committee and UO

#### Objective 6: Update Action Items and Plan Implementation

Task 6.1: UO will obtain data from the NHMAP committee and assemble a list of 2011 NHMAP action items that have been completed since the plan was adopted. This list will be used to provide input on the 2016 NHMAP action items (Section 4: Action Items and Implementation).

Task 6.1 Timeline: Project weeks 8 through 11 (July and August, 2015)

Task 6.1 Product(s): Completed action items list

Task 6.2: The NHMAP Steering Committee and UO will convene to evaluate 2011 NHMAP action items and assess their viability for the 2016 NHMAP. UO and the NHMAP Steering Committee will develop new mitigation action items. The 2011 NHMAP implementation schedule will be reviewed and an implementation strategy for the 2016 NHMAP will be created. This meeting will be in conjunction with the Risk Assessment Update meeting (Task 5.4).

Task 6.2 Timeline: Project week 18, 19, or 20 (October, 2015)

Task 6.2 Product(s): -

Task 6.3: Following the action items meeting, UO will update and create a draft 2016 NHMAP Section 4: Action Items and Implementation. City representatives will update action items and implementation section for city appendices.

Task 6.3 Timeline: Project week 21 and 22 (October and November, 2015)

Task 6.3 Product(s): Updated draft action items for 2016 NHMAP (Section 4: Action Items and Implementation); Updated draft action items for the cities of Hillsboro and Tigard

Task 6.4: UO will update Appendix A: Action Item Change Memo.

Task 6.4 Timeline: Project week 21 and 22 (October and November, 2015)

Task 6.4 Product(s): Updated draft Appendix A: Action Item Change Memo; Updated draft complementary information for the respective city appendices

### Objective 7: Public Outreach

Task 7.1: Throughout the plan update process, mitigation plan update project managers from neighboring jurisdictions will meet to discuss activities and coordinate public outreach and engagement strategies.

Task 7.1 Timeline: Project weeks 2 through 22 (June through November, 2015)

Task 7.1 Product(s): -

Task 7.2: Project lead will attend public engagement meetings / events hosted by Portland Bureau of Emergency Management (June 22, 2015) and other neighboring jurisdictions to learn about their update process, gather and evaluate public input, and assess their engagement strategies. These events will be evaluated as potential options for use in Washington County.

Task 7.2 Timeline: Project weeks 2 through 18 (June through October, 2015)

Task 7.2 Product(s): -

Task 7.3: Project lead with input from steering committee members and UO will create an online survey as a tool to obtain public input on the planning process and current mitigation activities.

Task 7.3 Timeline: Project weeks 7 through 17 (July through September, 2015)

Task 7.3 Product(s): Online survey to gather public input

Task 7.4: Project lead and / or NHMAP Steering Committee members will participate in public events to engage citizens and gather input and / or advertise the public survey. The cities are encouraged to participate in the public outreach efforts.

Task 7.4 Timeline: Project weeks 4 through 18 (July through October, 2015)

Task 7.4 Product(s): Public input on mitigation actions for the county

Task 7.5: UO will aggregate public input data and share with NHMAP Steering Committee members for review and input. Information gathered will be reviewed and the NHMAP Steering Committee will determine viability for action items at the action items meeting.

Task 7.5 Timeline: Project weeks 18 and 19 (October, 2015)

Task 7.5 Product(s): List of aggregated public input data for use as potential mitigation actions

Task 7.6: UO will update Appendix C: Public Process to reflect public engagement activities. City leads will update the public process information for their respective appendices.

Task 7.6 Timeline: Project weeks 18 and 19 (October, 2015)

Task 7.6 Product(s): Updated draft Appendix C: Public Process. Updates draft public process sections in the city appendices.

### Objective 8: Draft Plan Preparation and Review

Task 8.1: UO and the NHMAP project lead will update the Appendix F: Additional Maps and Appendix G: Acronyms section of the plan.

Task 8.1 Timeline: Project weeks 22 and 23 (November, 2015)

Task 8.1 Product(s): Updated draft Appendices F: Additional Maps and G: Acronyms

Task 8.2: UO will complete final draft plan edits and assemblage and provide the draft to the NHMAP Steering Committee.

Task 8.2 Timeline: Project week 24 (November, 2015)

Task 8.2 Product(s): Initial draft of 2016 Washington County NHMAP

Task 8.3: Upon receiving the draft NHMAP, the NHMAP Steering Committee members will review the plan.

Task 8.3 Timeline: Project week 24 (November, 2015)

Task 8.3 Product(s): -

Task 8.4: UO will submit the draft 2016 Washington County NHMAP to OEM for submittal to FEMA for review. FEMA will review the draft plan and submit comments / changes needed for plan compliance.

Task 8.4 Timeline: Project weeks 25 through 28 (November and December, 2015)

Task 8.4 Product(s): FEMA plan review

Task 8.5: UO will incorporate FEMA input in the draft plan and provide the final draft to the NHMAP Steering Committee. NHMAP Committee members will review the final plan.

Task 8.5 Timeline: Project weeks 29 (December, 2015)

Task 8.5 Product(s): Final draft 2016 Washington County NHMAP

### Objective 9: Final Plan Review and Adoption

Task 9.1: NHMAP project lead will request a Washington County Board agenda item to submit the plan for adoption. Cities will seek plan adoption of their respective city addenda.

Task 9.1 Timeline: Project weeks 30 through 32 (December, 2015 and January, 2016)

Task 9.1 Product(s): Washington County approved 2016 NHMAP

Task 9.2: UO will submit the approved 2016 NHMAP to OEM for final approval by FEMA

Task 9.2 Timeline: Project weeks 33 through 36 (January and February, 2016)

Task 9.2 Product(s): FEMA approved 2016 Washington County NHMAP

**AIS-2384**

**C.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 20 Minutes

**Agenda Title:** Briefing on Lake Oswego/Tigard Water Partnership Activities

**Submitted By:** Dennis Koellermeier, Public Works

**Item Type:** Update, Discussion, Direct Staff      **Meeting Type:** Council  
Business  
Mtg - Study  
Sess.

**Public Hearing:** No

**Publication Date:**

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**Information**

**ISSUE**

Staff will present an update on current activities in the Lake Oswego/Tigard Water Partnership construction program and local efforts to prepare and introduce the new water supply into Tigard.

**STAFF RECOMMENDATION / ACTION REQUEST**

No Council action is necessary.

**KEY FACTS AND INFORMATION SUMMARY**

**OTHER ALTERNATIVES**

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

The Council was last briefed formally on February 10, 2015. Tigard's members to the Oversight Committee, Mayor Cook and Councilor Snider are briefed on a monthly basis.

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**Attachments**

*No file(s) attached.*

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**AIS-2472**

**3. A.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** Consent Item

**Agenda Title:** Approve City Council Meeting Minutes

**Submitted By:** Carol Krager, Central Services

**Item Type:** Motion Requested

**Meeting Type:** Consent  
Agenda

**Public Hearing:**

**Publication Date:**

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**Information**

**ISSUE**

Approve City Council meeting minutes.

**STAFF RECOMMENDATION / ACTION REQUEST**

Approve minutes as submitted.

**KEY FACTS AND INFORMATION SUMMARY**

Attached council minutes are submitted for City Council approval:

- November 10, 2015

**OTHER ALTERNATIVES**

N/A

**COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

N/A

**DATES OF PREVIOUS COUNCIL CONSIDERATION**

N/A

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**Attachments**

November 10, 2015 Minutes

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## City of Tigard

### Tigard City Council/CCDA Meeting Minutes

November 10, 2015

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#### STUDY SESSION

- A. COUNCIL LIAISON REPORTS - Councilor Woodard reported on the PRAB meeting where they were given an update on the proposed Park and Recreation Charge. He said the Friends of Bull Mountain have raised \$23,000 and still need \$45,000 in order to be eligible for a Nature in Neighborhoods \$125,900 grant from Metro.

Councilor Henderson reported on the Willamette River Water Coalition meeting and distributed a diagram showing their proposed governance format. He said they want three council representatives from the cities.

Council President Snider said he met with the Audit Committee and things look good with very minor issues identified. He also reported on the Lake Oswego/Tigard Water Partnership. He noted that discussions will be necessary to consider future governance over the water system. Options include continuing oversight between the two cities as is done currently or creating a separate entity such as South fork Water District. Uniform representation is desired but costs to run it need to be considered.

Mayor Cook noted recent ribbon cuttings for the Waluga Reservoir and the Gladstone River Intake Pump System (RIPS). The Bonita Pump Station is undergoing testing. Mayor Cook described some of the sessions he attended at the National League of Cities including economic development and downtowns.

Councilor Goodhouse represented the city at the Costco gas station ribbon cutting. He attended the TTAC meeting where a discussion was held on the street maintenance fee and sidewalk gap program. TTAC will weigh in on the street maintenance fee and are suggesting increasing the percentage paid by commercial property owners.

- B. BRIEFING ON AN AGREEMENT WITH METRO REGARDING A GRANT TO DEVELOP DIRKSEN NATURE PARK - Project Managers Staedter and Peck briefed council on the project and efforts to shift elements in order to arrive at the 2:1 match for the Metro grant. Work will include two boardwalks, a nature play area, wetland restoration, the environmental education center and interpretives. Mayor Cook asked if there was an issue if half-street improvements are not done near the environmental education center. Project Manager Peck said that is a condition of approval but there is no specific timeline. Funding will be sought for that but the city is not restricted by a deadline. In response to a question from Councilor Woodard, Project Manager Staedter said that Agilyx is a local company that donated \$49,000 because they wanted to help the city. Camas bulbs were planted, also donated by Agilyx.

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#### **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 10, 2015**

C. DISCUSSION ON UPCOMING CONTRACTS - Contracts Manager Barrett described two contracts (utility billing and street sweeping) and one IGA. Assistant Finance Director Fitzpatrick was introduced to council. Council authorized staff to put the utility billing and street sweeping contracts on a future consent agenda. The IGA is with the Portland Police Bureau. They are putting together a multi-jurisdictional Intellectual Property Crime Enforcement Task Force (IPCE) through a COPS grant and requested that Tigard’s commercial crimes unit participate on this on an overtime basis. The IGA specifies that the grant will cover the cost of police staff overtime and training. Lt. Eskew and Sgt. Erickson discussed this growing area of criminal activity (fake Coach handbags, etc.) which does not stop at city boundaries. Council said this IGA may be placed on a future consent agenda. Councilor Henderson asked if the business tax pays for gasoline for the commercial crimes unit officers and Finance and Information Services Director LaFrance said staff will get a response for him.

1. BUSINESS MEETING – November 10, 2015



- A. At 7:37 p.m. Mayor Cook called the meeting to order.
- B. City Recorder Krager called the roll.

	Present	Absent
Councilor Goodhouse	x	
Councilor Henderson	x	
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	

- C Mayor Cook asked everyone to stand and join him in the Pledge of Allegiance.
- D Mayor Cook called to council and staff for Non-Agenda Items.

2. CITIZEN COMMUNICATION

- A. Follow-up to Previous Citizen Communication - None
- B. Tigard High School Student Envoy - Student Body President Shaina Azbari recapped recent and future events at Tigard High. An Open Table event educated students on cultural diversity and brought them together over food donated by restaurants and the community. There were 300 students at this after-school event. A Halloween event allowed young children an opportunity to do Halloween activities and trick or treat without having to be outside in the cold, wet weather. The annual Veterans Assembly and Breakfast was held on November 6 with over 70 veterans attending. The first THS Open Mic night was held tonight and there will be a Poetry Slam next week. Leadership

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 10, 2015**

students represented Tigard High at the Oregon Association of Student Councils. The girls soccer team made it into the semi-finals.

- C. Tigard Area Chamber of Commerce – CEO Debi Mollahan was unable to attend and will give an update at the next business meeting.
- D. Citizen Communication – Sign-up Sheet.

 Mark Forker, 5293 NE Elam Young Parkway, Hillsboro, OR 97124, from the Willamette West Habitat for Humanity spoke. He said since 1988 they celebrate at property tax and remind city councils the families in Habitat Homes contribute \$190,000 in property taxes to help build better roads and bridges. This is more than the county would receive if Habitat was not helping people move from substandard rental housing into homes. He said, “Our success is your success.” He shared that they bought some land in King City and will build 60 units. Mayor Cook said staff has been looking for property in Tigard and Metzger. Mr. Forker said they would like to help to move that along.

Steve Kraemer, 14931 SW 88<sup>th</sup> Avenue, Tigard, OR 97223, said he read about a ten percent water rate increase one year ago. The news story said there were few complaints. He said he had been paying \$40-45 every other month and his bill increased to \$132, which is three times what he had been paying. His house is eight years old. Early complaints to the city got him responses on how to save water. He heard from Mayor Cook and Utility Manager Goodrich. He said the problem is not usage but that his house has a 1-inch water meter so the base rate is high. He said he pays 2.5 cents per gallon but others are paying one cent for the same amount. He has been told the city will not be discussing the rate schedule until 2018. He suggested that the city divide the meter cost evenly among all users. Those with five-eighth inch meters would pay \$2.60 more but those with one-inch meters would pay \$29.49 less.

 Council President Snider said the responses from staff and mayor did not adequately answer his question and there is a rationale for why it costs more to provide service to a one-inch meter. The difference is that he has a water meter that requires that the city is able to provide him with more water at a peak time than anyone else with a smaller meter. The infrastructure to be able to do that costs more. He used the analogy of a fire department. Citizens have to pay for the readiness of the system whether it is in use or not. It will not be equitable to have it be completely based on a use charge because the system has to be bigger for a one inch meter. He said it would not be equitable to have it based just on use because the system has to be bigger for a one-inch meter. Mr. Kraemer said maybe a 20 percent upcharge for someone with more capacity would be more reasonable.

Councilor Woodard said he recognized him from an Intergovernmental Water Board meeting where he spoke about this and staff told he may need to decommission some sinks in the house but Mr. Kraemer was not willing to do this. That discussion ended by suggesting he take this to council. He said council does not have a good solution at this time but maybe the timeframe for the rate discussion could be moved up. Water meter sizes are based upon how many faucets, toilets, sinks, hose bibs. Mayor Cook clarified that water

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## **TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 10, 2015**

meter sizes are based upon the number of faucets, toilets and sinks are built into the house. Based on the size of the meter, whether it be five-eighths or one inch, the city is required to be able to supply water to all of those faucets, even if there are only two people living in the home. A house could be sold next week to a family of eight. The charge is based on the city having the capacity. Mr. Kraemer said he did not want to alter anything in his house and he plans to sell it in the future. He said he just wanted to bring this to the attention of the council.

Council President Snider said there is a general city policy to charge the actual service cost to customers and if this became a conversation happening prior to 2018 he would support that.

3. CONSENT AGENDA: (Tigard City Council and Local Contract Review Board) Mayor Cook noted that Councilor Henderson requested that Item C be removed for separate discussion.

A. RECEIVE AND FILE:

1. Council Calendar
2. Council Tentative Agenda for Future Meeting Topics

B. APPROVE CITY COUNCIL MINUTES:

October 13, 2015  
 October 20, 2015

Council President Snider moved for approval of the Consent Agenda minus Item C. Councilor Woodard seconded the motion.

	Yes	No
Councilor Goodhouse	x	
Councilor Henderson	x	
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	

Local Contract Review Board:

- C. CONSIDERATION OF A CONTRACT AWARD FOR DIRKSEN NATURE PARK ENVIRONMENTAL EDUCATION CENTER AND PATHWAY IMPROVEMENTS

Councilor Henderson asked to hear the staff report. Contracts Manager Barrett and Project Coordinator Peck gave the staff report. Contracts Manager Barrett said this contract is for improvements to the Dirksen Nature Park Environmental Education Center and Pathway Improvements. The project included mobilization, traffic control, erosion control, clearing and grubbing, improvements to the center itself, parking lot improvements, installation of a

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 10, 2015**

LIDA water quality facility, landscaping, an 8-foot wide concrete path and incidental work as The city issued an invitation to bid with bids due on September 24. One bid of three received was disqualified as it only addressed the landscaping portion. A review of the bids showed that the lowest bid was still \$60,000 over the engineer’s estimate. Staff reviewed the project and since it is being phased in order to keep full funding for future years, they decided to scale it back. Staff suggested removing the concrete pathway and the first contractor was willing to do this, lowering the bid to \$115,000. They asked the second contractor about taking out the concrete pathways but they are still \$50,000 higher at \$190,000. Staff feels moving forward with these reductions is within the contracting rules and is a viable option. He said council is being asked to approve a \$115,000 contract with Lee Contractors.

Councilor Henderson said this was discussed this at the October 27 council meeting and it was noted then that the low bid was 47 percent higher than the engineer’s estimate. He said something had to be done but is concerned that there was no discussion with the LCRB. The LCRB has not seen any contracts and he does not want money issues such as this put on the consent agenda. He also said that the contract they are being asked to approve is “estimated” to be \$115,000 and does not know it that is true. Contracts Manager Barrett said the contract will be written for that low bid amount but staff says “estimated” because unforeseen things occur in any construction project and may pop up and make this a little higher or lower. He said they will go through the full amendment process if that happens.

Councilor Henderson said his point was that this should not have been put on the consent agenda with making a disclosure. Mayor Cook said it was put on tonight’s consent agenda because two weeks ago council was asked if it was alright to do that and they all said yes.

Councilor Henderson said council understood there were problems with this bid that needed to be solved. He said, “We are the LCRB and we need to do more due diligence.” Council President Snider said perhaps council needed to be more deliberate about the decision to put something on the consent agenda and the time to pull it would be then.

Councilor Henderson moved for approval of the contract. Councilor Goodhouse seconded the motion. Mayor Cook conducted a vote and the motion passed unanimously.

	Yes	No
Councilor Goodhouse	x	
Councilor Henderson	x	
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 10, 2015**

4. LEGISLATIVE PUBLIC HEARING – UPDATE TO CHRONIC NUISANCE PROPERTY ORDINANCE (TIGARD MUNICIPAL CODE CHAPTER 7.42)

- a. Mayor Cook opened the public hearing and announced that this is a legislative public hearing in which any person shall be given the opportunity to comment.
- b. Staff Report: Police Chief Orr and Detective Foulkes gave the staff report which proposes several changes to the existing Chapter 7.42 of the Tigard Municipal Code on chronic nuisance property. The amount of nuisances triggering a consequence was decreased from four to three and the time where the nuisances are counted increased from 60 to 120 days. Several crimes were added to the list. After two occurrences the police chief would send a registered letter to the homeowner describing the process that will be followed if a third crime is reported within the 120 day timeframe. The existing ordinance did not prescribe when a fine would be imposed and these proposed changes state that the penalty can be charged per day after three occurrences within 120 days.
- c. Public Testimony: No one signed up to speak.
- d. Council Questions and Discussion:

Councilor Woodard asked if this would reduce chronic nuisance property calls. Police Chief Orr replied that when he worked in Portland there was a similar ordinance and it was a good tool. It was usually sufficient to send notifications to property owners or renters warning them and they did not have to go to the legislative action.

- e. Mayor Cook closed the public hearing.
- f. Council Discussion and Consideration:

Council President Snider said he would be remiss if he did not mention that he lives close to a nuisance property and asked for support as his neighborhood deals with a 15-year running battle.

Council President Snider moved to approve Ordinance 15-17. Goodhouse seconded the motion.

Mayor Cook asked City Recorder Krager read the number and title of the ordinance.

**Ordinance No. 15-17 – AN ORDINANCE AMENDING CHAPTER 7.42 OF THE TIGARD MUNICIPAL CODE “CHRONIC NUISANCE PROPERTY” WITH UPDATED AND ADDITIONAL LANGUAGE**

City Recorder Krager conducted a roll-call vote of council.

	Yes	No
Councilor Goodhouse	x	
Councilor Henderson	x	
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	

Mayor Cook announced that Ordinance No. 15-17 passed unanimously.

5. INFORMATIONAL PUBLIC HEARING – CITY MANAGER EVALUATION CRITERIA AND PROCESS ADOPTION

- a. Mayor Cook opened the public hearing and announced that this is an informational public hearing in which any person shall be given the opportunity to comment.
- b. Staff Report: Human Resources Director Bennett gave the staff report.
- c. Council questions of staff: None
- d. Public Testimony: No one signed up to speak.
- e. Council Questions and Discussion:

Council President Snider said this is the process council will use to evaluate the city manager’s performance. Oregon statutes require a public hearing to seek feedback from the public for the evaluation process. Mayor Cook said the council hires the city manager, city attorney and municipal judge. The city manager hires the police chief, public works director and other executive staff.

- f. Mayor Cook closed the public hearing.
- g. Council Discussion and Consideration:

Councilor Woodard moved to approve the criteria and adopt the process for the city manager evaluation. Councilor Goodhouse seconded the motion.

	Yes	No
Councilor Goodhouse	x	
Councilor Henderson	x	
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 10, 2015**

6. INTENT TO PURSUE GRANT FUNDING: CONNECT OREGON VI – TIGARD STREET TRAIL

Economic Development Manager Purdy gave the staff report on this grant opportunity. A Connect Oregon grant was pursued one year ago and while the city scored well their submission did not get above the line to receive the grant from ODOT. He reviewed the scoring criteria and found the application was deficient in two areas: not enough matching funds and the city did not control the site at the time of application. Since then, City Manager Wine negotiated a lease agreement with the railroad, ensuring a higher score in that category. The city also wants to improve its matching fund ratio. Mayor Cook shared the good news that Economic Development Manager Purdy and Senior Transportation Planner Brown asked for \$240,000 in Major Streets and Transportation Infrastructure Projects (MSTIP) funds of as part of the matching funds (more than half of the local match) for the grant. The Washington County Coordinating Committee (WCCC) approved their request. Mr. Purdy said the city has been thinking of the Tigard Street Trail as more than a path and have explored concepts with designer Suenn Ho. This grant is for projects that improve the transportation infrastructure and have an economic development impact and this project will do this. Mr. Purdy said the request tonight for council is to authorize the City Manager to sign the grant application.

Councilor Henderson asked if staff could identify where the \$60,000 of in-kind services will come from. Economic Development Manager Purdy said anything we do that has value, such as staff time, meets the requirement but donations do not. Volunteer hours would not count in this instance.

Councilor Goodhouse commented that the Tigard Street Trail gets used, even at night and he noted that lights were an element of the grant. Economic Development Manager Purdy said it is proven that this trail will get used. Councilor Woodard said people come up from the road to get on the trail so they can walk and bike without being in traffic. He liked the concept plan and possibilities of what can be done. He applauded everyone for working together on this project.

Council President Snider moved to authorize the city manager to sign the grant application. Councilor Goodhouse seconded the motion. Mayor Cook conducted a vote and the motion passes unanimously.

	Yes	No
Councilor Goodhouse	x	
Councilor Henderson	x	
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	

Mayor Cook announced that this next item is a City Center Development Agency agenda item.

7. INFORMATIONAL PUBLIC HEARING: SPECIAL SUPPLEMENTAL AMENDMENT – CITY CENTER DEVELOPMENT AGENCY

- a. Chair Cook opened the public hearing and announced that this is an informational public hearing in which any person shall be given the opportunity to comment.
- b. Staff Report: Finance and Information Services Director LaFrance gave the staff report. The city has an agreement with a developer who will build a multi-family housing project and as part of the agreement the developer has agreed to purchase the property. The CCDA will help incentivize the development and pay a portion of the system development charges (SDCs). This supplemental budget amendment recognizes the revenue and appropriation of the expenditure of paying those fees. There will be no impact on fund balances.
- c. CCDA questions of staff:
- d. Public Testimony: No one signed up to speak.
- e. CCDA Questions and Discussion:

Director Henderson said if the property was worth \$3.1 million and SDCs are \$3.1 million it would be the same. Finance and Information Services Director LaFrance said they agreed to pay \$1.65 million in revenue and the city will pay \$3.1 in SDCs. Director Henderson said the SDC amount rose from an earlier amount of \$2.4 million and he did not realize the SDCs had increased. Mr. LaFrance said he was not familiar with the \$2.4 million. Chair Cook noted that the expenditure amount also includes the building permits and other charges.

- f. Chair Cook closed the public hearing.
- g. CCDA Discussion and Consideration

Director Snider moved to approve CCDA Resolution No. 15-06. Director Goodhouse seconded the motion. Chair Cook asked City Recorder Krager to read the number and title of the resolution.

**CCDA Resolution No. 15-06 – A RESOLUTION TO ADOPT A SUPPLEMENTAL BUDGET AMENDMENT TO THE FY 2016 CITY CENTER DEVELOPMENT AGENCY BUDGET**

Chair Cook conducted a vote of the CCDA and the motion passed unanimously.

	Yes	No
Director Goodhouse	x	
Director Henderson	x	
Director Snider	x	
Director Woodard	x	
Chair Cook	x	

8. INFORMATIONAL PUBLIC HEARING: FY 2016 ADOPTED BUDGET AMENDMENT

- a. Mayor Cook opened the public hearing and announced that this is an informational public hearing in which any person shall be given the opportunity to comment.
- b. Staff Report: Finance and Information Services Director LaFrance said this is a supplemental amendment of \$100,000. The development happening in River Terrace has increased the workload in the engineering department, pulling staff away from completing the capital improvement plan. River Terrace development also creates revenue and almost \$900,000 of engineering permit fees has been received by the city and this is expected to continue for the next two years. The \$100,000 will help hire two engineering staff members enabling them to work on the River Terrace engineering and also help complete the Capital Improvement Plan (CIP). There is a need to seek grants for the CIP from outside agencies. One of the positions, a management analyst, will assist with this. The annual cost of the additional staff will cost \$170,000. After looking at the latest financial forecast staff realized that impact to the forecasted fund balance was negligible.
- c. Council questions of staff:
 

Council President Snider asked if the new staff members will be temporary or permanent. Mr. LaFrance said they will be permanent and that is why they looked at the long term forecast. He said the city considers them consulting engineers. He expects to see an increase in need with River Terrace. Financially it appears to be a push but the nature of engineering work will need additional adjusting as it has, both up and down, over the years.

Councilor Henderson noted that the city lost some engineers and asked if they were replaced and are these additional FTE's. Mr. LaFrance said there was a recent reorganization in engineering and the city needs to add resources now for a developer's projects in River Terrace. He said Engineer Faha predicted that the additional staff will help with the initial bulge and there may be additional work after that. He said there could be more changes. He clarified for Councilor Woodard that the \$100,000 is pro-rated for the fiscal year and is the full cost for salaries and benefits for two engineering staff.
- d. Public Testimony: Mayor Cook noted that no one signed up to speak and asked if anyone in the audience wanted to speak.
- e. Mayor Cook closed the public hearing.

**TIGARD CITY COUNCIL MEETING MINUTES – NOVEMBER 10, 2015**

f. Council Discussion and Consideration:

Council President Snider motioned to approve Resolution No. 15-50. Councilor Goodhouse seconded the motion. Mayor Cook asked City Recorder Krager to read the number and title of the resolution.

Resolution No. 15-50 – A RESOLUTION TO AMEND THE FY 2016 ADOPTED BUDGET TO APPROPRIATE \$100,000 IN PUBLIC WORKS ENGINEERING THAT WILL BE USED TO ADD 2.0 FTE DUE TO AN INCREASE IN DEVELOPMENT ACTIVITIES

	Yes	No
Councilor Goodhouse	x	
Councilor Henderson	x	
Council President Snider	x	
Councilor Woodard	x	
Mayor Cook	x	

Mayor Cook announced that the resolution passed unanimously.

Mayor Cook announced that the remainder of the meeting is a City Center Development Agency meeting.

- 9. EXECUTIVE SESSION - At 8:40 p.m. Chair Cook announced that the Tigard City Center Development Agency was entering into Executive Session to discuss real property under ORS 192.660 (2) (e) and that the CCDA will reconvene in public session after the Executive Session. At 9:21 the CCDA reconvened in Town Hall for public session.



10. NON AGENDA ITEMS

Redevelopment Project Manager Farrelly gave a brief synopsis of a non-agenda item under consideration. Staff is asking the CCDA to authorize the city manager to execute a second amendment to the Disposition and Development Agreement to redevelop the Ash and Burnham Street properties. They will build 165 units of housing and 2,000 square feet of commercial space. The bank has requested that the city subordinate the agency’s right to repurchase the property in a worst case scenario and the developer fails to complete the project. The CCDA will still have the right to repurchase the property but it is a change to the DDA so they are requesting approval of the resolution.

Director Snider moved to approve CCDA Resolution15-07 and Director Goodhouse seconded the motion.

**CCDA RESOLUTION NO. 15-07 – A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OF THE CITY CENTER DEVELOPMENT AGENCY TO EXECUTE A SECOND AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT TO REDEVELOP THE ASH/BURNHAM PROPERTIES**

Chair Cook conducted a vote. The motion passed unanimously.

	Yes	No
Director Goodhouse	x	
Director Henderson	x	
Director Snider	x	
Director Woodard	x	
Chair Cook	x	

Redevelopment Project Manager Farrelly announced that the groundbreaking ceremony for the Ash/Burnham Street project is at 4:00 p.m. on Monday, November 16.

**11. ADJOURNMENT**

At 9:24 p.m. Director Henderson motioned to adjourn. Director Woodard seconded the motion. All voted in favor.

	Yes	No
Director Goodhouse	x	
Director Henderson	x	
Director Snider	x	
Director Woodard	x	
Chair Cook	x	

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Carol A. Krager, City Recorder

Attest:

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John L. Cook, Mayor

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Date

**AIS-2311**

**3. B.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** Consent Item

**Agenda Title:** METRO Nature In Neighborhoods Grant for Dirksen Nature Park

**Prepared For:** Carla Staedter                      **Submitted By:** Judy Lawhead, Public Works

**Item Type:** Motion Requested                      **Meeting Type:** Council Business Meeting - Main

**Public Hearing** No

**Newspaper Legal Ad Required?:**

**Public Hearing Publication**

**Date in Newspaper:**

**Information**

**ISSUE**

Shall council authorize the city manager to sign an Intergovernmental Agreement (IGA) with Metro regarding the award and conditions of a \$390,000.00 grant to develop Dirksen Nature Park?

**STAFF RECOMMENDATION / ACTION REQUEST**

Authorize the city manager to sign the agreement.

**KEY FACTS AND INFORMATION SUMMARY**

History

Council authorized staff to pursue a Metro "Nature in Neighborhood" grant for development of Dirksen Nature Park on January 14, 2014. Staff prepared an application and was subsequently awarded \$390,000.00 in December of 2014. Over the past 10 months, Metro and Tigard staff have been preparing the terms of an IGA.

The grant will fund:

- Two Wetland Boardwalks
- An Oak Savanna Overlook
- A Nature Play Area (natural play equipment made from rocks, wood, and other nature elements and promoting environmental education)
- Forested Wetland Restoration

The City will fund or partially fund:

- Environmental Education Center Improvements
- Oak Savanna Restoration
- Oak Savanna Overlook Interpretive Elements
- Nature Play Area (Play Equipment)
- Wetland Boardwalks
- Park Signage
- Soft Surface Trails

The City will be required to construct the items listed above within 3 years of the date of grant acceptance.

For detailed information see the Attached Nature in Neighborhoods IGA.

**OTHER ALTERNATIVES**

Council could decide to not accept the grant or not to approve the terms of the IGA and the City will construct park elements as funding becomes available.

**COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS**

- Implements Summercreek Property Master Plan
- Contributes to council goal to create "the most walkable community in the Pacific Northwest where people of all ages and abilities enjoy healthy and interconnected lives."

**DATES OF PREVIOUS CONSIDERATION**

Council directed staff to pursue this grant on January 14, 2014.  
 Council was briefed on the details of the IGA on November 10, 2015.

**Fiscal Impact**

**Cost:** 1,300,869

**Budgeted (yes or no):** yes

**Where Budgeted (department/program):** PW/CIP

**Additional Fiscal Notes:**

Revenue Funding Sources:

- Urban Forestry Fund
- Parks Bond Fund
- Parks SDC Fund
- Stormwater Fund
- Water Fund
- Nature in Neighborhood Grant Funding (if approved)
- DEQ SEP Funding
- In-Kind/Volunteer Contributions

For a detailed breakdown of funding allocations and sources see "NIN Grant Match Detail" in Attachments

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## Attachments

NIN Grant Match Detail

IGA NIN Grant

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**DIRKSEN NATURE PARK**  
Nature In Neighborhood Grant Match



**PROJECT DESCRIPTION**

This project provides environmental education, significant vegetation and habitat enhancements to re-establish and strengthen the qualities of various wetland habitat types within the 40-acre Dirksen Nature Park site. The majority of the property will remain a natural area, with approximately 35 acres being protected under a conservation easement. The table below only presents information for park improvements funded with the NIN Grant and components that are Tigard's match to the Grant.

Future grants and funding will be required for other park elements not shown below which include the Shelter/Restroom Facility (with a second Nature Play Area), Tigard Street Roadway Improvements, Multi-Use Sports Field, etc.

Dirksen Nature Park			
	2013-2015*	2016-2019	Project Total
<b>EXPENSES</b>			
<b>INTERNAL EXPENSES</b>			
Agency Staff	39,000		39,000
<b>EXTERNAL EXPENSES</b>			
Consultants	150,000		150,000
Permits		12,000	12,000
<b>PARK ELEMENTS</b>			
Environmental Education Center and Concrete Pathway		139,852	139,852
Oak Savanna Restoration		272,000	272,000
Oak Savanna Overlook		74,197	74,197
Nature Play Area		210,720	210,720
Fanno Creek and Forested Wetland Boardwalks		265,200	265,200
Forested Wetland Restoration		30,000	30,000
Signage	1,200		1,200
Soft Surface Trails	2,700		2,700
<b>TOTAL TIGARD PROJECT EXPENSES</b>	<b>192,900</b>	<b>1,003,969</b>	<b>1,196,869</b>
<b>REVENUE FUNDING SOURCE</b>			
Urban Forestry		252,000	252,000
Parks Capital Fund			-
Parks Bond Fund	192,900		192,900
Parks SDC Fund		273,969	273,969
Sanitary Sewer Fund			-
Stormwater Fund		35,000	35,000
Water Fund		4,000	4,000
<b>TOTAL TIGARD PROJECT REVENUE</b>	<b>192,900</b>	<b>564,969</b>	<b>757,869</b>
<b>OTHER FUNDING SOURCES</b>			
NIN Grant		390,000	
Agilyx		49,000	
<b>TOTAL OTHER FUNDING SOURCES</b>	<b>-</b>	<b>439,000</b>	<b>-</b>
<b>TOTAL REVENUE</b>	<b>192,900</b>	<b>1,003,969</b>	<b>1,196,869</b>
<b>INKIND MATCH**</b>			
Volunteers	76,000		76,000
Soft Surface Trails		3,000	3,000
Site Furnishings		13,000	13,000
CWS Plants for Forested Wetland		10,000	10,000
CWS Plants for Oak Savanna	2,000		2,000
<b>TOTAL INKIND MATCH**</b>	<b>78,000</b>	<b>26,000</b>	<b>104,000</b>
<b>TOTAL TIGARD REVENUES &amp; TOTAL INKIND MATCH</b>	<b>270,900</b>	<b>590,969</b>	<b>861,869</b>
<b>TOTAL PROJECT EXPENSE &amp; INKIND MATCH</b>	<b>270,900</b>	<b>1,029,969</b>	<b>1,300,869</b>

\*Pre-Agreement Agency Staff \$15,000 and Consultants \$50,000

\*\*Included with total Grant Match, but not included as revenue against expenses

Project Manager: [Signature]  
 City Engineer, Lori Faha: [Signature]  
 Finance Director, Toby LaFrance: [Signature]

Date: 9/24/15  
 Date: 9/24/15  
 Date: 9/23/15

# INTERGOVERNMENTAL AGREEMENT

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Project: Natural Areas Capital Grants Program

Contract No. 932931

## INTERGOVERNMENTAL AGREEMENT Natural Areas Bond Measure Capital Grant Award

This Intergovernmental Agreement (this “Agreement”), entered into under the provisions of ORS chapter 190 and effective on the date the Agreement is fully executed (the “Effective Date”), is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and the City of Tigard, located at 13125 SW Hall Blvd. Tigard, OR 97233 (“Grant Recipient”).

### RECITALS

WHEREAS, the electors of Metro approved Ballot Measure 26-80 on November 7, 2006, authorizing Metro to issue \$227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the “Measure”);

WHEREAS, the Measure allocated \$15 million from bond proceeds to the Nature in Neighborhoods Capital Grants Program to complement the regional and local share portions of the Measure by providing opportunities for the community to actively protect fish and wildlife habitat and water quality in areas where people live and work;

WHEREAS, Metro has determined to make a grant award to Grant Recipient to fund Dirksen Nature Park – A Walk Through Northwest Ecosystems (the “Project”) as more specifically identified within the Scope of Work attached hereto as Exhibit A (the “Work”);

WHEREAS, this Agreement between Metro and Grant Recipient is now needed to satisfy the terms and conditions of the Nature in Neighborhoods Capital Grants Program as provided for in the Measure; and

WHEREAS, except as specifically provided in this Agreement, including the scope of work attached hereto as Exhibit A, and otherwise notwithstanding any statements or inferences

# INTERGOVERNMENTAL AGREEMENT

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to the contrary, Metro neither intends nor accepts any (1) direct involvement in the Project (2) sponsorship benefits or supervisory responsibility with respect to the Project; or (3) ownership or responsibility for care and custody of the tangible products which result from the Project;

NOW THEREFORE, the parties agree as follows:

1. Purpose; Scope of Work; Limitations

The purpose of this Agreement is to implement the Measure and facilitate the funding of a Nature in Neighborhoods Capital Grants Program project. Grant Recipient shall perform all activities described in the Scope of Work attached hereto as Exhibit A (the “Work”). As a condition precedent to Metro’s agreement to fund the Project, Grant Recipient hereby approves the Project and agrees to comply with the terms and conditions of this Agreement and the applicable provisions of the Measure. At no time will Metro have any supervisory responsibility regarding any aspect of the Work. Any indirect or direct involvement by Metro in the Work shall not be construed or interpreted by Grant Recipient as Metro’s assumption of a supervisory role.

2. Declaration of Capital Project

In accordance with the Measure, Metro may only provide funds to Grant Recipient for the Project so long as such funds are exclusively used for capital expenses. Grant Recipient hereby confirms that the Project will result in the creation of a capital asset to be owned by Grant Recipient. The monetary value of the Project that is recorded as a capital asset shall be no less than the amount of the grant award that is actually provided to the Grant Recipient. Until June 30, 2027 or the date upon which all Bond debt related to Project is retired, whichever occurs earlier, Grant Recipient covenants that it will (a) own and hold all such capital improvements and real property interests acquired pursuant to this Agreement, and (b) record the asset created by the Project as a fixed, capital asset in Grant Recipient’s audited financial statement, consistent with Generally Accepted Accounting Principles (“GAAP”) and with Grant Recipient’s financial bookkeeping of other similar assets.

# INTERGOVERNMENTAL AGREEMENT

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### 3. Contract Sum and Terms of Payment

Metro shall compensate Grant Recipient for performance of the Work as described in Exhibit A. Metro shall not be responsible for payment of any materials, expenses or costs other than those that are specifically described in Exhibit A.

### 4. Limitations on Use of the Capital Asset That Results from the Project

Throughout the term of this Agreement, Grant Recipient shall maintain and operate the capital asset that results from the Project in a manner consistent with one or more of the following intended and stated purposes of the Measure (the “Nature in Neighborhood Approved Purposes”):

- To safeguard water quality in local rivers and streams;
- To protect and enhance fish and wildlife habitats;
- To promote partnerships that protect and enhance nature in neighborhoods; and
- To increase the presence of ecological systems and plant and animal communities in nature deficient and other disadvantaged neighborhoods;

Grant Recipient may not sell, use, or authorize others to use such capital asset in a manner inconsistent with such purposes.

Notwithstanding the foregoing, secondary uses that arise as a result of such capital asset being used primarily in accordance with the Nature in Neighborhood Approved Purposes will be permitted, but only to the extent such secondary uses affect a *de minimis* portion of such capital asset or are necessary in order to facilitate the primary Nature in Neighborhood Approved Purposes. For example, if, as part of a land use review proceeding initiated to obtain the necessary approvals to operate such capital asset consistent with the Nature in Neighborhood Approved Purposes, a portion of such capital asset was required to be dedicated as a road, such road dedication would be a permitted secondary use.

If the Work is the acquisition of real property, then Grant Recipient shall satisfy the requirements in this section of the Agreement by granting to Metro a conservation easement

# INTERGOVERNMENTAL AGREEMENT

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substantially comparable to the form of conservation easement approved by the Metro Council at the time the Metro Council approved the grant award to Grant Recipient.

## 5. Funding Recognition

Grant Recipient shall recognize in any publications, media presentations, or other presentations referencing the Project produced by or at the direction of Grant Recipient, including, without limitation, any on-site signage, that funding for the Project came from the Metro Natural Areas Bond Measure's Nature in Neighborhoods Capital Grants Program. Such recognition shall comply with the recognition guidelines detailed in the Measure. The Grant Recipient shall place at or near the Project's location signage that communicates that funding for the Project came from the Metro Natural Areas Bond Measure's Nature in Neighborhoods Capital Grants Program.

## 6. Term

It is the intent of the parties for the Project to have been completed, and for all Metro funding to have been provided to Grant Recipient prior to September 30, 2018. Notwithstanding the forgoing, all provisions set forth in this Agreement, and the obligations of Grant Recipient hereunder, shall continue in effect after the completion of the Project until June 30, 2027.

## 7. Termination for Cause

A. Subject to the notice provisions set forth in Section 7.B below, Metro may terminate this Agreement, in full or in part, at any time during the term of the Agreement if Metro reasonably determines that Grant Recipient has failed to comply with any provision of this Agreement and is therefore in default.

B. Prior to terminating this Agreement in accordance with Section 7.A above, Metro shall provide Grant Recipient with written notice that describes the reason(s) that Metro has concluded that Grant Recipient is in default and includes a description of the steps that Grant Recipient shall take to cure the default. From the date that such notice of default is received by Grant Recipient, Grant Recipient shall have 30 days to cure the default. If the

# INTERGOVERNMENTAL AGREEMENT

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default is of such a nature that it cannot reasonably be cured within 30 days, Grant Recipient shall have such additional time as required to cure the default, as long as it is acting in a reasonable manner and in good faith to cure the default. In the event Grant Recipient does not cure the default within the 30-day period, Metro may terminate all or any part of this Agreement, effective on any date that Metro chooses following the 30-day period. Metro shall notify Grant Recipient in writing of the effective date of the termination.

C. Grant Recipient shall be liable to Metro for all reasonable costs and damages incurred by Metro as a result of and in documentation of the default. Following such termination, should Metro later determine or a court find that Grant Recipient was not in default or that the default was excusable (e.g. due to a labor strike, fire, flood, or other event that was not the fault of, or was beyond the control of, Grant Recipient) this Agreement shall be reinstated or the parties may agree to treat the termination as a joint termination for convenience whereby the rights of Grant Recipient shall be as set forth below in Section 8.

## 8. Joint Termination for Convenience

Metro and Grant Recipient may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective only upon the mutual, written termination agreement signed by both Metro and Grant Recipient.

## 9. Oregon Constitution and Tax Exempt Bond Covenants

Grant Recipient acknowledges that Metro's source of funds for the Nature in Neighborhoods Capital Grants Program is from the sale of voter-approved general obligation bonds that are to be repaid using ad valorem property taxes exempt from the limitations of Article XI, sections 11, 11b, 11c, 11d, and 11e of the Oregon Constitution, and that the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. Grant Recipient covenants that it will take no actions that would cause Metro not to be able to maintain the current status of the real property taxes imposed to repay these bonds as exempt from Oregon's constitutional property tax limitations or the income tax exempt status of the bond interest under IRS rules. In the event Grant Recipient breaches this covenant, Grant

# INTERGOVERNMENTAL AGREEMENT

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Recipient shall undertake whatever remedies are necessary to cure the default and to compensate Metro for any loss it may suffer as a result thereof, including, without limitation, reimbursing Metro for any Projects funded under this Agreement that resulted in Grant Recipient's breach of its covenant described in this Section.

## 10. Liability and Indemnification

As between Metro and Grant Recipient, Grant Recipient assumes full responsibility for the performance and content of the Work; provided, however, that this provision is not intended to, and does not, create any rights by third parties. To the extent permitted by Oregon law, and subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30, and the Oregon Constitution, Grant Recipient shall indemnify, defend, and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by Grant Recipient or Grant Recipient's officers, agents, or employees. Grant Recipient is solely responsible for paying Grant Recipient's contractors and subcontractors. Nothing in this Agreement shall create any contractual relationship between Metro and any such contractor or subcontractor.

# INTERGOVERNMENTAL AGREEMENT

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## 11. Contractors' Insurance

A. Grant Recipient shall require all contractors performing any of the Work to purchase and maintain at each contractor's expense, the following types of insurance covering the contractor, its employees and agents:

1. Commercial general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage. Grant Recipient and Metro, and their elected officials, departments, employees and agents, shall be named as additional insureds.

2. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per occurrence. Grant Recipient and Metro, and their elected officials, departments, employees, and agents, shall be named as additional insureds. Notice of any material change or policy cancellation shall be provided to Grant Recipient thirty (30) days prior to the change.

B. This insurance required by Grant Recipient, as well as all workers' compensation coverage for compliance with ORS 656.017, must cover all contractors' operations under this Agreement, whether such operations are by a contractor, by any subcontractor, or by anyone directly or indirectly employed by any contractor or subcontractor.

C. Grant Recipient shall require all contractors performing any of the Work to provide Grant Recipient with a certificate of insurance complying with this section and naming Grant Recipient and Metro as additional insureds within fifteen (15) days of execution of a contract between Grant Recipient and any contractor or twenty-four (24) hours before services such contract commence, whichever date is earlier.

D. In lieu of the insurance requirements in Sections 11.A through 11.D, above, Grant Recipient may accept evidence of a self-insurance program from any contractor. Such contractor shall name Grant Recipient and Metro as additional insureds within fifteen (15) days of execution of a contract between Grant Recipient and any contractor or twenty-four (24) hours before services such contract commence, whichever date is earlier.

## 12. Safety

# INTERGOVERNMENTAL AGREEMENT

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Grant Recipient shall take all necessary precautions for the safety of employees, volunteers and others in the vicinity of the Work and the Project, and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

## 13. Metro's Right to Withhold Payments

Metro shall have the right to withhold from payments due Grant Recipient such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from Grant Recipient's performance or failure to perform under this Agreement or the failure of Grant Recipient to make proper payment to any suppliers, contractors or subcontractors. All sums withheld by Metro under this Section shall become the property of Metro and Grant Recipient shall have no right to such sums to the extent that Grant Recipient has breached this Agreement.

## 14. Project Records, Audits, and Inspections

A. For the term of this Agreement, Grant Recipient shall maintain comprehensive records and documentation relating to the Project and Grant Recipient's performance of this Agreement (hereinafter "Project Records"). Project Records shall include all records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models, that are prepared or developed in connection with any Project.

B. In accordance with Section 2 above, Grant Recipient shall maintain all fiscal Project Records in accordance with GAAP. In addition, Grant Recipient shall maintain any other records necessary to clearly document:

(i) Grant Recipient's performance of its obligations under this Agreement, its compliance with fair contracting and employment programs, and its compliance with Oregon law on the payment of wages and accelerated payment provisions;

(ii) Any claims arising from or relating to (a) Grant Recipient's performance of this Agreement, or (b) any other contract entered into by Grant Recipient that relates to this Agreement or the Project;

# INTERGOVERNMENTAL AGREEMENT

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(iii) Any cost and pricing data relating to this Agreement; and

(iv) Payments made to all suppliers, contractors, and subcontractors engaged in any work for Grant Recipient related to this Agreement or the Project.

C. Grant Recipient shall maintain Project Records for the longer period of either (a) six years from the date the Project is completed, or (b) until the conclusion of any audit, controversy, or litigation that arises out of or is related to this Agreement or the Project and that commences within six years from the date the Project is completed.

D. Grant Recipient shall make Project Records available to Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places, regardless of whether litigation has been filed on any claims. If the Project Records are not made available within the boundaries of Metro, Grant Recipient agrees to bear all of the costs incurred by Metro to send its employees, agents, or consultants outside the region to examine, audit, inspect, or copy such records, including, without limitation, the expense of travel, per diem sums, and salary. Such costs paid by Grant Recipient to Metro pursuant to this Section shall not be recoverable costs in any legal proceeding.

E. Grant Recipient authorizes and permits Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, to inspect, examine, copy, and audit the books and Project Records of Grant Recipient, including tax returns, financial statements, other financial documents relating to this Agreement or the Project. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provision of Section 12(F) below.

F. Grant Recipient agrees to disclose Project Records requested by Metro and agrees to the admission of such records as evidence in any proceeding between Metro and Grant Recipient, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

G. In the event the Project Records establish that Grant Recipient owes Metro any sum of money or that any portion of any claim made by Grant Recipient against Metro is not

# INTERGOVERNMENTAL AGREEMENT

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warranted, Grant Recipient shall pay all costs incurred by Metro in conducting the audit and inspection.

## 15. Public Records

All Project Records shall be public records subject to the Oregon Public Records Law, ORS 192.410 to 192.505. Nothing in this Section shall be construed as limiting Grant Recipient's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).

## 16. Law of Oregon; Public Contracting Provisions

The laws of the state of Oregon shall govern this Agreement and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement. Specifically, it is a condition of this Agreement that Grant Recipient and all employers working under this Agreement are subject to and will comply with ORS 656.017 and that, for public works subject to ORS 279C.800 to 279C.870 pertaining to the payment of prevailing wages as regulated by the Oregon Bureau of Labor and Industries, Grant Recipient and every contractor and subcontractor shall comply with all such provisions, including ORS 279C.836 by filing a public works bond with the Construction Contractors Board before starting work on the project, unless exempt under that statute.

## 17. Notices and Parties' Representatives

Any notices permitted or required by this Agreement shall be addressed to the other party's representative(s) as set forth below and shall be deemed received (a) on the date they are personally delivered, (b) on the date they are sent via facsimile, or (c) on the third day after they are deposited in the United States mail, postage fully prepaid, by certified mail return receipt requested. Either party may change its representative(s) and the contact information for its representative(s) by providing notice in compliance with this Section of this Agreement.

# INTERGOVERNMENTAL AGREEMENT

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Grant Recipient's Designated Representatives:

Steve Martin  
13125 SW Hall Blvd.  
Tigard, OR 97233  
Email: steve@tigard-or.gov

Metro's Designated Representatives:

Natural Areas Bond Program Manager  
Metro Regional Center  
600 N.E. Grand Ave.  
Portland, OR 97223  
Fax (503)-797-1849

with copy to:

Metro Attorney  
600 N.E. Grand Ave.  
Portland, OR 97223  
Fax (503) 797-1792

18. Assignment

Grant Recipient may not assign any of its responsibilities under this Agreement without prior written consent from Metro, which consent shall not be unreasonably withheld.

19. Severability

If any term or provision in this Agreement shall be adjudged invalid or unenforceable, such adjudication shall not affect the validity or enforceability of the remainder of the Agreement, which remaining terms and provisions shall be valid and be enforced to the fullest extent permitted by law.

20. No Waiver of Claims; Modifications

Metro's failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision of this Agreement. This Agreement may be amended

# INTERGOVERNMENTAL AGREEMENT

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only by written instrument signed by both Metro and Grant Recipient and no waiver, consent, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

## 21. Integration of Agreement Documents

All of the provisions of any proposal documents including, but not limited to, Requests for Proposals, Grant Proposals and Scopes of Work that were utilized in conjunction with the award of this Grant are hereby expressly incorporated herein by reference; provided, however, that the terms described in Sections 1 through 21 of this Agreement and in Exhibit A shall control in the event of any conflict between such terms and such other incorporated documents. Otherwise, this Agreement represents the entire and integrated agreement between Metro and Grant Recipient and supersedes all prior negotiations, representations or agreements, either written or oral. The law of the state of Oregon shall govern the construction and interpretation of this Agreement. The Parties, by the signatures below of their authorized representatives, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year indicated below.

### **CITY OF TIGARD**

### **METRO**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Martha Bennett  
Metro Chief Operating Officer

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**METRO**  
600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

# INTERGOVERNMENTAL AGREEMENT

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APPROVED AS TO FORM BY:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Hope Whitney  
Senior Assistant Metro Attorney

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Scope Of Work – Exhibit A

Metro Contract No. 932931

### CAPITAL GRANTS PROGRAM GRANTS AGREEMENT

- I. Project Title/Project Number: Dirksen Nature Park – A Walk Through Northwest Ecosystems
- II. Grant Recipient contact: Jeff Peck  
Senior Engineering Technician  
City of Tigard  
13125 SW Hall Blvd  
Tigard, OR 97223  
jeffp@tigard-or.gov  
503-718-2466
- III. Budget
- |                        |              |
|------------------------|--------------|
| Total cost of project: | \$ 1,300,869 |
| Grant award            | \$ 390,000   |
| Financial match        | \$ 806,869   |
| In-kind match          | \$ 104,000   |
- IV. Project location Behind Fowler Middle School in Tigard, OR (10865 SW Walnut Tigard, OR 97223)
- V. Scope of Work
- This scope of work sets forth the work and requirements the Grant Recipient shall undertake as part of Metro’s Nature in Neighborhood Capital Grants program grant award. The original grant application (see attached Attachment 1) sets forth the scope of work except as modified or added to herein in accordance with the description of park elements and funding in Attachment 2:
- Phase 1 scope of work will include improvements to the education center, resurfacing of trails, and oak savanna restoration. These improvements, with the exception of the oak savanna restoration, will be completed in 2016.
  - Phase 2 scope of work will be changed to include the installation of a wetland boardwalk (Fanno Creek Boardwalk), forested wetland boardwalk, oak savanna and forested wetland restoration, oak savanna overlook, and one nature play area. One nature play area (not two) will be constructed. The play area will be located in the lower portion of the site by the restroom and picnic shelter location and will be larger than was originally planned. Phase 2 will be completed 2016 – 2018.
  - The Project budget is revised as indicated in **Attachment 3**. With Metro’s approval, funds that are not needed as projected in a budget line item may be applied toward other budget line items described on Attachment 3.
  - Future phases are not included in this scope of work.

## Scope Of Work – Exhibit A

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- Expenditures associated with design consultants, permits and bid documentation incurred after December 6, 2013 can be counted toward the matching requirements of the grant program, but will not be reimbursed.
- Update the management plan for Dirksen Nature Park to include monitoring the impact of the proposed soccer field on the emergent wetland and address impacts accordingly.

### *Project Benchmarks and Deliverables*

Benchmark 1: Pre-construction

- Complete design documents
- Acquire permits
- Complete bid documents
- Contractor selection

Deliverable 1: Grant Recipient will notify Metro as these benchmarks are met.

Benchmark 2: Installation of improvements

Deliverable 2: Invoices documented expenses incurred that will be reimbursed by Metro as well as expenses to be used for financial and in-kind match.

Benchmark 3: Update management plan for Dirksen Nature Park

Deliverable 3: Grant Recipient will submit a copy of the management plan.

Benchmark 4: Youth and community engagement activities

Deliverable 4: Include a summary of Northwest Youth Corps, Fowler Middle School staff and students, the Tualatin Riverkeepers and other community participation in the project, including non-native plant removal, trail restoration, and planting.

### *Publicity*

As provided in Section 5 of the Intergovernmental Agreement, Grant Recipient shall place at the Project's location signage that communicates that funding for the Project came from Metro's Voter-approved Nature in Neighborhoods Grant Program. Metro may withhold final reimbursement payment until such signage has been placed. In addition, Grant Recipient shall recognize in any publications, media presentations, or other presentations referencing the Project, produced by or at the direction of Grant Recipient, that funding for the Project came from Metro's Voter-approved Nature in Neighborhoods Grant Program.

## Scope Of Work – Exhibit A

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### VI. Reporting Requirements:

- a. **Bi-Annual Progress Reports:** In addition to the Benchmarks and Deliverables set forth above, once work has begun, Grant Recipient shall provide to Metro a progress report, documenting the status of the Project at least every six months. A progress report shall be included with every reimbursement request submitted by Grant Recipient and when the Project benchmarks identified above are met.
- b. All progress reports shall provide the following details: an account of the work accomplished to date, a statement regarding Grant Recipient's progress on meeting benchmarks, the percentage of the Project completed, a statement as to whether the Project is on schedule or behind schedule, a description of any unanticipated events, and data regarding success indicators. All progress reports submitted by Grant Recipient shall be in the Progress Report Form provided by Metro unless Metro approves another reporting method in order to provide consistency with other project funders.
- c. **Final Report:** Grant Recipient must submit a final report and final reimbursement request within 60 days of the earlier of (a) the Project completion date or (b) the expiration date of the Intergovernmental Agreement. The final report shall include full and final accounting of all expenditures, the value and source of matching funds, a description of work accomplished, volunteer hours and participation, Project photos (including a photo of the signage acknowledging the Nature in Neighborhoods Capital Grants Program participation), and data on success indicators. The final report submitted by Grant Recipient shall be in the Final Report Form provided by Metro unless Metro approves another reporting method in order to provide consistency with other project funders.

### I. Project Payment and Reimbursement

- a. Metro will reimburse Grant Recipient \$1.00 for every \$3.00 of out-of-pocket costs expended after the effective date of the Intergovernmental Agreement to complete the project, consistent with the original grant application, up to but not exceeding Metro's total grant award of three hundred ninety thousand and 00/100 dollars (\$390,000). In no event shall Grant Recipient request or expect reimbursement from Metro in excess of that amount.
- b. Payments will be processed as reimbursement for costs incurred and paid by the Grant Recipient.
- c. **RETAINAGE:** Metro will reserve as retainage from any reimbursement payment an amount equal to five (5%) percent of the requested reimbursement amount. The retainage will not be disbursed to Grant Recipient until the Project is fully completed and finally approved by Metro. Following completion of the Project and approval by Metro, Metro will deliver to Grant Recipient the entire retainage as part of the final reimbursement payment.
- d. To request the reimbursement of allowable expenses, Grant Recipient will complete Metro's Reimbursement Request Form and submit an itemized statement of work

## Scope Of Work – Exhibit A

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completed and an accounting of all expenses incurred during the current reimbursement period. A progress report shall accompany all reimbursement requests. The form, statement, and report shall be sent to:

METRO  
ATTN: ORIANA QUACKENBUSH  
600 NE GRAND AVE  
PORTLAND OR 97232-2736

- e. Metro will make a reimbursement payment for those items identified in the Scope of Work or subsequent amendments to the Intergovernmental Agreement. Substitutions or changes of elements of the Project that have not been approved by Metro are not eligible for reimbursement.
- f. Payment shall be made by Metro on a Net Fifteen (15) day basis upon approval of reimbursement request.

### II. Success Indicators

Grant Sponsor agrees to monitor the Project for three consecutive years following the completion of the Project and Grant Recipient agrees to report the following information to Metro upon completion of the Project.

- Success Indicator 1  
Demonstrate commitment to the long-term maintenance of this investment. The Grant Recipient shall provide data from monitoring efforts associated with plantings survival, control of invasive vegetation and oak habitat enhancement as well as a description of how the monitoring results contribute to on-going maintenance activities.
- Success Indicator 2  
Demonstrate that the site is being used for conservation education. The Grant Recipient shall provide data regarding the use of the site by Fowler Middle School and the Tualatin River Keepers.



**METRO**  
600 NE Grand Ave.  
Portland, OR 97232-2736  
(503) 797-1700

# Scope Of Work — Exhibit A

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## ATTACHMENT 1 GRANT APPLICATION



Check one:
<input type="checkbox"/> Letter of Interest
<input checked="" type="checkbox"/> Final Proposal

Project Name	Dirksen Nature Park – A Walk Through Northwest Ecosystems		
Applicant Organization	City of Tigard		
Contact Name	Steve Martin		
Address	13125 SW Hall Blvd., Tigard, OR 97223		
Email	steve@tigard-or.gov		
Is the applicant organization a registered 501(c)(3)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, what is the EIN?	
Public Agency (if different from applicant)	Same as above.		
Contact name		Phone	
Address			
Email			
Site Name	Dirksen Nature Park	Address or Location	Across the street from 10835 SW Tigard Street and behind Fowler Middle School.

COPY

Evaluation criteria:  ReNature  ReGreen  Both

Project Summary (50 words or less)

Tigard, TRK, Fowler School, CWS and Northwest Youth Corps will improve Dirksen Nature Park to enhance visitors' experiences of northwest ecosystems including; (1) restoring forested wetland/ installing a boardwalk to view the bayou setting (2) restoring savannah/installing an overlook to view meadow and oaks (3) building two nature play areas.

Nature in Neighborhoods Capital Grant funding Request	\$	\$390,000.00	If submitting more than one proposal, please rank this proposal in order of priority.	N/A
Total project cost	\$	\$2,931,943.00		

We, the undersigned, attest that to the best of our knowledge the information in this application is true and that all signatories have authorization to submit this grant application to Metro's Nature in Neighborhoods Capital Grants Program.

Applicant	Organization Name	City of Tigard		
	Printed Name	Steve Martin – Parks Director		
	Signature		Date	January 23, 2014
Public Agency	Organization Name	Same as above.		
	Printed Name			
	Signature			
			Date	



City of Tigard

January 23, 2014

Metro  
Natural Areas Program  
Nature in Neighborhoods Capital Grants  
600 NE Grand Avenue  
Portland, OR 97232

Re: Dirksen Nature Park – A Walk through Northwest Ecosystems

Dear Capital Grants Review Committee:

Saving the site now known as Dirksen Nature Park began as a community effort of support and love for this beautiful natural area. Owned by the local school district and used for decades as an outdoor classroom, the district was forced to declare the site surplus in 2008. With acres of developable land, the community feared losing their outdoor classroom forever. Multiple local, regional, and state partners came together to raise funds to purchase the property and the City of Tigard successfully gained ownership in 2010.

Dirksen Nature Park's first few years have been full of participation. Tualatin Riverkeepers hosts summer nature camps and classrooms of children from around the Tualatin Basin. Fowler Middle School staff and students working with Clean Water Services continue to work on restoration of Summer Creek and enhance the habitat on site. This participation has created ownership and pride in the park and very little vandalism despite the extensive use of the site. City staff have removed debris and have contracted to remove acres of Himalayan blackberry from the site.

Tigard is currently working to develop its second largest park and first nature park. Finding funding for such a large undertaking would be very difficult without the support of multiple partners. Tigard would be pleased to have Metro as an active partner and is seeking the investment of a Nature in Neighborhood Capital Grant.

Sincerely,

Steve Martin  
City of Tigard Parks Director

Enclosure



## **PROJECT DESCRIPTION**

### **Introduction and Project Overview**

Dirksen Nature Park houses a number of distinctly different ecosystems all within close proximity to each other. This mix of ecosystems makes the Park a very rich habitat for native plants and animals and much of the park is protected by a METRO Conservation Easement. See Figure 1 and 2. The site is located in the heart of a well-developed urban area and is beloved by the community. The City of Tigard, together with its partners, proposes to complete native area restoration and to develop facilities for park visitors to experience these unique settings. The goal is to provide enhanced experiences of these areas by playing up the most unique qualities of each. ***These facilities will be designed to significantly limit the impacts on the park's natural resources.***

Restoration at Dirksen Nature Park has been a team effort since its purchase in 2010 and is a requirement under some of the funding sources used to secure the property. The site has proven to be a rich resource for environmental education programs. The pictures above shows children enjoying tours and camps at the park. With no formal recreation program in place at the city, environmental education programs are possible because of Tigard's valued partners. They include Tualatin Riverkeepers (TRK) who bring many diverse visitors to the park through their tours and camps; Fowler Middle School staff/students who continue to use the site for education and restoration plantings, and Clean Water Services (CWS) who continues to provide needed native plants and staff to serve as interpreters for tour groups and middle school kids. The proposed grant project will provide ongoing opportunity for both residents of Tigard and our regional nature park visitors to ***explore and restore.***

The project will also provide **job skill development** as our new partner Northwest Youth Corp joins the team!

### **Site History and Project Background**

The 48-acre Dirksen Nature Park is designated as a community park in the City's 2009 Park System Master Plan. The City purchased the 5.3 million property through multiple transactions beginning in December of 2010. Over 2.5 million in grant support for the project came from state, regional, and local agencies eager to support the acquisition and development of this nature park in Tigard. Key steps in the acquisition and planning of the park include; (1) in 1974 the Tigard-Tualatin School District acquires 100-acres and develops Fowler Middle School. Since this time, the school district uses the open areas of the site for playfields and physical education and uses the creeks, wetlands, and wooded areas for outdoor learning; (2) in 2001, the City develops the Fanno Creek Trail which extends through the site along the eastern boundary next to Fanno Creek's riparian zones; (3) in 2006, the school district declares the open space portion of the property surplus and the community becomes worried about loss of this valued natural area; (3) In 2007, with urging from community members and with regional concerns about losing the site to development, the Trust for Public Land negotiates an exclusive option-to-purchase agreement to protect the property until it can be placed in public ownership; (5) In 2010, the City purchases the first 42-acres of the park with Parks Bond funds, grant awards from METRO and Oregon Watershed Enhancement Board (OWEB), and public agency contributions from Clean Water Services (CWS) and Washington County; (6) As part of the grant process, a conservation easement was finalized between the City and Metro protecting 35-acres of significant woodlands and wetlands, and the City agrees to provide environmental education on the site; (7) In January 2011, a draft Natural Resource & Management Plan is completed and provided to Metro outlining how different habitat areas will be managed on site; (8) In April 2011, the City acquires three adjacent parcels located along Tigard Street, totaling 5 acres; (9) In August 2011, a draft Environmental Education Plan for the park is submitted to OWEB; and (10) In June of 2012 a master plan is completed for the park. See Figure 3 and Attachment 1 to review the master plan and its associated report. (11) The Park goes through the permit process that allows the site to become Tigard's second largest park and finalize the draft management and education plans. With significant input from key stakeholders and the public, the master plan is designed to achieve balance between resource protection and public access, which is required to meet the requirements of Metro and OWEB acquisition grants.

### **Scope of Work**

As mentioned previously, the city has undergone an extensive public input process and developed a corresponding master plan for Dirksen Nature Park. See Figure 3 to view the Final Master Plan. The proposed grant project includes the development of three major components of the master plan;

1. Forested Wetland Restoration and Development of a Boardwalk
2. Oak Savanna Restoration and Development of an Overlook
3. Two Nature Play Areas

**Forested Wetland Restoration and Boardwalk.** Nestled in the heart of the Natural Resource Easement, in the center of Dirksen Nature Park, is a forested wetland. It houses a wide variety of wildlife attracted to the area by the water, tree canopy, and plentiful food sources. See attached photos. This wetland has an ever changing character. In the winter up to two feet of water stands in a “bayou-like” forest of ash, oak, and alder. As spring arrives, the site’s native perennial plants come to life and thigh high vegetation of arching false Salomon’s seal along with the blue blossoms of camas make a showy display. As summer arrives the standing water slowly evaporates and the shade tolerant slough sedge rustles under the dappled light of summer’s mature tree canopy. Unfortunately the health of this wetland is threatened by numerous demand trails and the presence of non-native plants like English Ivy, Himalayan Blackberry, and Old Man’s beard.

The project will restore and protect the forested wetland by:

(1) Removing non-native vegetation and abandoning old demand trails. This work will be completed by trained youth corps working on gaining experience in land management and basic employment skills. Approximately 1500 feet of old demand trails will be removed along with non-native plants within the forested wetland.

(2) Replanting with native emergent vegetation. This work will be completed by Fowler Middle School students and children attending TRK’s field trips. Clean Water Services and the city will provide plants and technical assistance for these projects. TRK’s volunteer naturalists will provide the young planters with training and leadership. Summer camp kids will monitor the plantings and provide water as needed through the dry summer months to raise plant survivorship.

(3) Establishing a new trail and boardwalk . The new trail, approximately 720 feet long, will be sited outside of the wetland and will lead to a single access point into the wetland. This single access point will be served by an elevated boardwalk to minimize impacts to this wetland. The boardwalk will lift users just above the standing water, jog around trees at the edge of the wetland, and will provide windows through the decking for visitors to have a clear view of the plants below. All aspects of the boardwalk will be designed to allow people to experience this unique bayou-like ecosystem but to keep them separated to minimize impacts to the area. The boardwalk will be designed to be extremely interesting so that park users will want to access the area in this single location. This complete reworking of site access, including providing a boardwalk, will be the single most important component to long term protection of the forested wetland.

**Oak Savannah Restoration and Overlook .** A remnant oak savanna runs along the northern boundary of the site. The area has been impacted by past farming and is currently covered in non-native grasses, English Hawthorn trees, lawn grasses, Himalayan Blackberry, and English ivy. The project will allow park users to once again feel the open nature of flowing grassland dotted with statuesque Oregon White Oak. The goal is to develop an open expansive view of this majestic ecosystem that will show off native grasses flowing in the wind and brightly colored wildflowers announcing the arrival of spring and providing color through fall.

The project will restore and protect the oak savanna by:

(1) Removal of invasive trees, shrubs, and grass species. This work will be completed by experienced native restoration specialists. All but the largest English Hawthorn have been removed from the site to date leaving large hawthorn trees for removed. Removal of non-native grasses will require experts in plant identification, timing of removal, and careful decisions about how to manage existing seed stocks in the soil. The City intends to secure a company with extensive experience in Oregon Oak Savanna restoration and will consult with Metro restoration staff to develop a final plan for restoration.

(2) Planting of a native meadow, wet meadow, and oak trees. Oak savanna restoration will be carried out by experienced restoration specialist. It is expected to take approximately 2 to 3 years to establish native grass species at the site. (Irrigation stub outs have been designed into the park to assist with establishment of these species.) Volunteers will be used for shrub planting along the far southern edge of the savanna. In this area native black hawthorn will be installed to replace the existing wildlife values of the non-native hawthorn. Volunteers will also be used to install a dense native shrub hedge along Tigard Street to lower the long-term influx of lawn seed from the roadway into the savanna. Native Oaks will be planted throughout the savanna. Our volunteer resources will come primarily from four sources including TRK's tour kids, Fowler Middle School students, Washington County Juvenile Crews, and "Tree for All" volunteers. Volunteers will be organized and supervised by TRK staff, Fowler Middle School Teachers, Clean Water Services staff, and Tigard environmental coordinators.

(3) Installation of an Oak Savanna Overlook. A unique overlook will be constructed at the highest elevation of the savannah. The overlook will include a simple widened walkway sunken slightly into the hill that will house a thick 18" tall glass "retaining" wall that will allow park user to peer into the secret underground world of grassland plant roots. This simple design will also enhance the very open feel of an oak savanna by allowing visitors to stand in this very open location.

**Nature Play Areas.** The project will construct two play areas designed to provide park users with opportunities to climb, run, jump and build with rocks, logs, and other natural features. The larger nature play area will be sited on the outer edge of the park's mowed playfield to limit impacts to the more sensitive natural areas in the park. It will be sited between the mowed play area and the edge of the forest. The play area will include stacked log and rock climbing areas and will have logs and other natural materials available for park users to build with. The area will be covered in play chips and will be near the new restroom and picnic tables. It will be designed to allow nature park users to linger and to play outside of the most sensitive areas of the park, adjacent to the Fanno Creek Trail.

The second, smaller nature play area will be located near the future parking area on Tigard Street. This small play area is intended to provide an area for small children to freely play without disturbing the natural features of the park. Located near parking, it won't require a long walk for small children and will be located in the buffer area between the parking lot and the nature park.

All facilities developed under this project will provide universal access to the public and will meet the Americans with Disabilities Act.

## EVALUATION CRITERIA

With both Key components of the proposal being ecological restoration and the enrichment of people's experience with nature, the project meets both "Re-Nature" and "Re-Green" criteria.

### "Re-Nature"

*"The project improves how ecological processes contribute to overall ecosystem health...Restores diverse riparian vegetative structure or stream character.....Increases fish passage and/or wildlife crossings"*

As described above, the project will restore both a forested wetland and a remnant oak savanna, each of these ecosystems are considered the highest value habitats per the Regional Conservation Strategy. These habitats are considered to be dwindling in the region and their locations next to the Fanno and Summer creek riparian forests make them even more valuable. Abandoning demand trails in these habitat areas will strengthen wildlife corridor connections between the park and the stream corridors to the east, north, and south of the park. By eliminating trail crossings and consolidating trails, wildlife will have easier access to 34.5 acres of restored riparian corridor between Fowler Middle School and the developed portions of Summerlake Park. They will also have easier access to 156 acres of publicly owned riparian corridor running downstream along Fanno Creek to Bonita Avenue and 56.5 acres of restored riparian corridor running upstream along Fanno Creek from the Nature Park to Scholls Ferry Road. See Figure 4 for the locations of these connections overlaid on the Regional Conservation Strategy Habitat Map.

### "Re-Green"

*(1)The project should enrich people's experience of nature and strengthen a physical connection to the region's ecology.....the project will serve a group of people that do not currently have strong access to nature.*

As described above, the over-riding intent of this capital project is to develop infrastructure that will allow Dirksen Nature Park users to feel the full openness and beauty of an oak savannah, to see the canopy and watery nature of the forested wetland, and to be able to move natural objects around, climb rocks and logs and get down in the dirt at the natural play areas.

The City of Tigard Park's Department currently offers no recreation programs and under the requirements of grants used to the purchase the property is required to provide rich education experiences at Dirksen Nature park. To fulfill this requirement, Tigard contracts with our valued partner Tualatin Riverkeeper's (TRK). TRK provides nature education tours, programs, and summer camps at the park. TRK places a specific focus on outreach to under-served populations across the Tualatin River watershed. TRK currently brings 10 to 15 classrooms of children from across the basin to Dirksen Nature Park every year. The goal for tour recruitment is 75% Title 1 schools. TRK has been successful in reaching this goal. When bus funding became an issue to reach underserved groups Tigard and TRK were able to partner with Tualatin River Partners for Clean Water who now offer bus grants to teachers

who want to plan a trip to Dirksen Nature Park but have no way to get to the park. TRK also implements site visits with groups from Community Partners for Affordable Housing, a local non-profit group that develops low income housing in Washington County. TRK will continue to provide site tours and interpretation to Greenburg Oaks, Olsen Woods, and Spencer House, low income projects that house a high number of children. In 2013, TRK developed a relationship with the Good Neighbor Center; a family homeless shelter located within walking distance to Dirksen Nature Park, and has begun tours with the children attending the shelter's after-school program.

Although it is sometimes the perception that all western suburbs are wealthy, 6 of the 10 elementary schools that serve Tigard are Title 1 Schools. Fowler Middle School, located immediately adjacent to the park has 37% of its population qualifying for reduced or free lunch.

*(2) The project should demonstrate ecological design solutions that are both effective and cost-efficient....leverages public dollars beyond the 2:1 match..*

The city will be putting up over a 2:1 match for this project. Tigard passed a parks bond in 2010 and working with their citizen Parks and Recreation Advisory Board, placed a high value on the purchase of parks land while land prices were down during the recent recession. The city has been able to leverage these park bond dollars very effectively but does not have adequate funding to complete the entire development desired at Dirksen Nature Park. With concerns for impacts to natural resources at the park as it becomes more and more popular, the city would like to be able to develop the facilities that will control access of the public to the most sensitive habitats. However, at this time more funding will be required. See the budget narrative for a detailed description of our funding.

*(3) The project benefits beyond the project itself. This could be demonstrated in the following ways.....the project brings together individuals and organizations to address community concerns beyond the environmental or ecological benefits.....*

This project provides **multiple benefits**. Northwest Youth Corp will be working at the site together with City, TRK, and CWS staff. This program is a career building program for youth ages 18-24 with barriers to employment. The grant project will allow these young adults to receive career training, earn a living allowance, achieve an AmeriCorps education award, and develop professional references within the community. The project also provides progress toward Tigard's new vision of developing the most walkable city in the region and increasing the health of local citizens. Expansion and improvement of the Tigard Park ecosystems will improve the value and marketability of Tigard as both a destination for business as well as an attractant for visitors. Increased property values and increased visitor traffic benefit the Tigard business economy and tax base, in turn stimulating investment in Tigard. The project progresses Metro's 2040 Growth Concept, as well as implementing important components of Tigard's Parks and Trail Plans. The project is consistent with the Oregon Department of Fish and Wildlife urban wildlife corridors vision for the area. As mentioned above, the environmental education tours provide affordable opportunities for school field trips and recreational opportunities for struggling schools and low income youth programs. The project will also provide Washington County Juvenile division opportunities to work with their kids at the park, providing meaningful chances to work and give back to

the community. The project will also support the continued use of the site as an outdoor classroom for science study.

### **Project Feasibility**

The project will require final design, engineering, construction document preparation, construction, and long-term management of the forested wetland boardwalk, the oak savannah overlook, and the natural play areas. Below is a description of how each of these project stages will be completed.

### **Master Planning**

As described in the project history section above, much work has already taken place to bring the project to where it is today. Extensive public input was gathered during property and master planning phase of the project and a list of participants in this process can be found in the Attached Master Plan. For a log of public meetings and responses to public input, please visit [www.tigardor.gov/community/parks/dirksen\\_nature\\_park.asp](http://www.tigardor.gov/community/parks/dirksen_nature_park.asp). The master plan was completed in 2012 working with the consulting firm Vigil Agrimis. Key staff for the master planning effort were Paul Agrimis and Maureen Raad. Paul, vice President with the firm, is a professional wetland scientist, registered landscape architect, and civil engineer with over 30 years of experience in environmental planning and design. His work covers a broad range of water resources and natural resources projects including public input, site and regional analyses, conceptualization, feasibility studies, regulatory guidance, design, construction assistance, and monitoring. Maureen, a senior-level project manager, has 15 years of experience in planning, design, and natural resources restoration. She has expertise in restoration ecology, fluvial and tidal geomorphology, and in integrating human use of the landscape into sensitive natural settings. Our consultant team worked closely with the Oregon Department of Fish and Wildlife biologist and other natural resource professionals including Metro and CWS biologists.

### **Construction Document Preparation**

The construction document preparation phase of the project is in progress at the writing of this application and is being completed by WHPacific. Key WHPacific staff include Mark Hadley. As a registered landscape architect and studio director, with over 30 years of experience, Mark provides seasoned design services leading teams of diverse professionals. He specializes in the design of parks and public spaces. He has won numerous design awards including a Sustainable Design Award for the Burlington Bottoms Management Plan and is a regular speaker at park conferences. Mark's list of successfully completed nature park projects includes Wallace Marine Park Boat Ramp and Bank Stabilization, in Salem; Bethany Lake Park Water Quality Enhancement, for Washington County; McCormick Nature park Trails and Master Plan, St Helens, OR; Wyeth Bench Environmental Education Center and Rustic Retreat Complex, Mt. Hood National Forest. He is supported by Casey Storey biologist and environmental coordinator. Casey specializes in wetland and fisheries biology, fish passage design, water quality monitoring, wetland delineation, Endangered Species Act compliance, aquatic entomology and environmental permitting. Also supporting the team is Phil Quarterman, an award winning wetland

scientist and natural resources planner with 34 years of experience. Phil's training includes wetland work (functional assessments/delineations), planting plans specifications, construction, and natural resource monitoring. Further qualifications include stream bank and riparian zone restoration, plant community mapping, and Endangered Species Act documentation. The project civil engineer is Ken Rehms PE, with over 19 years of experience, his primary responsibilities are serving as lead project engineer, design expertise, construction engineering, field support, and scheduling project staff to ensure that project timelines are met.

### **Construction and Long-term Management**

City of Tigard Department of Public Works will manage the design, construction, and long-term management of the project. The department has expertise in capital construction, park and natural area restoration and management. The design and construction of park infra-structure will be managed by Kim McMillian, the city's Assistant City Engineer. Kim has 30 years of experience in project management and has been with the city for 10 years. She oversees the team that implements all parks development for the city. This team includes engineers, consultants, and construction inspectors. They have recently completed East Butte Park; Fanno Creek Trail at Grant Avenue; and won the 2012 National Engineering Award for Burnham Greenstreet. All Tigard construction inspectors are certified erosion control specialists and work closely with Carla Staedter, Tigard's environmental coordinator. Carla will manage the development of the oak savannah and forested wetland. She has 5 years of experience in park and recreation planning, design, and construction. She has 25 years of experience with native area restoration and management. Carla is the 2011 recipient of the Professional Award for Outstanding Efforts to Enhance Oregon's Urban Forests. Steve Martin, the city's parks and streets manager, will oversee the team of professionals that will provide long-term management of Dirksen Nature Park. Steve has been with the city for 14 years, and has experience as a professional research forester and with landscape design, installation, and maintenance as well as management of landscape professionals. He oversees a staff of 9, which include park maintenance staff and a designated greenspace coordinator.

Northwest Youth Corps as mentioned above will complete non-native removal, and will prepare abandoned trails for restoration. Fowler Middle School staff and kids will complete replanting of the demand trails at the forested wetland. Middle school students will also provide brainstorming and input on the design and location of interpretive elements for the forested wetland boardwalk and the oak savanna overlook. Riverkeepers will continue to plan, train tour volunteers, and run tours and summer camps from the park. As part of their programs they will work with Tigard and CWS to plant the forested wetland and the scrub edges of the oak savanna.

## **Partnerships**

### **Tualatin Riverkeepers**

11675 SW Hazelbrook Road

Tualatin, OR 97062

(503) 218-2580

Contact: Isabel LaCourse, Environmental Education Coordinator

[Isabel@TualatinRiverkeepers.org](mailto:Isabel@TualatinRiverkeepers.org)

Project Role: Environmental Education, Trail Building, Planting, Serving Tualatin Basin Folks without Strong Access to Nature, Interpretive Assistance

### **Fowler Middle School**

10865 SW Walnut

Tigard, OR 97223

(503) 431-5000

Contact: Sue Manning, Science Teacher

[smanning@ttsd.k12.or.us](mailto:smanning@ttsd.k12.or.us)

Project Role: Environmental Education, Planting, Building Site Stewardship in the Students, Interpretive Assistance

### **Clean Water Services**

2550 SW Hillsboro Highway

Hillsboro, OR 97123

(503) 681-3600

Contact: Rich Hunter, Water Resources Program Manager

[hunter@cleanwaterservices.org](mailto:hunter@cleanwaterservices.org)

Project Role: Provide Native Plants to Support Volunteer Plantings, Technical Advisors for Restoration of Oak Savanna

### **Northwest Youth Corps**

2621 Augusta Street

Eugene, OR 97403

(503) 743-8590

Contact: Tom Helmer, Program Director –Community Conservation Corps & OutDoor Oregon

[tom@nwyouthcorps.org](mailto:tom@nwyouthcorps.org)

Project Role: Non-native removal at the forested wetland, site preparation of abandoned demand trails,

## **Project Evaluation and /or Monitoring**

The project will be monitored by Tigard staff, Tualatin Riverkeepers, and Fowler Middle School. One of the goals will be to document changes in the oak savanna and forested wetland. The site will be followed by Tigard's Environmental Coordinator, for a period of five years. The Coordinator will

establish photo points and collect photos four times per year at the Forested Wetland and the Oak Savanna. Twice per year the site will be photographed from the City's bucket truck to track changes over time. The team will watch to ensure that park users are choosing the new circulation routes through the park. If demand trails re-appear they will be blocked to encourage the use of the new circulation systems. These restoration areas will also be monitored to see if additional planting is required and will be watched through the first 2 summers to see if watering will be required to help young plants become established.

The Nature Play Areas and the new boardwalk will be monitored by parks maintenance staff to ensure they stay in good condition. The play areas will have components changed as needed by parks staff. Parks staff and Riverkeepers will watch for the popularity of items provided in the play areas and will use that information to continue to provide a rich natural play environment.

Tigard intends to develop detailed management plans for both the forested wetland and the oak savannas to be incorporated in the existing natural resource plans for the Park. We will do outreach to Clean Water Services, Metro staff, TRK, and local community groups to provide needed technical input into the long-term management of these resources. The plans will be completed 3 years after project completion to allow for time to see how the site responds to the changes. Tigard and its project partners will work with other agencies and non-profit groups who have experience in the restoration of oak savanna habitat. We will contact Oregon Department of Fish and Wildlife to see if wildlife surveys could be completed to document usage of the site and to assess if any actions are required to improve habitat.

### **Budget Documents**

The city completed preliminary master planning of Dirksen Nature Park in 2012. At the preparation of this grant application, the city has construction documents for the project at 70% completion. Funding is not available to construct all elements of the park. Currently the City has funding to complete restroom construction, education center improvements, paved and soft trails, the site parking lot, and the required street improvements. The city intends to develop the property over four phases.

The project timeline for completion of the four phases is:

- **Phase I** – slated for summer 2014 includes (1) the restroom/shelter; (2) improvements to the education center; and, (3) some resurfacing of soft trails that will be completed in partnership with TRK.
- **Phase II** – slated for 2015 includes (1) required street improvements; (2) parking lot; and, (3) road access to the nature center.
- **Phase III** – slated for 2016 includes (1) boardwalks; (2) the nature play areas; and (3) the oak savanna and forested wetland restoration
- **Phase IV** – slated for 2017 will be the sportsfield improvements. (Costs for these improvements is not included in the budget.)

See revised budget in Attachment 3

**NATURE IN NEIGHBORHOODS CAPITAL GRANT  
(F3) PROJECT BUDGET WORKSHEET**

**PROFESSIONAL SERVICES COSTS**

- Estimate the hours of work directly related to your project for non-profit personnel, agency personnel, volunteers and consultants. You can delete rows that do not apply and/or add more specific descriptors.
- Explain the tasks each is expected to complete in the budget narrative (i.e. surveys, design development, construction documents, plan review, construction management).
- Pre-Agreement costs must occur AFTER the Invitation to Submit a Full Application and are not reimbursable.
- Agency & non-profit personnel time cannot exceed 10% of the grant request.
- Volunteers specifically doing project installation should be included in this section.

	financial match	in-kind match	grant request	TOTAL
A. Pre-Agreement				
1. Non-profit staff				\$0.00
2. Agency staff				\$0.00
3. Consultants				\$0.00
4. Volunteers				\$0.00
B. Post-Agreement Costs				\$0.00
1. Non-profit staff				\$0.00
2. Agency staff				\$0.00
3. Consultants	\$100,000.00			\$100,000.00
4. Volunteers		\$75,343.00		\$75,343.00
<b>Total for Professional Services</b>	<b>\$100,000.00</b>	<b>\$75,343.00</b>	<b>\$0.00</b>	<b>\$175,343.00</b>

**CONSTRUCTION COSTS**

Estimate the cost for all work elements of your project. **Feel free to change the list.** Specify in the budget narrative which work elements will be completed by volunteers and how you calculated the budget figure.

	financial match	in-kind match	grant request	TOTAL
A. Site Preparation				\$0.00
1. Mobilization & Bonding	\$90,000.00			\$90,000.00
2. Clearing/Demolition/Eros.Control	\$38,000.00			\$38,000.00
3. Staking & Surveying	\$13,800.00			\$13,800.00
B. Utilities	\$309,600.00			\$309,600.00
C. Improvements/Materials				\$0.00
1. Restroom/Shelter	\$151,200.00			\$151,200.00
2. Educaton Center Improvements	\$44,300.00			\$44,300.00
3. Trails (paved)	\$50,500.00			\$50,500.00
4. Trails (soft surfaced)	\$10,200.00	\$3,000.00		\$13,200.00
5. Nature Play Areas			\$100,000.00	\$100,000.00
6. Wetland Boardwalks/Overlooks	\$117,000.00		\$210,000.00	\$327,000.00
7. Required Street Improvements	\$823,000.00			\$823,000.00
8. Multi-Use Ballfield Renovation	\$0.00			
9. Parking Lots	\$77,800.00			\$77,800.00
10. Community Gardens	\$30,000.00			\$30,000.00
D. Permits	\$10,000.00			\$10,000.00
E. Others, please list				
1. Furnishings	\$50,000.00			\$50,000.00
2. Interpretive Signage	\$60,000.00			\$60,000.00
3. CWS Veg. Corridor Plantings	\$71,750.00			\$71,750.00
4. Parking Lot Trees/Planting	\$27,700.00			\$27,700.00
5. Oak Savanna Restoration		\$2,000.00	\$50,000.00	\$52,000.00
6. Forested Wetland Restoration		\$10,000.00	\$30,000.00	\$40,000.00
7. Irrigation	\$154,250.00			\$154,250.00
8. Restroom Enclosure	\$4,500.00			\$4,500.00

9. Contingency	\$218,000.00			\$218,000.00
<b>Total for Construction Costs</b>	<b>\$2,351,600.00</b>	<b>\$15,000.00</b>	<b>\$390,000.00</b>	<b>\$2,756,600.00</b>

<b>ACQUISITION COSTS</b>				
<i>Please estimate the cost for all work elements. Please feel free to change the list.</i>				
	<b>financial match</b>	<b>in-kind match</b>	<b>grant request</b>	<b>TOTAL</b>
A. Purchase Price				\$0.00
B. Option Purchase				\$0.00
C. Option Reimbursement				\$0.00
D. Appraisal & Appraisal Review*				\$0.00
E. Title Report, insurance & documents				\$0.00
F. Phase I Enviro Assessment				\$0.00
G. Stewardship endowment				\$0.00
H. Management Plan Development				\$0.00
I. Baseline Documentation				\$0.00
<b>Total for Acquisition Costs</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

<b>OTHER COSTS</b>				
A. Travel (use current State of Oregon rates)				\$0.00
B. Overhead/Indirect costs - these can only be used as match.				\$0.00
				\$0.00
<b>Totals for Other Costs</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

<b>TOTAL PROJECT COSTS</b>	<b>\$2,451,600.00</b>	<b>\$90,343.00</b>	<b>\$390,000.00</b>	<b>\$2,931,943.00</b>
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## Nature in Neighborhoods Capital Grants Match Form

**INSTRUCTIONS**

1. Enter description of the source of matching funds or in-kind contribution. Put an X in the appropriate boxes. Enter the value of the matching source and appropriate notes to clarify how source will be allocated. Feel free to add as many rows as you need.
2. If utilizing volunteers, indicate this in the "Match Source" and "In kind" columns and calculate the number of hours the volunteers will be contributing to the project. The "Amount" will be those hours multiplied by the hourly rate found at the Independent Sector website:  
[www.independentsector.org/programs/research/volunteer\\_time.html](http://www.independentsector.org/programs/research/volunteer_time.html)
3. If your "Match Source" is a professional or technical service received as "In kind", use the market average or actual salary or bid for that individual or service. Use the "Notes" column to document your methodology.

Matching Source	Financial	In-kind	Pending	Secured	Value	Notes
Northwest Youth Corps		X			\$6,000.00	tools, vehicle, programatic wages, and indirect costs
Clean Water Services		X			\$10,000.00	native plant material
Clean Water Services		X			\$2,000.00	staff time
TRK		X			\$21,919.00	Volunteer hours donated by tour guides and visitng student who plant on tour. Based on 990 donated hours x \$22.14. over a 2 year period
Fowler Middle School		X			\$35,424.00	Volunteer hours donated by students planting for 1 hour each year. Based on 800 students and teachers over a 2-year period x \$22.14
<b>Total</b>					<b>\$75,343.00</b>	



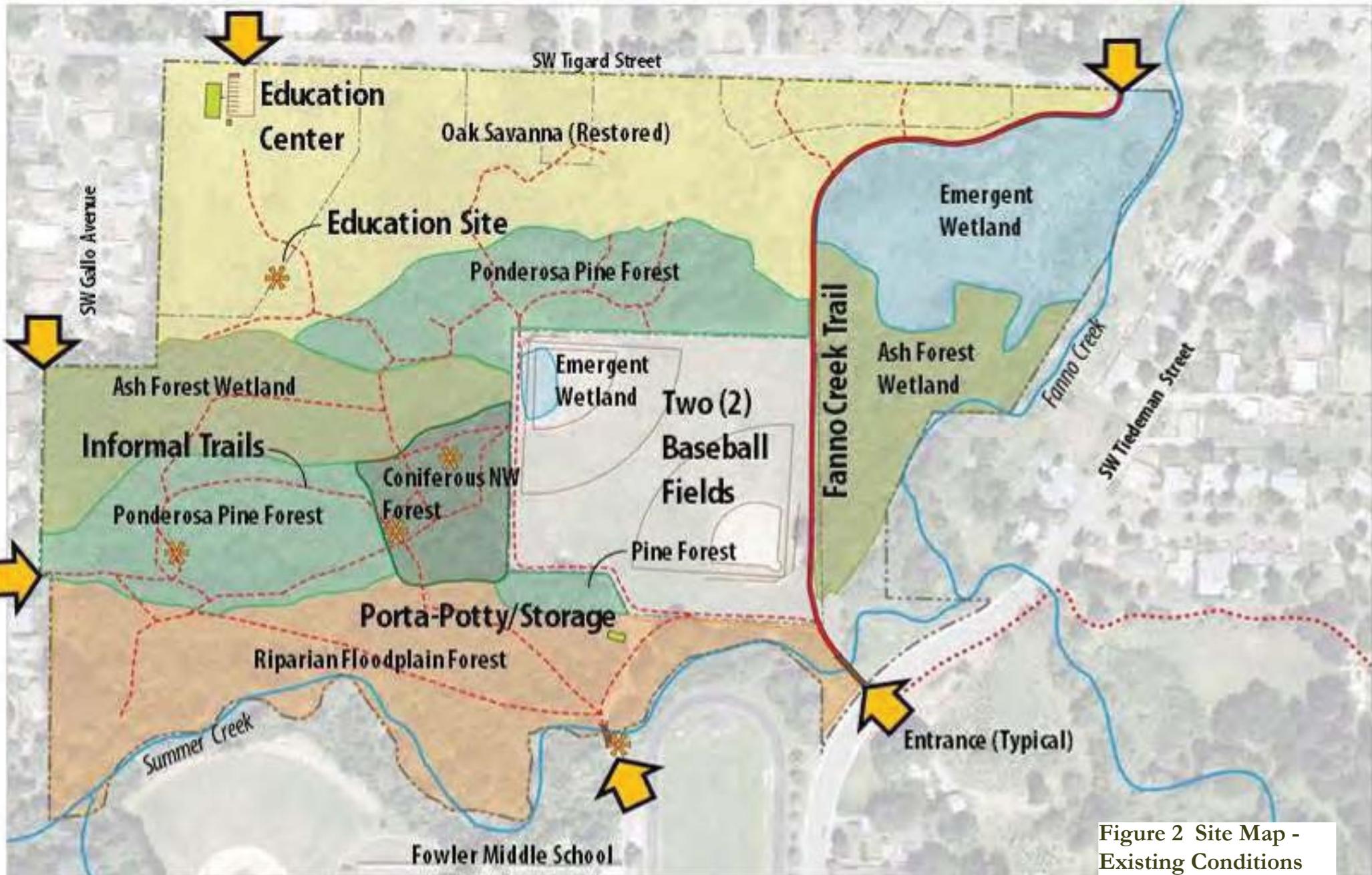
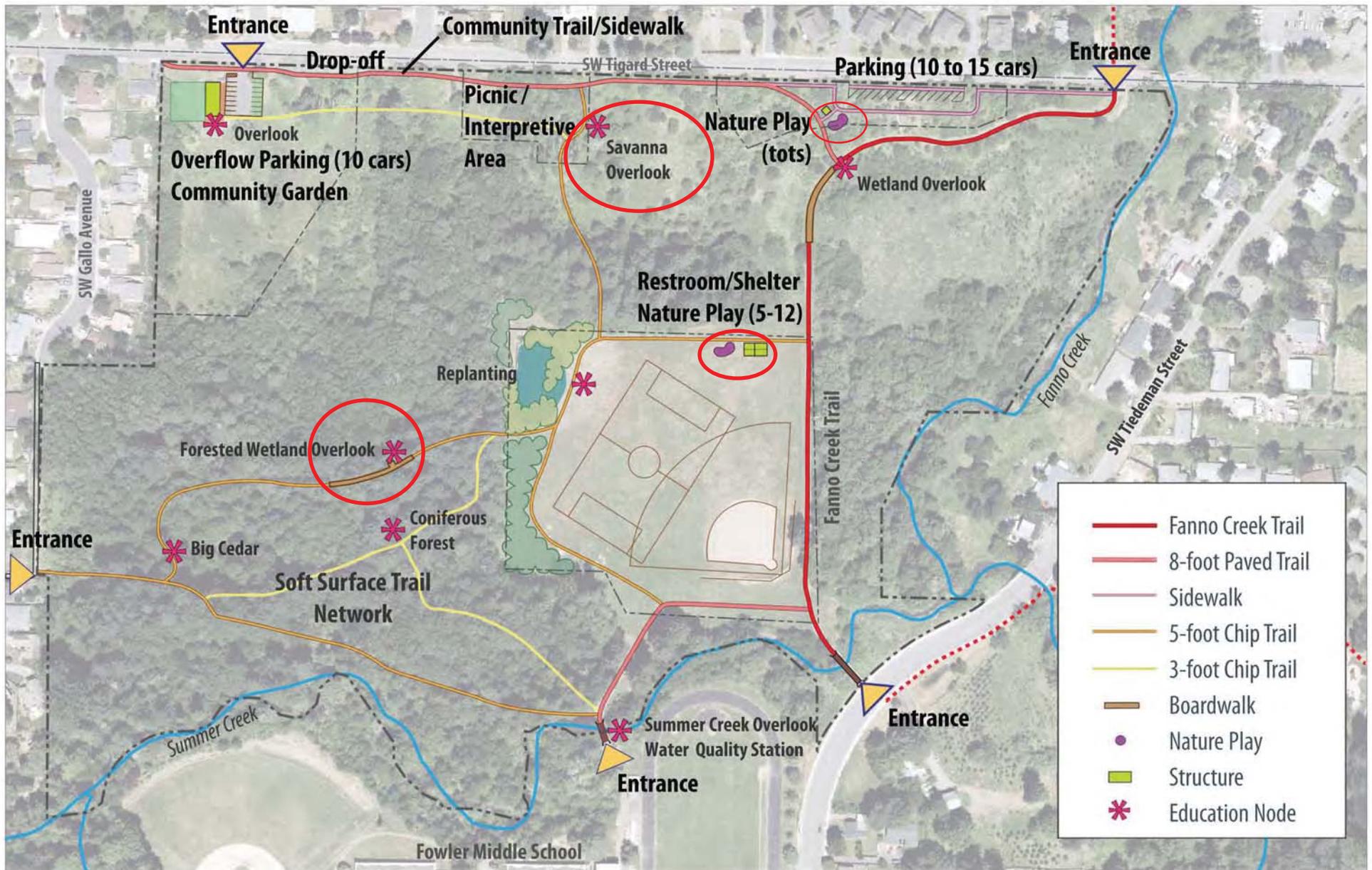


Figure 2 Site Map - Existing Conditions

# SUMMER CREEK PROPERTY

## Master Plan

June 2012



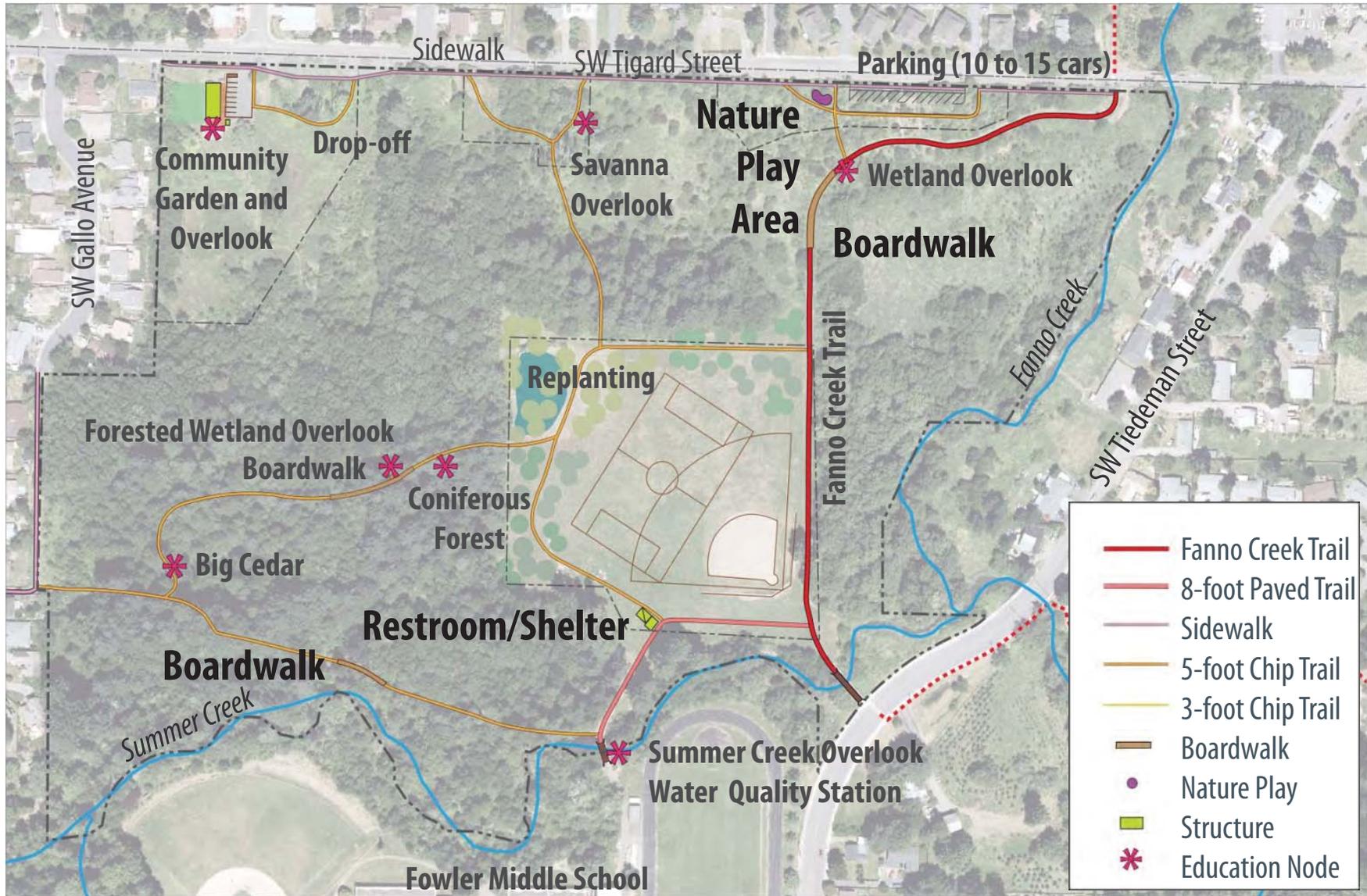
Note: Component circled in red to be implemented by Grant Funding

Figure 3 Dirksen Nature Park Master Plan



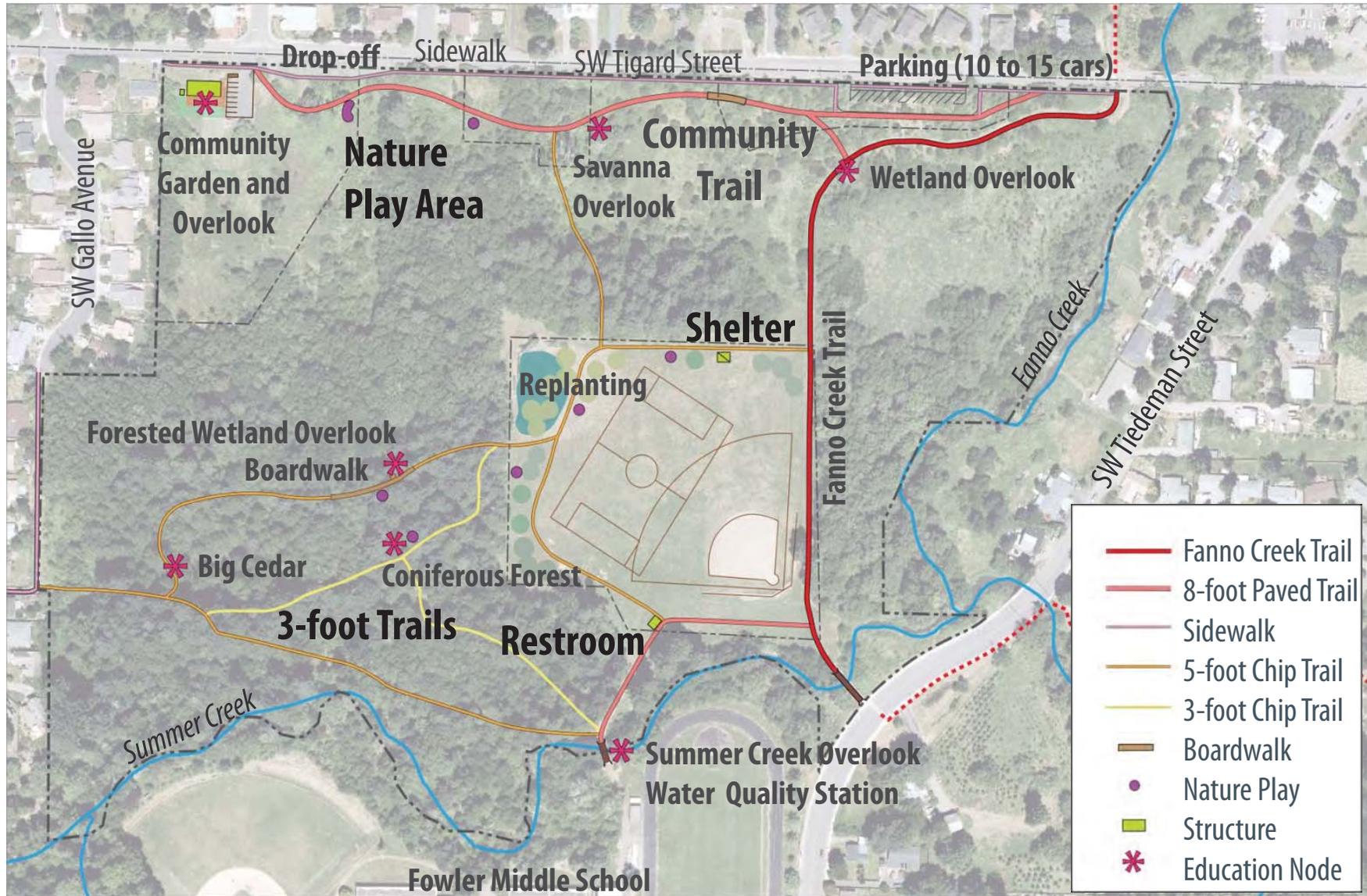
# SUMMER CREEK PROPERTY MASTER PLAN

## Concept A



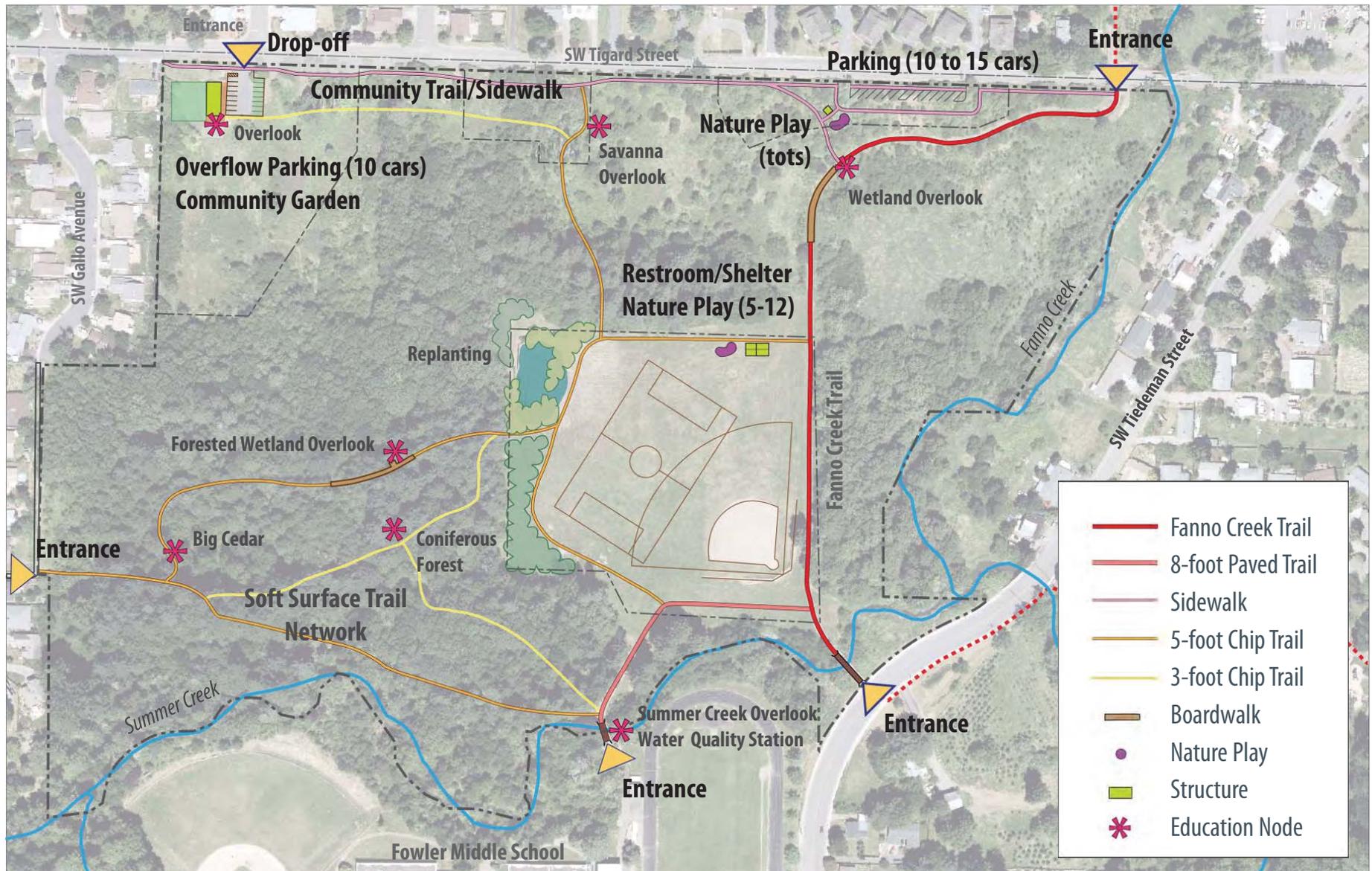
# SUMMER CREEK PROPERTY MASTER PLAN

## Concept B



# SUMMER CREEK PROPERTY MASTER PLAN

## Preliminary (Concept) Master Plan



## Meeting Notes

Summer Creek Park Master Plan Key Stakeholder Meeting

Thursday, February 8<sup>th</sup>, 2012

Summer Creek Park Education Building and Site

2:00 - 4:30 pm

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### Attendees:

City of Tigard: Steve Martin, Carla Staedter, Tom McGuire and Greg Stout

City of Tigard Parks and Recreation Advisory Board: Troy Mears

Conservation Technix: Steve Duh

Vigil-Agrimis, Inc.: Paul Agrimis, Maureen Raad and Susie Mattke-Robinson

Clean Water Services: Rich Hunter

Tualatin Riverkeepers: Lori Kruz and Brian Wegener

Friends of Fanno Creek: Sue Beilke

Metro: Elaine Stewart and Robert Spurlock

Fowler Middle School: Sue Manning

Community Member: John Frewing

Ash Creek Forest Management: John Goetz

These notes focus on the group discussion that took place in the field and reflect the comments and opinions of the stakeholders in attendance. The project design team will balance these remarks with other public input in preparing the conceptual master plan design. The agenda and handouts (that follow these notes) summarize the project overview provided in the Education Center.

These notes are organized by location to make them easier to follow. For example, a comment made about trails in coniferous upland forest was included in the discussion of that location even if the comment was made at a different location.

Comments from phone interviews conducted prior to the meeting were added in a couple of locations to supplement the field notes.

### Summary of Key Stakeholder Input

*“High quality trails and high quality habitat will create a high quality experience”*

*by Carla Staedter*

### Habitat Types

NW Native Ecosystems and species of note on the site include:

- Oak Savannah (restored)
  - Coniferous Northwest Forest
  - Riparian Floodplain Forest
  - Emergent Wetland
  - Forested Wetland
  - Scrub-Scrub Wetland
  - Ponderosas pine
  - Camas
  - Sunny South Facing Slopes
  - Madrone
  - Reptiles
  - Birds
- Minimize habitat fragmentation caused by trails. Consider habitat patches and wildlife migration corridors (ie. wetland to upland) when selecting alignments.

- Consider boardwalks, culverts, etc. to maintain habitat connectivity.
- Decommission excess trail.
- Take advantage of on-site wetland mitigation and upland restoration opportunities. Restore plant communities on-site.

### **Environmental Education**

Education programs being supported include:

- Tualatin Riverkeepers, field trips (all Tigard and many Washington County schools)
- Tualatin Riverkeepers, summer camps
- Fowler Middle School
- Recreation Users
- Learning is experiential: seeing, hearing, touching. Design should heighten the experience.
- Provide access to habitats for education but do so in a way that limits impact to and degradation of the resource. For education, quiet surfaces (not gravel) are important so wildlife can be heard over foot fall.
- Identify and enhance 5 to 6 major educational experiences for NW Native Ecosystems.
- Maintain fewer, but higher-quality trails
- Provide viewpoints for visual access to habitats to minimize habitat penetration by trails in sensitive areas (e.g., forested wetland).
- Provide controlled access to Summer Creek for sampling in a degraded area so other areas can be restored.

### **Recreation**

Recreation uses being considered include:

- Education Center, drop off
- Education Center, curb appeal
- Parking for Trailhead and Park
- Summer Creek Community Trail
- Trails
- Nature Play Area
- Baseball (1 field)
- Soccer (1 field)
- Restroom
- Shelter
- Provide an accessible loop-trail alternative to the busy Fanno Creek Trail.
- Community Trail alignment is most appropriate along SW Tigard Street.
- Design trail system to discourage off-trail exploration by people and pets.
- Designed elements should be integrated into the site
- Consider incorporating interpretive elements into the design.

### **Location-Specific Notes**

#### **Site 1. Education Center on SW Tigard Street**

**Proposed Activities:** Enhance building curb appeal, add garden area, provide outdoor gathering area and provide bus drop-off/turnaround.

**Discussion Synopsis:** There were no concerns raised by the group about the building, garden or gathering area elements.

Bus drop-off is needed at the Education Center to reduce walking time and provide safe conditions for students. Dropping students at Fowler Middle School is not an option because the walk is too far. The education goal is for students to spend 95% of their time experiencing the site. A drop off at the Education Center provides for this and will also reduce conflicts between Middle School and Environmental Education students. Summer camp students are currently dropped off at the Education center by parents. Because the wetland boundary is close to the building consider roadside pull-off in lieu of turnaround to reduce site impact.

Garden spaces uses could include: community gardens, native plant nursery (perhaps pollinator focused), eatables for summer camp and field trips.

The function of the Education Center building is to provide restrooms, lunch location in rainy weather, and storage for supplies and student gear. Curb appeal improvements do not need to be elaborate and could include adding native vegetation, expanding the deck and replacing doors.

#### **Site 2. Nature Play Area on SW Tigard Street in Restored Oak Savanna**

**Proposed Activities:** Nature play area and oak savanna restoration.

**Discussion Synopsis:** There some concerns raised by the group about including a nature play area in this location. Nature play was supported but this location (near traffic on SW Tigard Street and away from parking, park entry, and public services) were seen as problematic for safety reasons. Distributing play experiences around the site in different “ecosystems” was suggested though this might not provide children with the opportunity to meet and play with others in a designated nature play area. Consolidating play and environmental education uses would concentrate disturbance and reduce impacts to wildlife. Would a nature play area at the Education Center distract from education activities?

If nature play is located along SW Tigard the design should provide a vegetated buffer/separation between the play area and street traffic. A dense native vegetation buffer along SW Tigard St will also protect oak savannah restoration site from weed seed. Traffic is loud when cars are present. Locating activity area away from street will help.

Half-street improvements may be required. A continuous sidewalk will probably be needed in addition to the Community trail for local traffic. Try to integrate infrastructure into site. Runoff currently flows off SW Tigard St into the site. Consider

using low impact development techniques (no curb and gutter, vegetated filter strip) to keep this water on-site.

Design trails to discourage roaming off-leash dogs and desire-line trails. Seasonal closures could protect habitat during breeding season but would be difficult to enforce. Fencing could be used to keep users out of sensitive areas.

Preserve open reptile basking habitats on south-facing slopes. Jackson Bottoms has good examples.

Consider integrating habitat elements into the design of the developed locations along SW Tigard St.

Since non-native English hawthorn are being removed, consider planting native hawthorn (these may hybridize with the non-native species) or other fruit-bearing trees like Serviceberry and Cascara to provide bird habitat.

A covered bird watching location could be a nice amenity.

#### **Site 2.5/3.5. Forested Wetland Boardwalk**

**Proposed Activities:** Trails and environmental education.

**Discussion Synopsis:** There were no concerns raised by the group about environmental education in this location.

Habitat fragmentation and uncontrolled access were big concerns in this area. Creating a spur trail instead of a through trail was preferred. An elevated boardwalk would keep people on the trail and out of sensitive areas while allowing a unique user experience.

Boardwalk nodes would need to accommodate 10 students. Design elements could include blind-like handrails and decking that allows the user to see open water below them.

Accessing the forested wetland from the south will be the least impactful to wetlands. If access is provided from this location, upland forest fragmentation should be limited.

#### **Site 4. Skills Area in Coniferous Northwest Forest**

**Proposed Activities:** Trails, environmental education and skills course.

**Discussion Synopsis:** There were no concerns raised by the group about environmental education in this location.

Site currently vandalized (graffiti and fort building) and is devoid of understory vegetation. The hope is that vandalism will decrease with increased foot traffic. The size of the gathering area could be constrained by adding large wood at the perimeter. This would provide a nature play opportunity and would allow for education about the role of large wood. Replanting under the dense canopy would likely be challenging in the deep shade of this location.

Summer Creek Park is an important habitat site for ponderosa pines. These will be replaced by Douglas fir and cedar over time without management these species.

Selectively thinning them in this area could benefit ponderosa pine and provide a source of large wood.

Is it appropriate to keep skills activity here?

The existing trail network includes a through trail to SW Gallo and 113<sup>th</sup> Avenues. This trail should remain as it is an established site accesses. A nice loop is possible in this area but trail decommissioning is needed. Impacts to the riparian forest should be minimized when selecting trail alignments.

### **Site 5. Water Quality Sampling Area in Summer Creek Riparian Floodplain Forest**

**Proposed Activities:** Paved trail, environmental education (water quality sampling), restroom and shelter (outside the 100-year floodplain).

**Discussion Synopsis:** There were no major concerns raised by the group about the activities proposed in this area.

The existing platform does not function for water quality sampling as it is too high. Currently the banks on either side of the creek are degraded due to uncontrolled access. A defined access for education is needed either on the north or south side of the creek to reduce habitat degradation. Adding to the existing stair and platform would consolidate impacts in one location. Water surface elevation fluctuates and should be factored into platform design. Incorporating historic flood elevations in to the design could be used as a teaching tool in this area.

Asphalt and concrete paving surfaces were discussed for a trail connecting the Fanno Creek Trail with the bridge to Fowler Middle School. Maintenance currently accesses the Park from Fowler Middle School. Concrete is more expensive but longer lived, while asphalt is less expensive and consistent with other paved surfaces in the Park. National Marine Fisheries Service may object to asphalt in the 100-year floodplain.

### **Site 3. Playing Field**

**Proposed Activities:** Remove northwest baseball backstop, add a soccer overlay in the outfield area of the southeast baseball field and provide a trail.

**Discussion Synopsis:** There were some concerns raised by the group about the proposed activities in this area. There was some opposition to adding a soccer overlay as this would extend the recreational use season.

The reconfigured playing fields will leave much of the northwest corner available for native plantings. The small wetland in this area would not be impacted by proposed activities and provides a good opportunity for on-site mitigation.

Walkers use the west and north edges of the field to create a loop off of the Fanno Creek Trail. Developing a paved loop trail in this area would take advantage of sunny southern aspect and serve the active recreation areas and restroom.

This trail alignment passes the riparian floodplain forest of Summer Creek, coniferous northwest forest, forested wetland, camas, quaking aspen, and ponderosa pine forest and so provides good interpretive opportunities.

### **Site 6. Parking on SW Tigard Street**

**Proposed Activities:** Parking lot for Fanno Creek Trail and Community Park.

**Discussion Synopsis:** It was after 4:00 by the time we reached this location so discussion was brief. No major concerns were raised by the group about the activities proposed in this area though adding paving to the site was a concern.

Summer Creek Park will function as a Community Park and so will serve people from across Tigard. During acquisition, this parcel was targeted specifically to provide parking in order to limit the impact of additional cars on the surrounding neighborhood. Concentrating parking will allow for controlled access to the Park using designated trails. Low impact development techniques could be used in the parking lot design to limit impacts and provide an educational opportunity.

There is a desire line trail used by children living north of SW Tigard St when accessing the Park and walking to school. A paved path connecting the parking lot to the Fanno Creek Trail in this area would formalize this route. An overlook of the Fanno Creek wetland could be incorporated to add an interpretive element.

### **Summer Creek Community Trail**

**Proposed Activities:** Provide trail alignment in the park.

Two alignments are proposed for this trail in the Tigard Greenway System Master Plan. One alignment follows SW Tigard St and one crosses the south side of Summer Creek Park connecting SW Gallo Ave to the Fanno Creek Trail. This trail was discussed at several sites.

**Discussion Synopsis:** Habitat fragmentation and increased traffic (bike and ped) were concerns for the southern alignment.

Paving the southern alignment was not favored. Integrating the trail into the area along the northern alignment was preferred. A vegetated buffer between the trail and SW Tigard would increase the sense of separation from the road.

Modifications to the Fanno Creek Trail alignment and design could reduce wetland impacts and barriers to species migration.

END

## **Meeting Notes**

Summer Creek Property Master Plan Public Meeting  
Wednesday March 28, 2012  
Tigard PW Building – 8777 SW Burnham Street  
7:00 - 8:30 pm

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### **Attendees:**

See Sign in Sheet

### **Project Overview:**

Following brief introductions and welcoming remarks, a presentation was given to share information about the site's conditions, constraints and current use, with special focus toward the extent of wetlands and the variety of habitat types. A range of potential park amenities was noted that include the upgrade and re-configuration of existing sports fields and the construction of a restroom, interpretive shelter, natural play area and trails. The majority of the park, approximately 35 acres, will remain as open space – a significant portion of which will undergo restoration. Two master plan concepts were discussed and review, and special attention was directed toward enhancements at the education center and a potential parking area off Tigard Street. These concepts were used during the group break-out sessions to elicit public feedback.

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### **Break-Out Exercise – Group 1 (10 people: 5 men and 5 women)**

#### **Education Center**

The group was generally in favor of the proposed improvements at the Education Center. Environmental Education perspective preferred the bus drop-off to be located near the education center, with forty days annual usage. Some parents do not want children to have long walk through the site to education center from a drop-off at Fowler Middle School.

The curb appeal improvements proposed for the existing double-wide structure were well supported.

#### **Walking Trails**

The group was interested in providing some accessible trails (strollers, etc.). Paved trails could be pervious pavement. Some members of the Group really liked the notion of a loop trail using the sidewalk along SW Tigard Street and a Community Trail offset from SW Tigard in a serpentine pattern.

Others mentioned that the area along SW Tigard Street is a sensitive habitat area. Need to be aware of that when considering a busy trail.

Maintaining access from the neighborhood southwest of the park is important.

### **Nature Play Area**

The Nature Play Area was supported but concerns were raised about not making it too brushy or wild so that parents can easily observe children at play and keep them safe. There were folks in favor of both proposed locations (near parking) but there was some concern that the play area might be a distraction if located near the education center. Locating the play area near parking and restrooms was recommended.

### **Playing Field**

The group supported the proposed baseball field and soccer field overlay.

### **Parking on SW Tigard Street**

This group was split on parking on SW Tigard. Some prefer looking at the education center location as an alternative to keep development away from habitat, and would like upland scrub/shrub habitat enhancements within the proposed parking area. Others expressed a need to improve safety along SW Tigard and saw an opportunity to provide needed parking adjacent to the Fanno Creek Trail.

### **Summer Creek Community Trail**

A paved sidewalk/trail along SW Tigard Street is needed for safety of children and others moving along the corridor. Some voiced a desire for a planted buffer along this trail to separate it from SW Tigard Street.

Traffic moves quickly on SW Tigard, often exceeding the 25 mph posted speed limit. Traffic calming and cross walks or crossing signal could be helpful for pedestrians and bikes crossing on the Fanno Creek Trail. A raised crossing for the Fanno Creek Trail was offered as one potential means to improve safety.

(See comments under walking trails)

### **Safety**

The group discussed vandalism of existing site (plantings and tree tagging) and had concerns about future facilities (restrooms). Prior homeless camps and prior use of the environmental education parking lot for parties and other activities were a concern. A park ranger or patrol program like THPRD's could help.

### **Other**

A park sign should be installed.

A phased development approach was discussed. This would allow for a simple start and slow growth in to the site.

### **Break-Out Exercise – Group 2 (8 people: 7 men and 1 woman)**

#### **Summer Creek Community Trail**

The group felt that it was redundant to have both a sidewalk and paved trail parallel to SW Tigard Street. Something in between Concept A and Concept B was preferred. A wider meandering sidewalk set further off the street with a planted screen

separating it from the road was preferred. Access points for people crossing the street should be incorporated into the design (could swoop back to curb rather than have spur sidewalks).

If there is a bike lane on SW Tigard do we need a multi-modal trail in the park?

From an Environmental Education perspective there was concern about having student's first nature experience be on a paved path as this is more of an Urban Park than Nature experience.

### **Nature Play Area**

The preferred location for this activity was adjacent to both parking and restrooms. No designated park parking lot location is available near the ball fields (the proposed restroom location), though limited on-street spaces are available. There is parking at Fowler Middle School but only on SW Walnut Street.

There are restrooms at the Education Center, but they are only available when the building is unlocked. A port-a-potty could be provided at either the Education Center or at the proposed parking lot location to serve the play area.

From an Environmental Education perspective there was concern about locating the Nature Play Area at the Education Center because parking is needed at that facility when it is in use.

### **Walking Trails**

Unpaved walking trails were the preferred amenity for the group. They favored the more extensive trail network in the southwest part of the site and liked the boardwalk elements that were proposed. They liked trails that follow existing alignments (where people want to go). Questions were asked about if providing accessible trails was required. But the group did not advocate for this.

### **Parking on SW Tigard Street**

Given the amount of use that the proposed soccer and baseball fields will attract, the group felt that more parking might be needed. There was a desire to look more closely at the Education center to see if additional spaces could be provided there.

### **Education Center**

The group was generally in favor of the proposed improvements at the Education Center.

### **Water Quality Sampling Area**

Improvements are needed here to make sampling possible.

### **Playing Field**

The neighborhood already had a lot of night- lighting and noise from the playing fields at Fowler Middle School. Not having lit fields at the park was a preference that is in keeping with habitat conservation goals for the property.

### **Safety**

There was a question about security lighting in the park. Steve Martin responded that the only place it might be appropriate was on the Fanno Creek Trail because it is considered a transportation corridor. The group supported this limited approach and did not advocate for including lighting in the plan. The biggest concern relative to lighting was for children walking to school.

### **Off-Leash Dogs/Cats**

There was concern voiced about the amount of damage done to habitat and species by uncontrolled pets. Providing an off-leash area was briefly discussed but didn't seem to solve the real problem. It also seemed inconsistent with Habitat Conservation goals and would require a considerable amount of land.

END

## **Meeting Notes**

Summer Creek Property Master Plan, Public Meeting Number 2

Thursday May 17, 2012

Tigard PW Building - 8777 SW Burnham Street

7:00 - 8:30 pm

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### **Attendees:**

See Sign in Sheet

### **Project Overview:**

The meeting began with brief introductions, welcoming remarks, and an update on where the Summer Creek Property is in the master planning process. This was followed by a presentation that reviewed existing site conditions, constraints and uses, with special focus on the variety of habitat types, including wetlands found on the site. The Concepts presented at Public Meeting Number 1 were reviewed and the presentation summarized the feedback received from stakeholders and the public thus far. The presentation then reviewed the modification made to the earlier concepts to create the Concept Master Plan. The Concept Master Plan presentation and discussion was followed by a more detailed discussion of the education center improvements and the two nature play areas. Following the presentation there was an informal group discussion of the Concept Master Plan followed by a brief open house that allowed for more one-on-one discussion. Feedback received at the meeting is summarized below by topic.

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### **Discussion During the Presentation:**

#### **Parking**

The Concept Master Plan shows parking for 10 to 15 cars near the Fanno Creek Trail and an additional 8 to 10 car overflow parking area at the Education Center. There was concern that additional parking may be required. The City will likely require parking along SW Tigard Street but a resident suggested that off-street parking would be preferable due to the high traffic speeds on SW Tigard Street and unsightliness of parked cars.

The overflow parking spaces at the environmental education center were discussed briefly. The proposed paving material is a pervious pavement like grasscrete. There was support for this but traditional asphalt was also suggested as a better choice. Expanding parking in this area and/or the flexible use area was also discussed.

#### **Playing Field**

The location and orientation of the ballfields was generally supported. It was suggested that drainage be carefully considered in the baseball backstop area as well as on the soccer field. Soil amendments and drainage improvements may be required to improve playability.

### **Restrooms**

Restroom location should consider the cost of providing water and sewer to the location. There was support for the proposed location from a use point-of-view (central, near the ballfields, away from Fowler Middle School, near parking lot).

### **Education Center**

The proposed curb appeal improvements to the education center were generally favored and were not discussed at length.

### **Community Garden**

Community garden space proposed near the education center will be used by both the education center (to grow native plants) and the public (as community garden space). There was concern that 15 beds would not be enough to satisfy demand. Adding more beds at the education center and/or expanding the garden in the flexible use area were discussed as options.

### **Bird Watching**

A covered bird viewing area (like the amenity at Jackson Bottoms Wetland Preserve) would be appealing. Adding a cover to the proposed education center deck was discussed. Providing for this in the flexible use area farther from the road was also discussed and was preferred.

### **Nature Play Area**

Nature play materials choice with regard to maintenance was discussed. Maintenance staff raised concerns about sand and seasonal water (mud) near restroom and parking lot. Maintenance has experienced difficulties with these materials and keeping public restroom facilities clean and in working order. Restrooms will likely be open year round. Wood chip materials are preferred to sand in play areas. Maintenance staff was also concerned that moveable parts would make park maintenance more difficult.

The group generally favored nature play. One participant voiced a preference for play elements with a rustic look. Another felt the vertical logs were reminiscent of cut trees. Concerns were raised about the longevity of wood structures, such as the log pile, with natural material breaking down over time. Swings and rocks with engraved animal characters were supported. Both nature play and traditional play structures were acceptable. Rock features were favored.

### **Trails**

There was support for the trail network on the site and for the proposed boardwalk and forested wetland overlook which provides views into the wetland while protecting habitat.

It was suggested that the proposed 6-foot sidewalk/community trail along the SW Tigard Street be widened to 8 feet to better serve as a community trail.

### **Restoration and Mitigation**

Restoration efforts will be focused on the Oak Savanna area in the north and west part of the site, as it includes many slow-growing species. Restoration east of the Fanno Creek Trail is not included in the master plan.

Protection of the wetland mitigation area near the ballfield was discussed. Fencing was discussed as was using signing and education in lieu of fencing.

### **Water Quality Sampling Area**

The need to improve the water quality testing area was mentioned as an important component to support environmental education.

### **Phased Development**

It was suggested that construction be phased such that heavy construction is completed early in the phasing to avoid impacts to restored areas of the site.

END

# Estimate of probable Construction Costs -- Master Plan

June 30, 2012

Item	Quantity	Unit	Unit Price	Cost	Cost Plus 20%
<b>Mobilization</b>					
Mobilization (7% of Construction Cost)	1	LS	\$30,119.00	\$30,119	\$36,143
			<b>Subtotal:</b>	<b>\$30,119</b>	<b>\$36,143</b>
<b>Construction Survey &amp; Staking</b>					
	1	LS	\$10,000.00	\$10,000	\$12,000
			<b>Subtotal:</b>	<b>\$10,000</b>	<b>\$12,000</b>
<b>Clearing &amp; Grubbing</b>					
Clearing & Grubbing	43,970	SF	\$0.25	\$10,993	\$13,191
Misc. Tree Removal	10	EA	\$400.00	\$4,000	\$4,800
				<b>\$14,993</b>	<b>\$17,991</b>
<b>Porta-potty</b>					
Concrete Pad (for unisex accessible porta-potty)	300	SF	\$5.00	\$1,500	\$1,800
Screening (for porta-potty)	65	LF	\$45.00	\$2,925	\$3,510
				<b>\$4,425</b>	<b>\$5,310</b>
<b>Restrooms/Interpretive Shelter</b>					
Water Meter	1	LS	\$5,000.00	\$5,000	\$6,000
Water Line - 3/4 inch	500	LF	\$25.00	\$12,500	\$15,000
Sanitary Line - 4 inch	500	LF	\$35.00	\$17,500	\$21,000
Electric Connection (for restroom)	1	LS	\$10,000.00	\$10,000	\$12,000
Restroom/Interpretive Shelter (4 seats)	1	LS	\$80,000.00	\$80,000	\$96,000
				<b>\$125,000</b>	<b>\$150,000</b>
<b>Site Furnishings</b>					
Bench (6 foot)	7	EA	\$1,800.00	\$12,600	\$15,120
Picnic Table	6	EA	\$4,000.00	\$24,000	\$28,800
Litter Receptacle	6	EA	\$1,500.00	\$9,000	\$10,800
Entry Signage	3	EA	\$5,000.00	\$15,000	\$18,000
Interpretive Signage	10	EA	\$6,000.00	\$60,000	\$72,000
Bollards	2	EA	\$500.00	\$1,000	\$1,200
Loop Bike Rack	4	EA	\$500.00	\$2,000	\$2,400
				<b>\$123,600</b>	<b>\$148,320</b>
<b>Nature Play Areas</b>					
Toddler Area (at parking lot)	1	LS	\$40,000.00	\$40,000	\$48,000
Age 5-12 Area (at playing field)	1	LS	\$50,000.00	\$50,000	\$60,000
				<b>\$90,000</b>	<b>\$108,000</b>
<b>Playing Fields</b>					
Soccer Field (Partial Overlay)	1	LS	\$70,000.00	\$70,000	\$84,000
Baseball Field Improvements	1	LS	\$90,000.00	\$90,000	\$108,000
Baseball Field Backstop Removal (2)	1	LS	\$5,000.00	\$5,000	\$6,000
				<b>\$165,000</b>	<b>\$198,000</b>
<b>Boardwalks</b>					
Boardwalk (Fanno Creek Trail)	1	LS	\$150,000.00	\$150,000	\$180,000
Handrail for Fanno Creek Boardwalk	800	LF	\$115.00	\$92,000	\$110,400
Boardwalk (Soft Surface Trails)	1,200	SF	\$118.00	\$141,600	\$169,920
Water Quality Sampling Improvements	1	LS	\$14,000.00	\$14,000	\$16,800
				<b>\$397,600</b>	<b>\$477,120</b>
<b>Parking Lot</b>					
Driveway Apron	2	EA	\$1,500.00	\$3,000	\$3,600
Asphalt Paving (with base)	10,500	SF	\$6.00	\$63,000	\$75,600
Parking Lot Signage	4	EA	\$500.00	\$2,000	\$2,400
Concrete Wheel Stops	12	EA	\$100.00	\$1,200	\$1,440
Striping	1	LS	\$2,500.00	\$2,500	\$3,000
				<b>\$71,700</b>	<b>\$86,040</b>
<b>Concrete</b>					
Abutments	6	EA	\$400.00	\$2,400	\$2,880
				<b>\$2,400</b>	<b>\$2,880</b>

Item	Quantity	Unit	Unit Price	Cost	Cost Plus 20%
<b>Trails</b>					
Paved (8-foot asphalt-Maintenance Access)	4,160	SF	\$6.00	\$24,960	\$29,952
Paved (8-foot asphalt-Community Trail)	11,600	SF	\$6.00	\$69,600	\$83,520
Paved (6-foot concrete-Sidewalk)	5,000	SF	\$5.00	\$25,000	\$30,000
Soft Surface (5-foot chip-SW Tigard St to Fields)	520	LF	\$3.00	\$1,560	\$1,872
Soft Surface (5-foot chip-Around Fields)	1,140	LF	\$3.00	\$3,420	\$4,104
Soft Surface (5-foot chip-Southwest)	2,130	LF	\$3.00	\$6,390	\$7,668
Soft Surface (3-foot chip-North)	660	LF	\$2.00	\$1,320	\$1,584
Soft Surface (3-foot chip-Southwest)	1,230	LF	\$2.00	\$2,460	\$2,952
				<b>\$134,710</b>	<b>\$161,652</b>
<b>Half Street Improvements</b>					
Half Street Improvements	1	LS	\$472,000.00	\$472,000	\$566,400
				<b>\$472,000</b>	<b>\$566,400</b>
<b>Education Center Improvements</b>					
Paint	1	LS	\$15,000.00	\$15,000	\$18,000
Deck	1	LS	\$15,000.00	\$15,000	\$18,000
Screening Vegetation & Fence	1	LS	\$25,000.00	\$25,000	\$30,000
Community Garden	1	LS	\$30,000.00	\$30,000	\$36,000
Overflow Parking	1	LS	\$15,000.00	\$15,000	\$18,000
				<b>\$100,000</b>	<b>\$120,000</b>
<b>Permanent Fencing</b>					
Split Rail Fence	350	LF	\$40.00	\$14,000	\$16,800
				<b>\$14,000</b>	<b>\$16,800</b>
<b>Erosion &amp; Sediment Controls</b>					
Erosion & Sediment Controls	1	LS	\$25,000.00	\$25,000	\$30,000
				<b>\$25,000</b>	<b>\$30,000</b>
<b>Planting</b>					
Required Screening & Trees (new lot)	1	LS	\$25,000.00	\$25,000	\$30,000
Replanting (baseball field)	1	LS	\$40,000.00	\$40,000	\$48,000
Wetland & Buffer Mitigation	1	LS	\$60,000.00	\$60,000	\$72,000
				<b>\$125,000</b>	<b>\$150,000</b>
<b>Miscellaneous</b>					
Parking Lot Lighting (2 lights)	1	LS	\$15,000.00	\$15,000	\$18,000
				<b>\$15,000</b>	<b>\$18,000</b>

<b>Subtotal:</b>	<b>\$1,880,428</b>	<b>\$2,256,513</b>
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<b>CONSTRUCTION SUBTOTAL</b>	<b>\$1,920,547</b>	<b>\$2,304,656</b>
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<b>OVERHEAD AND PROFFIT (7%)</b>	<b>\$134,438</b>	<b>\$161,326</b>
<b>BONDING AND INSURANCE (2%)</b>	<b>\$38,411</b>	<b>\$46,093</b>

<b>TOTAL</b>	<b>\$2,093,396</b>	<b>\$2,512,075</b>
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<b>DESIGN SERVICES (10%)</b>	<b>\$209,340</b>	<b>\$251,207</b>
<b>PERMITTING SERVICES (4%)</b>	<b>\$83,736</b>	<b>\$100,483</b>
<b>INFLATION (3%)</b>	<b>\$62,802</b>	<b>\$75,362</b>

(assume summer 2013 construction)

<b>GRAND TOTAL</b>	<b>\$2,449,273</b>	<b>\$2,939,128</b>
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**CITY OF TIGARD, OREGON**  
**TIGARD CITY COUNCIL**  
**RESOLUTION NO. 14- 01**

A RESOLUTION IN SUPPORT OF AN APPLICATION FOR A METRO NATURE IN NEIGHBORHOODS CAPITAL GRANT TO FUND DEVELOPMENT OF DIRKSEN NATURE PARK

---

WHEREAS, the 2009 Park System Master Plan identified the properties—now known as Dirksen Nature Park—as a future community park; and

WHEREAS, the citizens of Tigard supported the acquisition and development of parks through passage of the \$17 million park and open space bond measure in 2010; and

WHEREAS, the city, using funds from the 2010 park and open space bond measure, was able to purchase the properties that now form Dirksen Nature Park; and

WHEREAS, the development of the park is planned in four phases; and

WHEREAS, the city has not identified funding for phases 3 and 4 which includes construction of two nature play areas, trails and boardwalks, and restoration of the oak savanna at the northern section of the park; and

WHEREAS, the Park and Recreation Advisory Board and City Council have asked staff to seek additional funding to augment the park bond funds; and

WHEREAS, Metro has invited Tigard to submit a Nature in Neighborhoods grant application for phases 3 and 4 of the park development; and

WHEREAS, if the grant is awarded, the city would be able to complete the development of Dirksen Nature Park.

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

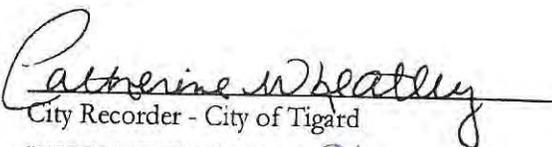
SECTION 1: The Tigard City Council supports the submission of an application for a Nature in Neighborhoods Capital Grant to partially fund the development of Dirksen Nature Park.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This 14<sup>th</sup> day of January 2014.

  
\_\_\_\_\_  
Mayor - City of Tigard

ATTEST:

  
\_\_\_\_\_  
City Recorder - City of Tigard

RESOLUTION NO. 14- 01



## City of Tigard Memorandum

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**To:** Mary Rose Navarro  
**From:** Jeff Peck  
**Re:** Dirksen Nature Park - Park Element Descriptions & Costing  
**Date:** September 30, 2015

Mary Rose,

The City is proposing a change to the Dirksen Nature Park scope of work and funding. Two master plan exhibits highlighting park elements to be constructed are attached for reference. One exhibit shows proposed park elements, and the second exhibit captures city and Metro funding of park elements.

We were not able to secure funding for the proposed restroom/interpretive shelter and associated utilities. As a result, the facility is being removed from our scope of work.

To meet our financial match we have added the Fanno Creek wetland boardwalk, complete restoration of the Oak Savanna, and support funding for the nature play area and the Oak Savanna overlook.

Renovations to the Environmental Education building, parking lot ~~and construction of the vehicle rated pathway~~ will remain the same.

Metro funding will no longer pay for the Oak Savanna Restoration. Metro will continue to fund the forested wetland boardwalk and restoration area, nature play area, and the oak savanna overlook. The City is requesting Metro to partially fund the Fanno Creek boardwalk.

### **Park Elements & Funding:**

#### **Oak Savanna Restoration**

Oak Savanna restoration was previously shown as a Metro grant obligation with minor financial contribution from the city.

Since then, we have determined the restoration can be fully funded by one of our revenue programs. As a result, we have entered into a contract with Ash Creek Forest Management,

LLC to restore the oak savanna. The city and Ash Creek are participating in cooperative agreement pricing established in Metro RFP-2788 Natural Areas Habitat Restoration

The general scope of the work as follows:

- Removal of trees that are currently crowding the areas oak trees
- Replanting of native grasses, wildflowers, and shrubs associated with a healthy oak savanna.
- Maintenance services for the areas through 2019.

The projected cost for the oak savanna restoration is \$272,000. This estimate included the contract price, contingency, shrub and tree plantings, and irrigation as needed.

### **Oak Savanna Overlook**

The city anticipates receiving money to expand upon the Oak Savanna Overlook. The funding (\$33,000) will pay for interpretive/educational features to be in-laid into the overlook.

### **Wetland Boardwalks**

The city is proposing to add the Fanno Creek wetland boardwalk to the project and \$67,300 in support funding. Metro funding will also be used to cover funding of the added boardwalk. Drawings of each boardwalk are included for reference.

### **Nature Play Area**

The city is proposing to add funding to the Nature Play park elements. Estimated support funding in the amount of \$89,720 will be used to pay for playground equipment. Drawings of the nature play area are included for reference.

In summary, we have made minor changes to the Nature in Neighborhoods grant request, and we ask for your consideration and approval of the changes.

We look forward to your continued support.

Thank you.

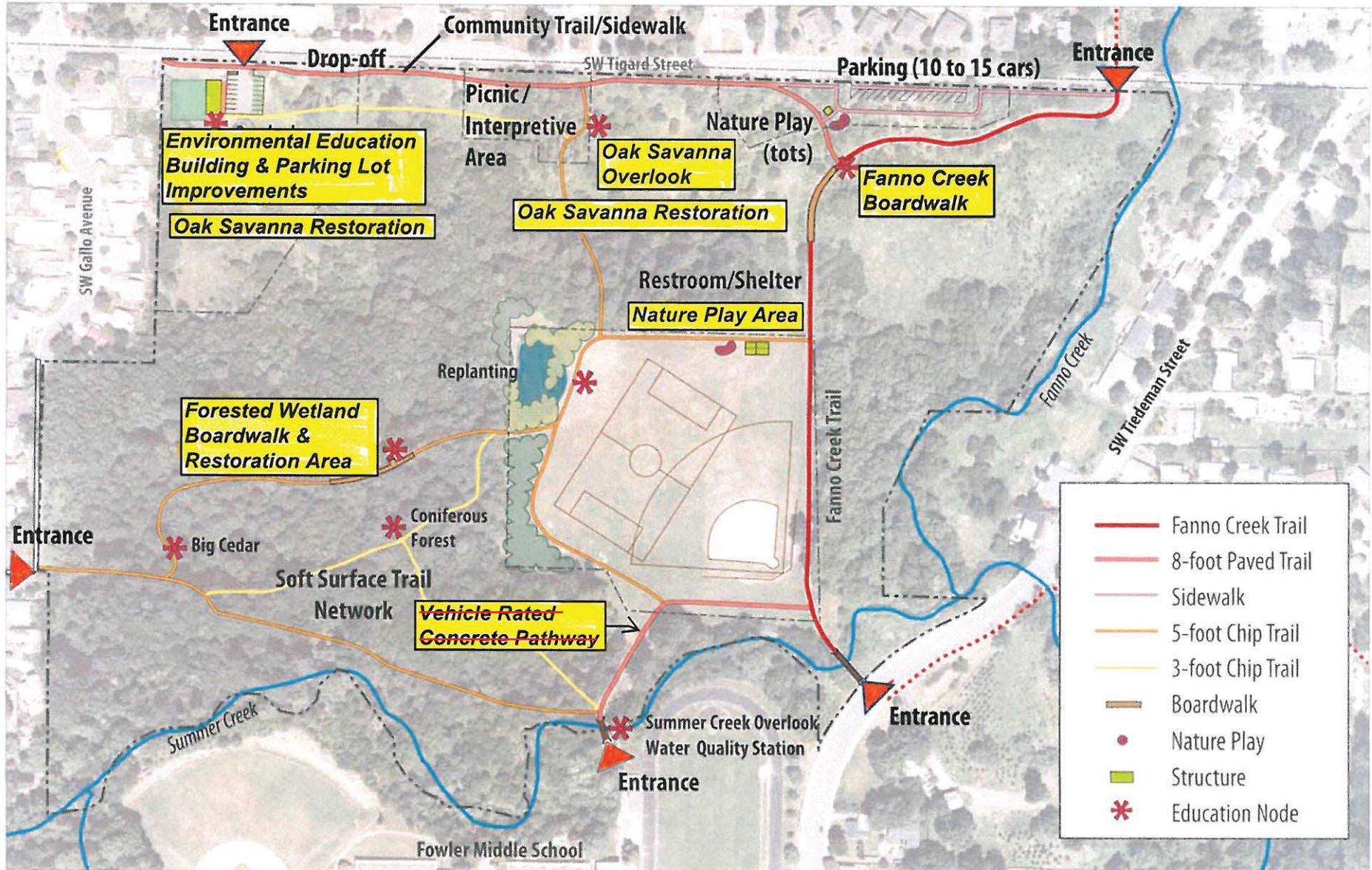
# SUMMER CREEK PROPERTY

## Master Plan

A.K.A. DIRKSEN NATURE PARK

June 2012

Park Elements to be constructed with City and Metro funds in support of the Nature in Neighborhoods Grant



# SUMMER CREEK PROPERTY

## Master Plan

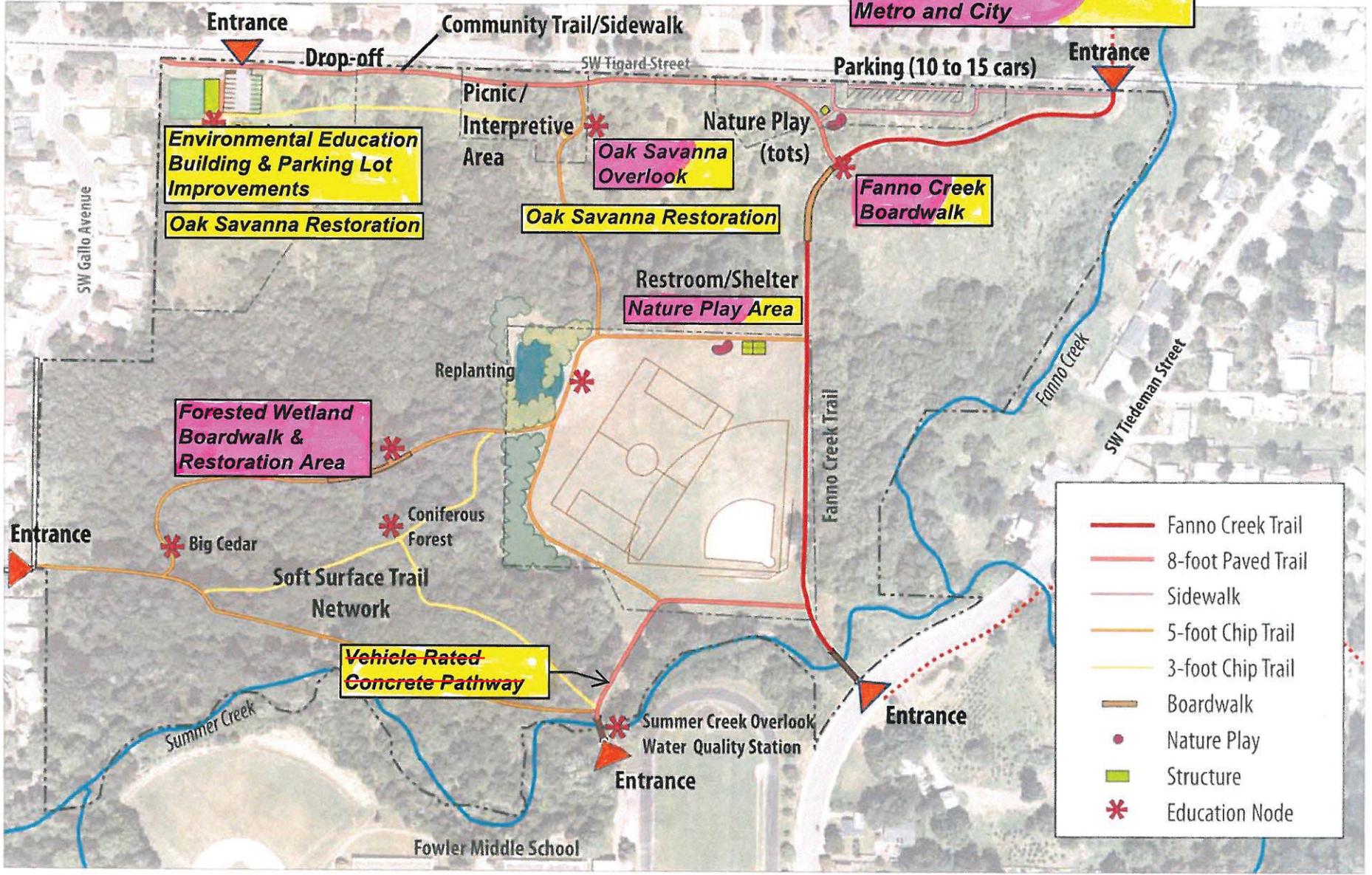
A.K.A. DIRKSEN NATURE PARK

June 2012

Park Elements to be funded by City in support of Nature in Neighborhoods Grant

Park Elements to be funded by Metro

Park Elements funded by Metro and City



Environmental Education Building & Parking Lot Improvements  
Oak Savanna Restoration

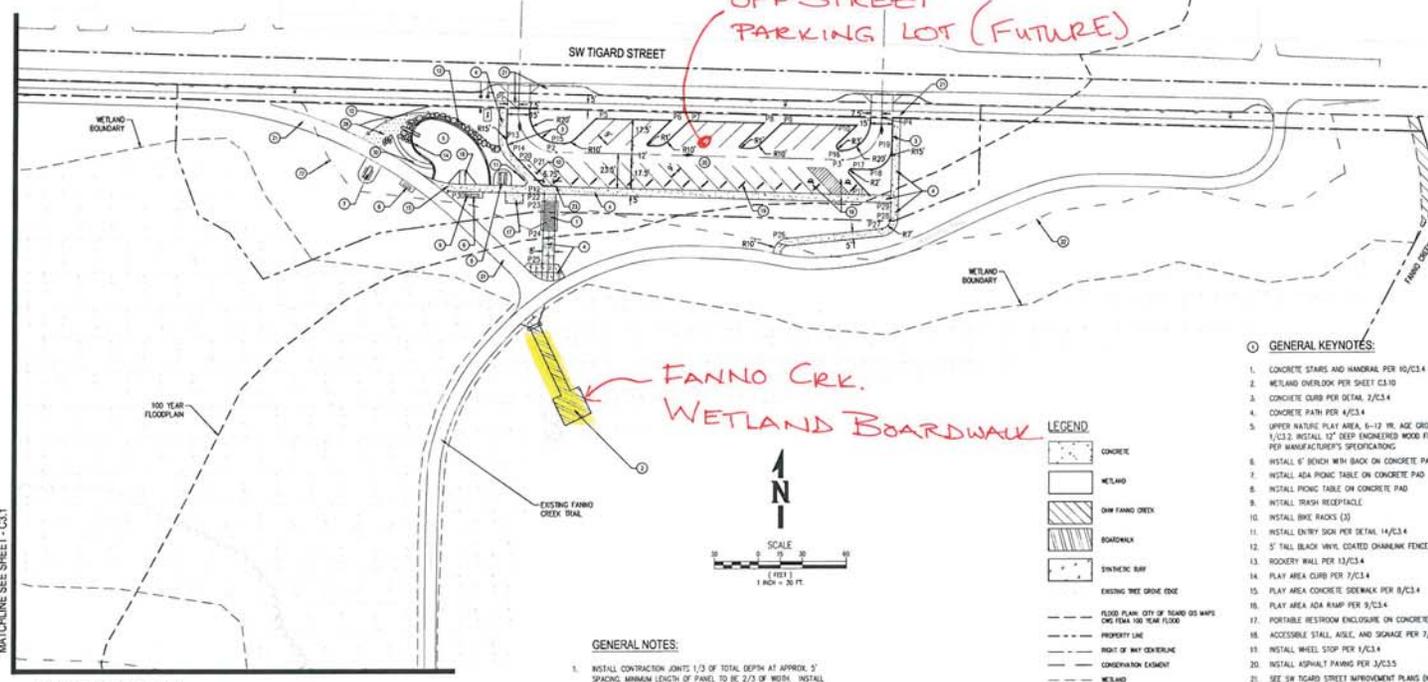
Oak Savanna Restoration

Restroom/Shelter  
Nature Play Area

Forested Wetland Boardwalk & Restoration Area

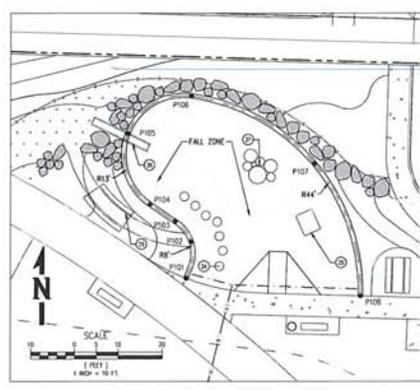
Vehicle Rated Concrete Pathway

- Fanno Creek Trail
- 8-foot Paved Trail
- Sidewalk
- 5-foot Chip Trail
- 3-foot Chip Trail
- Boardwalk
- Nature Play
- Structure
- \* Education Node

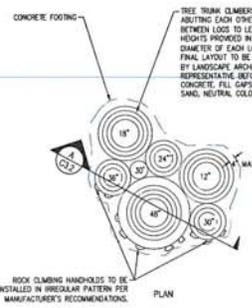


- GENERAL KEYNOTES:**
1. CONCRETE STAIRS AND HANDRAIL PER 10/C3.4 AND 11/C3.4
  2. WETLAND OVERLOOK PER SHEET C3.10
  3. CONCRETE CURB PER DETAIL 2/C3.4
  4. CONCRETE PATH PER 4/C3.4
  5. UPPER NATIVE PLAY AREA 6-12 IN. AGE GROUP; SEE ENLARGED PLAN 1/C3.2. INSTALL 1/2" DEEP ENGINEERED WOOD FIBER SURFACING, INSTALLED PER MANUFACTURER'S SPECIFICATIONS.
  6. INSTALL 6" BENCH WITH BACK ON CONCRETE PAD
  7. INSTALL ADA PICNIC TABLE ON CONCRETE PAD
  8. INSTALL PICNIC TABLE ON CONCRETE PAD
  9. INSTALL TRASH RECEPTACLE
  10. INSTALL BIKE RACKS (2)
  11. INSTALL ENTRY SIGN PER DETAIL 14/C3.4
  12. 5' TALL BLACK VINYL COATED CHAINLINK FENCE PER 6/C3.4
  13. ROCKERY WALL PER 13/C3.4
  14. PLAY AREA CURB PER 7/C3.4
  15. PLAY AREA CONCRETE SIDEWALK PER 8/C3.4
  16. PLAY AREA ADA RAMP PER 9/C3.4
  17. PORTABLE HESTROW ENCLOSURE ON CONCRETE PAD PER 11/C3.5
  18. ACCESSIBLE STALL, AISLE, AND SIGNAGE PER 7/C3.5
  19. INSTALL WHEEL STOP PER 4/C3.14
  20. INSTALL ASPHALT PAVING PER 3/C3.5
  21. SEE SW TIGARD STREET IMPROVEMENT PLANS (M.C.)
  22. VEGETATED CORRIDOR BOUNDARY; SEE LANDSCAPE PLAN L1.2
  23. CONCRETE CURB ENDING PER DETAIL 4/C3.8
  24. LOG STEPPING STONES PER DETAIL 4/C3.8
  25. LOG TUNNEL PER DETAIL 2/C3.8
  26. COLUMBA CASCADE 3" EMBANKMENT SLOPE CHUTE, MODEL 1840-31-EM5. BROWN POWER-COATED SLOPE WALLS, INSTALLED PER MANUFACTURER'S SPECIFICATIONS.
  27. STUMP CLUMBER PER DETAIL 2/C3.2
  28. ASTROTUFF PUNCHGRASS BAW SYNTHETIC TURF OR EODIAL, INSTALLED PER MANUFACTURER'S SPECIFICATIONS.
  29. WALLOW TUNNEL PER DETAIL 6/C3.8
  30. 3" WIDE BANK CHIP PATH PER DETAIL 3/C3.4

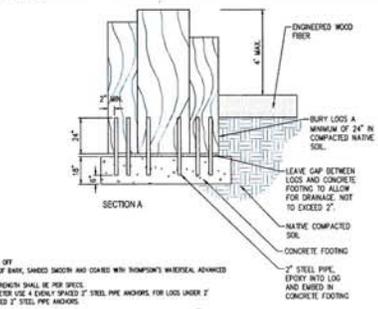
- GENERAL NOTES:**
1. INSTALL CONSTRUCTION JOINTS 1/3 OF TOTAL DEPTH AT APPROX. 5' SPACING. MINIMUM LENGTH OF PANEL TO BE 2/3 OF WIDTH. INSTALL JOINTS AT 90 DEGREE ANGLE OR PERPENDICULAR TO OUTSIDE EDGE.



Point No.	Northing	Easting
101	655300.58	705144.29
102	655308.90	705145.44
103	655383.47	705141.79
104	655387.32	705136.06
105	655413.35	705130.99
106	655421.89	705145.47
107	655406.54	705173.25
108	655370.58	705183.71



- NOTES:**
1. ALL LOGS TO BE ROUNDED OFF
  2. ALL WOOD TO BE SHAVED OF BARK, SAVED SMOOTH AND COATED WITH THOMPSON'S UNIVERSAL ADVANCED NATURAL WOOD PROTECTOR.
  3. CONCRETE COMPRESSION STRENGTH SHALL BE 4000 PSIS.
  4. FOR LOGS OVER 2" IN DIAMETER USE 4" DENSITY SPACED 2" STEEL PIPE ANCHORS FOR LOGS UNDER 2" DIAMETER USE 2" DENSITY SPACED 2" STEEL PIPE ANCHORS.



Point No.	Northing	Easting
1	655428.53	705203.19
2	655398.77	705228.08
3	655383.02	705425.42
4	655421.24	705452.23
5	655426.46	705356.72
6	655418.97	705307.61
7	655419.60	705320.33
8	655418.11	705371.22
9	655417.74	705385.95
10	655416.25	705434.84
11	655369.98	705443.46
12	655376.02	705219.94
13	655408.74	705195.10
14	655366.03	705199.18
15	655410.40	705224.56

DATE: 8/21/2018 2:41 PM | LOCATION: [redacted] | DRAWN BY: [redacted] | CHECKED BY: [redacted] | PROJECT: [redacted] | SHEET: [redacted] | SCALE: [redacted] |

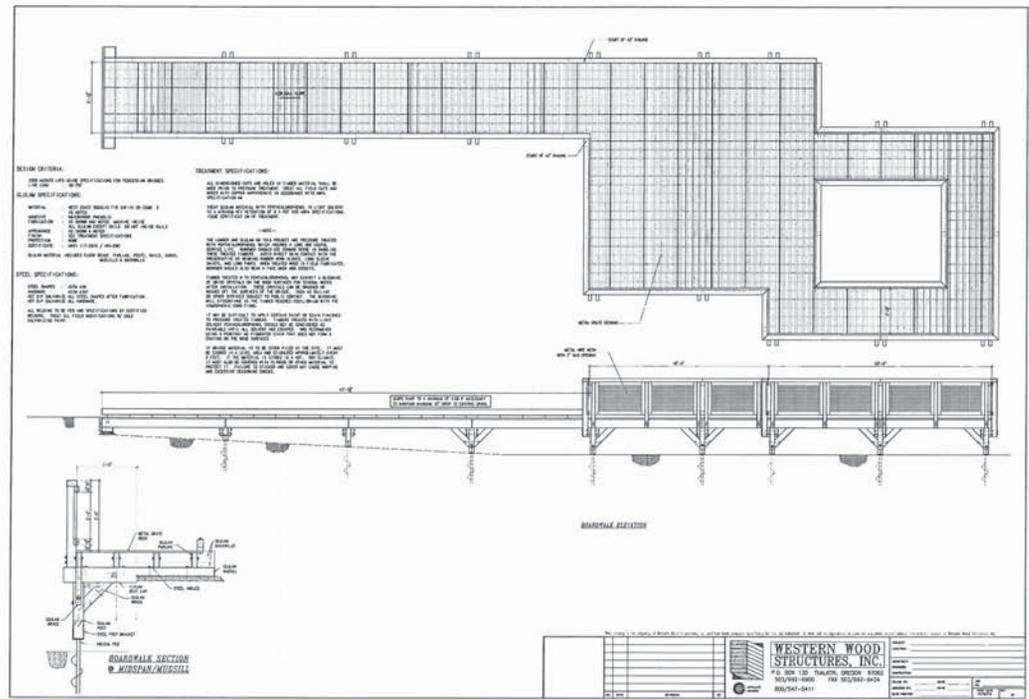
**Future TOT. Nature Play**







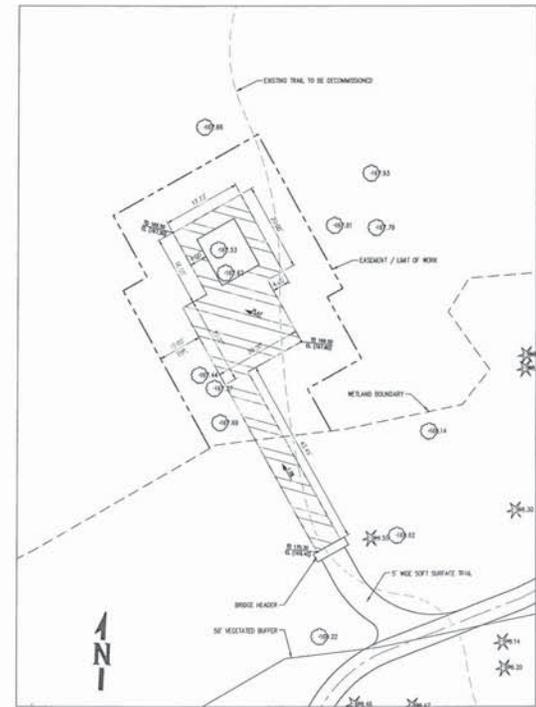
DATE: 8/27/2015 3:06 PM | (path: \\sdc\shared\proj\2015\8-27-15\DWG\031301503\031301503.dwg) [PROJECT: 031301503] [USER: sdc\jason.vanvalkenburg] [APP: AutoCAD LT] [SCALE: 1/8"=1'-0"] [LAYER: C3.3 - BOARDWALK DETAILS]



FORESTED WETLAND OVERLOOK  
 DETAIL  
 SCALE: 1/8" = 1'-0"  
 C3.3

PRELIMINARY PLANS PROVIDED FOR DESIGN INTENT. BOARDWALKS  
 TO BE CONTRACTOR DESIGNED AND INSTALLED. CONTRACTOR TO  
 SUBMIT FINAL SHOP DRAWINGS AND STRUCTURAL CALCULATIONS  
 FOR APPROVAL AND BUILDING PERMIT SUBMITTAL.

**WESTERN WOOD STRUCTURES, INC.**  
 12000 100TH AVENUE, SUITE 100  
 FARMINGTON, MN 55025-1000  
 TEL: 507-835-1100 FAX: 507-835-1101  
 WWW.WESTERNWOOD.COM



FORESTED WETLAND OVERLOOK  
 SITE PLAN  
 SCALE: 1" = 40'-0"  
 C3.3

**WHPacific**  
 ARCHITECTS  
 1000 10TH AVENUE, SUITE 100  
 DENVER, CO 80202  
 TEL: 303.733.8800  
 WWW.WHPACIFIC.COM

DATE	DESCRIPTION	BY	CHKD

FORESTED WETLAND OVERLOOK DETAILS  
 CITY OF TIGARD  
 DIRKSEN NATURE PARK - PHASE II  
 PROJECT NUMBER: 031301503  
 SHEET NUMBER: C3.3



**NATURE IN NEIGHBORHOODS CAPITAL GRANT  
(F3) PROJECT BUDGET WORKSHEET**

<b>PROFESSIONAL SERVICES COSTS</b>				
	<b>financial match</b>	<b>in-kind match</b>	<b>grant request</b>	<b>TOTAL</b>
<b>A. Pre-Agreement</b>				
1. Non-profit staff				\$0.00
2. Agency staff	\$15,000.00			\$15,000.00
3. Consultants	\$50,000.00			\$50,000.00
4. Volunteers				\$0.00
<b>B. Post-Agreement Costs</b>				\$0.00
1. Non-profit staff				\$0.00
2. Agency staff	\$24,000.00			\$24,000.00
3. Consultants	\$100,000.00		\$0.00	\$100,000.00
4. Volunteers		\$76,000.00		\$76,000.00
<b>Total for Professional Services</b>	<b>\$189,000.00</b>	<b>\$76,000.00</b>	<b>\$0.00</b>	<b>\$265,000.00</b>

**NOTES/CHANGES FROM IGA BUDGET SPREADSHEET**

CITY- Decreased by \$18,000

<b>CONSTRUCTION COSTS</b>				
<i>Estimate the cost for all work elements of your project. <b>Feel free to change the list.</b> Specify in the budget narrative which work elements will be completed by volunteers and how you calculated the budget figure.</i>				
	<b>financial match</b>	<b>in-kind match</b>	<b>grant request</b>	<b>TOTAL</b>
<b>A. Park Elements</b>				
1. Environmental Education Center & Concrete Pathway (Ph 1)	\$139,852.00			\$139,852.00
2. Oak Savanna Restoration	\$272,000.00	\$2,000.00		\$274,000.00
3. Oak Savanna Overlook	\$33,097.00		\$41,100.00	\$74,197.00
4. Nature Play Area	\$89,720.00		\$121,000.00	\$210,720.00
5. Fanno Crk and Forested Wetland Boardwalks	\$67,300.00		\$197,900.00	\$265,200.00
6. Forested Wetland Restoration	\$0.00	\$10,000.00	\$30,000.00	\$40,000.00
7. Interpretive Signage	\$1,200.00			\$1,200.00

**NOTES/CHANGES FROM IGA BUDGET SPREADSHEET**

CITY- Included hard surface pathway with building improvements- called it Phase 1. Mobilization and contingency costs are a part of Phase 1

CITY - Added this scope element. 4-yr restoration contract has been set up, starting this year. Removed scope element & contribution from NIN grant

CITY- Anticipated AGILYX Money (\$33,000). Increased Metro allocation by taking from Oak Savanna restoration

CITY- Added financial match for playground features

CITY- Added to financial match and added the wetland boardwalk to the City scope. Increased Metro

CITY - Installed at donated exercise equipment

8. Soft Surface Trails	\$2,700.00	\$3,000.00		\$5,700.00
9. Furnishings	\$0.00	\$13,000.00		\$13,000.00
<b>B. Permits</b>	\$12,000.00			\$12,000.00
<b>Total for Construction Costs</b>	<b>\$617,869.00</b>	<b>\$28,000.00</b>	<b>\$390,000.00</b>	<b>\$1,035,869.00</b>

CITY - Installed around ball field for donated exercise equipment  
CITY - Remaining furnishings are included with applicable park element

<b>ACQUISITION COSTS</b>				
<i>Please estimate the cost for all work elements. Please feel free to change the list.</i>				
	financial match	in-kind match	grant request	TOTAL
A. Purchase Price				\$0.00
B. Option Purchase				\$0.00
C. Option Reimbursement				\$0.00
D. Appraisal & Appraisal Review*				\$0.00
E. Title Report, insurance & documents				\$0.00
F. Phase I Enviro Assessment				\$0.00
G. Stewardship endowment				\$0.00
H. Management Plan Development				\$0.00
I. Baseline Documentation				\$0.00
<b>Total for Acquisition Costs</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

<b>OTHER COSTS</b>				
A. Travel (use current State of Oregon rates)				\$0.00
B. Overhead/Indirect costs - these can only be used as match.				\$0.00
				\$0.00
<b>Totals for Other Costs</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

<b>TOTAL PROJECT COSTS</b>	<b>\$806,869.00</b>	<b>\$104,000.00</b>	<b>\$390,000.00</b>	<b>\$1,300,869.00</b>
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**BUDGET WORKSHEET LINE ITEMS** - The line items have been paired down and incorporated into each park element from Environmental Education Center to Forested Wetland Restoration  
Mobilization, bonding, clearing & grubbing, contingencies have been added to each park element listed above.

**AIS-2378**

**3. C.**

**Business Meeting**

**Meeting Date:** 11/24/2015  
**Length (in minutes):** Consent Item  
**Agenda Title:** Contract Award - Street Sweeping Services  
**Prepared For:** Joseph Barrett  
**Submitted By:** Joseph Barrett, Finance and Information Services  
**Item Type:** Motion Requested      **Meeting Type:** Local  
Contract  
Review Board

**Public Hearing** No

**Newspaper Legal Ad Required?:**

**Public Hearing Publication**

**Date in Newspaper:**

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**Information**

**ISSUE**

Shall the Local Contract Review Board award a contract for street sweeping services to Water Truck Services for a possible \$1.3 million over the next five years.

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff recommends the Local Contract Review Board award the contract for street sweeping services to Water Truck Services for a possible \$1.3 million over the next five years and further authorize the City Manager to take the necessary steps to execute the contract.

**KEY FACTS AND INFORMATION SUMMARY**

In late September, the City issued a Request for Proposal for street sweeping services on an as-required basis. Work to be completed under this services includes the following:

- Street sweeping and/or street flushing and removal of debris as required for approximately 320 sweeping miles of Tigard's streets (both sides of street). Each street will be swept at least once each month.
- Detailing and sweeping of the City's parking lots each month. A total of 519,217 square feet of parking lot will be swept each month.
- Special sweeps that are outside the regular monthly sweeps. Special sweep may include, but are not necessary limited to, the following:
  - Automobile accidents,
  - Material spills on the roadway,
  - Construction zone cleanup, and

- Snowfall and subsequent sweep of sand on the roadway

- Street sweeping for business and high traffic main boulevards will be done between the hours of 4:00 am to 7:00 am and residential shall be swept between the hours of 7:00 am and 7:00 pm.

The City received proposals from one contractor (and current city contractor), Water Truck Services, Inc. Our previous RFP issued five years ago only had two responses so staff is not surprised by such a small list for such a specialty service. Water Truck's submitted proposal demonstrated an ability to provide the full range of services requested. A Selection Committee comprised of Public Works staff reviewed the proposals and scored them based on the following criteria:

- Firm Qualifications,
- Project Understanding, and Approach, and
- Cost Proposal

Requests for Proposals (RFPs) are awarded based on the highest scoring proposal on all criteria, unlike an Invitation to Bid (ITB) which is awarded based solely on low cost. Based on the review and scoring from the review by the Selection Committee, staff recommends award of the City's Street Sweeping Services contract to Water Truck Service, Inc. in the amount estimated at \$255,000 during the first year of a possible five year contract. The total amount over the possible life of the agreement is estimated to not exceed roughly \$1.3 million. Staff recommends the Local Contract Review Board award this contract to Water Truck Services for a total of \$1.3 million over the next five years.

## **OTHER ALTERNATIVES**

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

## **DATES OF PREVIOUS COUNCIL CONSIDERATION**

The Local Contract Review Board discussed this contract at their November 10, 2015 Study Session meeting and the Board unanimously agreed to bring forward the item on the consent agenda.

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### **Fiscal Impact**

**Cost:** \$255,000

**Budgeted (yes or no):** Yes

**Where budgeted?:** Storm/Gas Tax

### **Additional Fiscal Notes:**

This contract is budgeted in the operational budget for both Stormwater and Streets. The cost is an estimated \$255,000/annually for a possible total just shy of \$1.3 million over the possible life of the contract.

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### **Attachments**

*No file(s) attached.*

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**AIS-2380**

**4.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 10 Minutes

**Agenda Title:** Receive Progress Report on the Implementation of the Strategic Plan

**Prepared For:** Kent Wyatt, City Management      **Submitted By:** Norma Alley, Central Services

**Item Type:** Update, Discussion, Direct Staff      **Meeting Type:** Council Business Meeting - Main

**Public Hearing:** No

**Publication Date:**

**Information**

**ISSUE**

Staff will update the mayor and council on action items taken to implement the strategic plan.

**STAFF RECOMMENDATION / ACTION REQUEST**

Receive the report on the implementation of the strategic plan.

**KEY FACTS AND INFORMATION SUMMARY**

In 2014, the City of Tigard adopted a strategic plan to become the most walkable community in the Pacific Northwest where people of all ages and abilities enjoy healthy and interconnected lives. The strategic plan will provide guidance and direction for the city's priorities over the next 20 years. Each year, the city will issue an annual report to chart the implementation of each goal area:

1. **Walking and Connecting** - Facilitate walking connections to develop an identity
2. **Growing and Planning** - Ensure development advances the vision
3. **Engaging and Communicating** - Engage the community through dynamic communication
4. **Financing and Sustaining** - Fund the vision while maintaining core services

This year's annual report also charts the seven completed Lighter, Quicker, Cheaper projects, community outreach efforts, and the next steps.

Staff will use the report as a communications tool to community groups, professional associations, and other interested stakeholders. Council feedback will be incorporated into the report before the final version is published.

## **OTHER ALTERNATIVES**

N/A

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

The strategic plan is a 20-year plan approved by Council in November 2014.

## **DATES OF PREVIOUS COUNCIL CONSIDERATION**

In November, 2014, the City Council approved the Strategic Plan. Council received an update on the implementation status of the strategic plan in July 2015.

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### **Attachments**

Strategic Plan Annual Report - Draft

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## Agenda Item No. 4

The Strategic Plan Annual Report will be available on Thursday, November 19.

**AIS-2395**

**5.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 15 Minutes

**Agenda Title:** Adopt 2016 State and Federal Legislative Agenda

**Prepared For:** Kent Wyatt, City Management

**Submitted By:** Kent Wyatt, City Management

**Item Type:** Motion Requested

**Meeting Type:** Council Business Meeting - Main

**Public Hearing:** No

**Publication Date:**

**Information**

**ISSUE**

Adoption of the city's 2016 State and Federal Legislative Agenda.

**STAFF RECOMMENDATION / ACTION REQUEST**

Adopt the city's State and Federal Legislative Agendas for 2016 and direct staff to prepare brochures for distribution to state and federal elected representatives, agencies and interested citizens.

**KEY FACTS AND INFORMATION SUMMARY**

In October, the city council reviewed the 2015 state and federal legislative priorities and discussed updates for the 2016 State and Federal Legislative Agendas. A summary listing of additions to the state and federal legislative priorities as identified by council, staff, and Tigard's federal lobbyist follows.

**State Legislative Agenda**

***Affordable Housing***

Support opportunities to meet the affordable housing needs of the community and to improve the quality of life for its low-income residents.

***Areas of Interest***

The city will monitor for any legislation with the potential to negatively impact cities in the areas of franchise fees, labor management, or marijuana regulation.

Please note: As of early November, the League of Oregon Cities has not released legislative

priorities for the 2016 session.

## **Federal Legislative Agenda**

### ***Downtown Tigard Brownfield Cleanup***

Tigard is seeking funds to cleanup three downtown properties for productive reuse. For several years, the City of Tigard and community members have envisioned a more vibrant and prosperous downtown and have developed detailed improvement plans. Progress has been made on implementing these plans with several projects completed. A major challenge to redevelopment, however, has been the need to assess and cleanup some downtown properties for potential environmental issues. Approximately sixty properties in this area have been identified as contaminated, or potentially contaminated, from previous uses; these are known as potential brownfield properties. Tigard supports the cleanup and revitalization of these properties, and has utilized EPA Brownfield Assessment funds to prepare properties for cleanup and ultimate reuse.

### ***Tigard Street Heritage Trail***

Formerly a rail line, this three-quarter-mile trail connects downtown Tigard to Tiedeman Avenue. The city recently paved a temporary trail for biking, walking and rolling. A concept for the permanent Tigard Street Heritage Trail is in the works. It will place lighting, art, plazas and other amenities along the trail.

### ***Support for Homeless Assistance Grants***

The city is collaborating with Just Compassion to address the lack of homelessness resources in Tigard. Just Compassion, registered non-profit in Oregon, is committed to establishing a day center for homeless adults in Tigard. The day shelter will provide resource information for mental and physical health, as well as assistance in overcoming barriers to employment, job and housing stability.

Upon adoption of the State and Legislative Agendas staff will prepare agendas brochures.

## **OTHER ALTERNATIVES**

Modify the proposed State and/or Federal Legislative Agenda.

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

N/A

## **DATES OF PREVIOUS COUNCIL CONSIDERATION**

October 13, 2015: Council held discussion on priorities for the 2016 State and Federal Legislative agendas.

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## **Attachments**

2015 State Legislative Agenda

2015 Federal Legislative Agenda

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Oregon's 2015  
Regular Legislative Session:  
February 2 – July 11 (est.)



**Sen. Ginny Burdick**  
SENATE DISTRICT 18  
900 Court St. NE, S-213  
Salem, OR 97301  
sen.ginnyburdick@state.or.us



**Rep. Margaret Doherty**  
HOUSE DISTRICT 35  
900 Court St. NE, H-282  
Salem, OR 97301  
rep.margaretdoherty@state.or.us



*"She flies with her own wings."* – Judge Jessie Quinn Thornton

Oregon uses a system of single-member districts to elect its legislators. Each of the 90 members represent a designated senatorial or representative district, meaning each Oregonian is represented by a single senator and a single representative. Representative districts have a population of about 63,850; Senate districts contain about 127,700 people. These district lines are redrawn every ten years.

# 2015 Legislative Agenda Tigard, Oregon

## Tigard City Council



**Mayor**  
John Cook



**Council President**  
Jason Snider



**Councilor**  
Marland Henderson



**Councilor**  
Marc Woodard



**Councilor**  
John Goodhouse

~  
councilmail@tigard-or.gov

**City of Tigard**  
13125 SW Hall Blvd., Tigard, OR 97223  
www.tigard-or.gov



## Economic Development and Land Use

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- Support funding and policies to facilitate for brownfield mediation and clean-up.
- Request funding for infrastructure to support development of the underutilized Hunziker Industrial Core and support funding for SB 246 which would provide funds and authority to Business Oregon which could assist in assembling infrastructure funding for the area.
- Support renewal of the State's Vertical Housing and Development program (which sunsets Jan. 2016). The city recently established a VHD program which will be an important tool in advancing targeted development in the downtown urban renewal district.
- Advocate for legislative funding of the Oregon Transportation Forum on Climate Smart Communities

## Finance

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- **Property Tax Reform:**
  - ▶ Support referral to voters that would allow local control of temporary property tax outside of statewide caps;
  - ▶ Support an amendment of the state constitution that would reset a property's assessed value to its real market value at the time of sale or construction;
  - ▶ Support a statutory change regarding the way new property is added to the tax rolls to provide the option of applying a city-wide changed property ratio to new property.
- Allow for price comparison when procuring the services of architects and engineers.

- Oppose preemption of the ability of cities to manage and receive compensation for the use of public ROW.
- Advocate for a change to the current fiscal year (July 1 to June 30) as mandated by state law to a calendar that better coincides with the legislative session.

## Transportation

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- Support passage of a comprehensive transportation funding and policy package to address multi-modal needs with a priority of maintaining and preserving existing infrastructure.
- Support legislative priorities that address traffic congestion, economic development and jobs.
- Request funding for improvements to SW Hall Boulevard – Burnham Street to Durham Road. This project will add turn lanes at key intersections, illuminate, add transit stop amenities and fill in the sidewalk gap along Hall Boulevard from downtown Tigard to Durham Road. Sidewalks along Hall Boulevard are one of the top priorities identified by citizens to make the city more walkable.

**Request Amount: \$7,100,000**

## Other Focus Areas

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- Advocate for legislative changes that will clarify and enhance public safety and local control related to marijuana dispensaries.
- Support increased resources for persons with mental health issues, especially in crisis situations.

## HUNZIKER INDUSTRIAL CORE



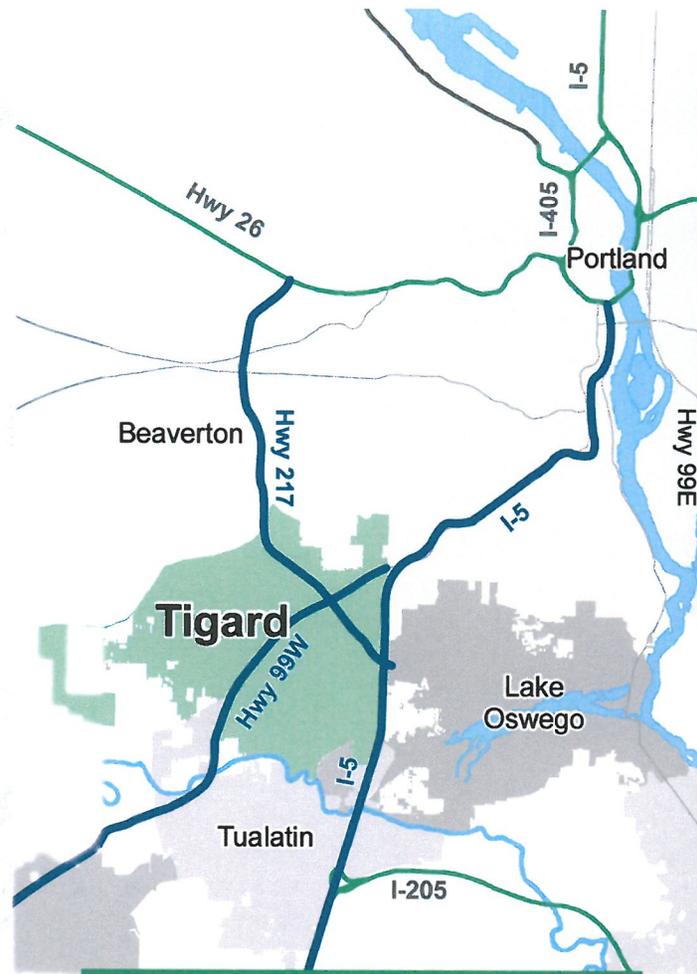
Tigard's Hunziker Industrial Core project represents a unique and exciting opportunity to redevelop industrial land in an urban setting. When complete, the project will foster significant economic growth and provide long-term high-skill, high-wage job opportunities for the region.

The core includes more than 138 acres of industrial-zoned property located three-quarters of a mile from Interstate 5, one-half mile from Highway 217 and immediately accessible by existing rail. In this area, 96 acres are developed but underutilized. Forty-two acres are undeveloped but limited in their development potential. The area exemplifies the challenge inner-ring suburban cities face when trying to support business growth.

A private developer is working on a 225,000 square foot development on 18 acres; an estimated \$22 million private investment and home to 115–300 new jobs. New infrastructure here will support new investment and redevelopment on the adjacent 120 acres of industrial property. This sets the stage for another 300–500 jobs and \$35 million in private investment.

Through a state grant, and in partnership with local property owners, Tigard completed a Public Infrastructure Finance Plan in 2014. The total cost of public infrastructure (roads, water, wastewater and stormwater) to support private sector development in the Hunziker Industrial Core is estimated at about \$10.5 million. The city is seeking \$1.5 million from the U.S. Department of Commerce Economic Development Administration program to fund some of the public infrastructure improvements.

**REQUEST AMOUNT: \$1,500,000**



### For more information...

More information about these projects and Tigard's vision for the future can be found on our website at [www.tigard-or.gov](http://www.tigard-or.gov). Please don't hesitate to contact us for additional information.

- ▶ **Mayor John L. Cook**, 503-718-2476, [mayorcook@tigard-or.gov](mailto:mayorcook@tigard-or.gov)
- ▶ **City Manager Marty Wine**, 503-718-2486, [marty@tigard-or.gov](mailto:marty@tigard-or.gov)
- ▶ **Assistant City Manager Liz Newton**, 503-718-2412, [liz@tigard-or.gov](mailto:liz@tigard-or.gov)

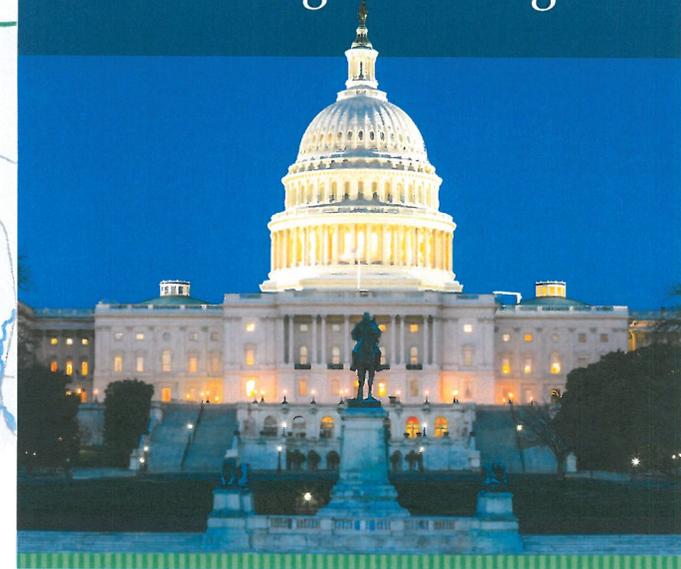


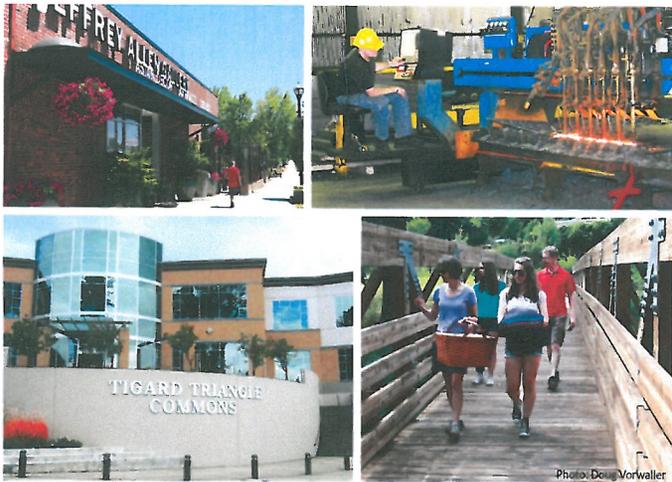
City of Tigard  
13125 SW Hall Blvd., Tigard, OR 97223  
[www.tigard-or.gov](http://www.tigard-or.gov)

City of Tigard, Oregon

2015

# Federal Legislative Agenda





**TIGARD, OREGON.** Located just eight miles southwest of Portland, Tigard is Oregon's 12th largest city with a population of 50,044. The city is largely residential and offers a mix of industrial, commercial and retail space which results in a daytime population around 100,000. Because of the demand placed on its transportation, water and public safety resources, Tigard faces big-city infrastructure issues.

Tigard is ideally located to meet regional employment demand. The region's workforce lives here. What's lacking, however, is infrastructure that supports business expansion here.

Late in 2014, the City Council adopted a strategic plan to become *"the most walkable community in the Pacific Northwest where people of all ages and abilities enjoy healthy and interconnected lives."* This 20-year strategic vision, along with four strategic goals, will provide guidance and direction for the city's priorities over the long term by leveraging and building on our strengths to grow Tigard as a thriving community.

Tigard continues to work with its regional partners toward creative solutions that address infrastructure and service delivery challenges. We are committed to responsible stewardship of public funds and to making sound fiscal decisions that will guide us to a sustainable future.

## POLICY ITEMS

### Robust Transportation Reauthorization Bill

Congress should develop a comprehensive transportation reauthorization bill that would create jobs by providing robust funding for bridges, highways, mass transit and other local infrastructure needs. Within the reauthorization bill, Tigard strongly supports inclusion of:

#### ▶ The bipartisan Innovations in Surface Transportation Act

which creates a grant program that would put transportation funds in the hands of local communities. The Innovation grants would be awarded on merit by a panel with representatives from state and local jurisdictions, ensuring that funds go to well-conceived projects with the most local support. Needed projects in Tigard with local support include:

#### ▶ Hall Boulevard – Burnham Street to Durham Road

This project will add turn lanes at key intersections, illuminate, add transit stop amenities and fill in the sidewalk gap along Hall Boulevard from downtown Tigard to Durham Road. Sidewalks along Hall Boulevard are one of the top priorities identified by citizens to make the city more walkable.

**REQUEST AMOUNT: \$7,100,000**

#### ▶ Highway 217 Interchange with 72nd Avenue

Evaluate and develop a conceptual design to address transportation issues in the interchange of Highway 217 with 72nd Avenue. This project will focus on planning, not construction, for ramp terminals, cross street and streets intersecting 72nd Avenue.

**REQUEST AMOUNT: \$1,000,000**

- ▶ **Safe Routes to Schools.** A key aspect of the city's recently adopted vision is to ensure that children have safe routes to walk to school. In July 2012, Congress passed the transportation law MAP-21. As part of that law, they folded the Safe Routes to School program into a new program called Transportation Alternatives and cut funding by approximately 30 percent. When Congress considers the next transportation bill in 2015, the city supports increased funding for Safe Routes to School and a sustained federal commitment to these critical safety projects.

- ▶ **The Bicycle and Pedestrian Safety Act** which would require the U.S. Department of Transportation to set a performance measure to reduce the number of bicyclists and pedestrians killed on our roads.

### FY 2016 Program Levels

Maintain adequate funding levels for TIGER, CDBG, HOME, BYRNE, EDA, and COPS funding.

#### ▶ COPS Hiring and Technology Funding

Tigard strongly supports additional funding for the COPS Hiring and Technology programs. The city plans to apply for a COPS position in 2015 to advance public safety through community policing. There are very few funding options at the federal level to help police departments purchase equipment, despite the fact that federal mandates continue to require costly upgrades. Federal funds for equipment upgrades are important, especially for police departments with cash strapped budgets.

### Protect Municipal Bonds

Protect tax exempt municipal bonds from being eliminated or limited. Since federal income tax was instituted in 1913, interest earned from municipal bonds issued by state and local governments have been exempt from federal taxation. These bonds are the primary financing mechanism for state and local infrastructure projects, with three-quarters of the infrastructure projects in the U.S. built by state and local governments, and with over \$3.7 trillion in outstanding tax-exempt bonds, issued by 30,000 separate government units.

Local governments save an average of 25 to 30 percent on interest costs with tax-exempt municipal bonds as compared to taxable bonds because investors are willing to accept lower interest on tax-exempt bonds in conjunction with the tax benefit. If the federal income tax exemption is eliminated or limited, states and localities will pay more to finance projects, leading to less infrastructure investment, fewer jobs, and greater burdens on citizens.

### Secure a Tigard ZIP Code

State Representative Margaret Doherty has introduced a measure urging the United States Postmaster General to recognize ZIP codes 97223 and 97224 as Tigard ZIP codes that are separate and distinct from Portland ZIP codes.

**AIS-2408**

**6.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 5 Minutes

**Agenda Title:** CCDA Board Consideration to Amend the City Center Urban Renewal Plan to Acquire 12533-12537 SW Main Street

**Submitted By:** Sean Farrelly,  
Community  
Development

**Item Type:** Resolution

**Meeting Type:** City Center  
Development  
Agency

**Public Hearing** No

**Newspaper Legal Ad Required?:**

**Public Hearing Publication**

**Date in Newspaper:**

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**Information**

**ISSUE**

The Board of the City Center Development Agency is requested to consider a resolution to amend the City Center Urban Renewal Plan to add the acquisition of two Main Street properties to the list of urban renewal projects.

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff recommends the Board of the CCDA approve the resolution.

**KEY FACTS AND INFORMATION SUMMARY**

The Board of the CCDA will consider approval of the purchase of the two Main Street properties (Tax lots 2S102AB02000 and 2S102AB02100, 12533-12537 SW Main Street a.k.a. “the Saxony properties”). To acquire this property, the City Center Urban Renewal Plan needs to be amended. This is the third proposed amendment to the Plan since it was approved by voters in 2006. The proposed amendment would add these two properties to the list of acquired properties under Project H: Real Property Acquisition.

Section V of the City Center Urban Renewal Plan authorizes Real Property Acquisition and Real Property Disposition as projects. Under Project H, real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A.

Section XII of the City Center Urban Renewal Plan establishes the procedures to amend the Plan. The proposed amendment is considered a Council-Approved Amendment, because it is an “Addition or expansion of a project that adds a cost in 2005 dollars of more than \$500,000 and is materially different from projects previously authorized in the Plan.” Council-approved amendments require both the approval of the Agency by resolution and approval of the City Council. The amendment will be considered by the City Council and Board of the CCDA in separate resolutions.

## **OTHER ALTERNATIVES**

The CCDA Board could choose not to adopt the resolution to amend the plan.

## **COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS**

### Tigard City Council 2015-17 Goals and Milestones

Goal #2. Make Downtown Tigard a Place Where People Want to Be

Increase walkable access to open space by advancing plans for new downtown open space, including the Tigard Street Trail plaza, the Fanno Creek Overlook and a Main Street plaza, including programming.

### City Center Urban Renewal Plan

Goal 1: Revitalization of the Downtown should recognize the value of natural resources as amenities and as contributing to the special sense of place.

Goal 5: Promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments.

### Tigard Comprehensive Plan

Economic Development

Goal 9.1 Develop and maintain a strong, diversified, and sustainable local economy

Goal 9.3 Make Tigard a prosperous and desirable place to live and do business

Special Planning Areas- Downtown

Goal 15.2 Facilitate the development of an urban village.

Goal 15.3 Develop and improve the open space system and integrate natural features into downtown.

### Tigard Strategic Plan

Goal 2. Ensure development advances the vision

## **DATES OF PREVIOUS CONSIDERATION**

October 26, 2015 Executive Session

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### **Attachments**

Resolution

Exhibit A

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CITY OF TIGARD, OREGON  
CITY CENTER DEVELOPMENT AGENCY  
RESOLUTION NO. 15-\_\_\_\_\_

A RESOLUTION AMENDING THE CITY CENTER URBAN RENEWAL PLAN BY ADDING THE ACQUISITION OF TWO MAIN STREET PROPERTIES (12533-12537 SW MAIN STREET, TAXLOT IDS 2S102AB02000 AND 2S102AB02100) AS PROJECTS

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WHEREAS, ORS 457. 170 authorizes the City Center Development Agency (CCDA) to acquire real property pursuant to its approved urban renewal plan; and

WHEREAS, the City Center Urban Renewal Plan authorizes the acquisition of real property within the Urban Renewal Area as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A (“Goals”); and

WHEREAS, the CCDA finds that, to further the Goals, the City Center Urban Renewal Plan must be amended to add the acquisition of two properties located in the City of Tigard, County of Washington, specifically Taxlot IDs 2S102AB02000 and 2S102AB02100, (12533-12537 SW Main Street), to the list of urban renewal projects; and

WHEREAS, adding projects that add a cost in 2005 dollars of more than \$500,000 and are materially different from projects previously authorized in the plan may be approved through a Council-approved amendment; and

WHEREAS, the Tigard City Council will also consider approval of the amendment by resolution.

NOW, THEREFORE, BE IT RESOLVED, by the Tigard City Center Development Agency that:

SECTION 1:           The City Center Urban Renewal Plan amendment, set forth in Exhibit A, is hereby approved.

SECTION 2:           This resolution is effective immediately upon passage.

PASSED:             This \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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Chair – City of Tigard  
City Center Development Agency

ATTEST:

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Recorder – City of Tigard City Center Development Agency

## EXHIBIT A

Proposed new text is shown in double-underline

### V. URBAN RENEWAL PROJECTS

Urban renewal projects authorized under the Plan, which may be undertaken by the Agency, are described below and shown in Figures 2 to 7. To preserve and enhance the Area's natural resources, projects will be designed and implemented with consideration for ecologically sensitive areas and to minimize the impacts of development on the environment. Property acquisition may be required for these projects. Further, some of the projects described herein will require participation of other public agencies. In addition, real property acquisition and disposition are Projects under the plan as described in Section V, paragraphs H and I.

.....

#### H. Real Property Acquisition

In addition to acquisition of real property, or any interest in real property, in conjunction with the Projects identified in paragraphs A through G., real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A. This includes acquisition of real property from willing sellers to support development or redevelopment of retail, office, housing and mixed use projects within the Area.

1. Taxlot ID 2S12AC-00202; Burnham Street Property
2. Taxlots 2S102AD02800, 2S102AD02900, and 2S102AD03000; Burnham and Ash Avenue Properties
3. Taxlots 2S102AB02000 and 2S102AB02100, Main Street "Saxony Properties"

**AIS-2440**

**7.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 5 Minutes

**Agenda Title:** Council Consideration to Amend the City Center Urban Renewal Plan to Acquire 12533-12537 SW Main Street

**Submitted By:** Sean Farrelly, Community Development

**Item Type:** Resolution

**Meeting Type:** Council Business Meeting - Main

**Public Hearing:** No

**Publication Date:**

**Information**

**ISSUE**

The Tigard City Council is requested to consider a resolution to amend the City Center Urban Renewal Plan to add the acquisition of two Main Street properties to the list of urban renewal projects.

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff recommends Council approve the resolution.

**KEY FACTS AND INFORMATION SUMMARY**

The Board of the CCDA will consider approval of the purchase of the two Main Street properties (Tax lot IDs 2S102AB02000 AND 2S102AB02100, 12533-12537 SW Main Street, a.k.a. “the Saxony properties”). To acquire this property, the City Center Urban Renewal Plan needs to be amended. This is the third proposed amendment to the Plan since it was approved by voters in 2006. The proposed amendment would add these two properties to the list of acquired properties under Project H: Real Property Acquisition

Section V of the City Center Urban Renewal Plan authorizes Real Property Acquisition and Real Property Disposition as projects. Under Project H, real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A.

Section XII of the City Center Urban Renewal Plan establishes the procedures to amend the Plan. The proposed amendment is considered a Council-Approved Amendment, because it is an “Addition or expansion of a project that adds a cost in 2005 dollars of more than \$500,000 and is materially different from projects previously authorized in the Plan.” Council-approved

amendments require both the approval of the Agency by resolution and approval of the City Council. The amendment will be considered by the City Council and Board of the CCDA in separate resolutions.

## **OTHER ALTERNATIVES**

Council could choose not to adopt the resolution to amend the plan.

## **COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS**

### Tigard City Council 2015-17 Goals and Milestones

Goal #2. Make Downtown Tigard a Place Where People Want to Be

Increase walkable access to open space by advancing plans for new downtown open space, including the

Tigard Street Trail plaza, the Fanno Creek Overlook and a Main Street plaza, including programming.

### City Center Urban Renewal Plan

Goal 1: Revitalization of the Downtown should recognize the value of natural resources as amenities and as contributing to the special sense of place.

Goal 5: Promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments.

### Tigard Comprehensive Plan

Economic Development

Goal 9.1 Develop and maintain a strong, diversified, and sustainable local economy

Goal 9.3 Make Tigard a prosperous and desirable place to live and do business

Special Planning Areas- Downtown

Goal 15.2 Facilitate the development of an urban village.

Goal 15.3 Develop and improve the open space system and integrate natural features into downtown.

### Tigard Strategic Plan

Goal 2. Ensure development advances the vision

## **DATES OF PREVIOUS COUNCIL CONSIDERATION**

October 26, 2015 Executive Session

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### **Attachments**

Resolution

Exhibit A

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CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 15-

A RESOLUTION AMENDING THE CITY CENTER URBAN RENEWAL PLAN BY ADDING THE ACQUISITION OF TWO MAIN STREET PROPERTIES (12533-12537 SW MAIN STREET, TAXLOT IDS 2S102AB02000 AND 2S102AB02100) AS PROJECTS

---

WHEREAS, ORS 457. 170 authorizes the City Center Development Agency (CCDA) to acquire real property pursuant to its approved urban renewal plan; and

WHEREAS, the City Center Urban Renewal Plan authorizes the acquisition of real property within the Urban Renewal Area as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A (“Goals”); and

WHEREAS, the Tigard City Council finds that, to further the Goals, the City Center Urban Renewal Plan must be amended to add the acquisition of two properties located in the City of Tigard, County of Washington, specifically Taxlot IDs 2S102AB02000 and 2S102AB02100, (12533-12537 SW Main Street) to the list of urban renewal projects; and

WHEREAS, adding projects that add a cost in 2005 dollars of more than \$500,000 and are materially different from projects previously authorized in the plan may be approved through a Council-approved amendment; and

WHEREAS, the City Center Development Agency will also consider approval of the amendment by resolution.

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

SECTION 1: The City Center Urban Renewal Plan amendment, set forth in Exhibit A, is hereby approved.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2015.

---

Mayor - City of Tigard

ATTEST:

---

City Recorder - City of Tigard

## EXHIBIT A

Proposed new text is shown in double-underline

### V. URBAN RENEWAL PROJECTS

Urban renewal projects authorized under the Plan, which may be undertaken by the Agency, are described below and shown in Figures 2 to 7. To preserve and enhance the Area's natural resources, projects will be designed and implemented with consideration for ecologically sensitive areas and to minimize the impacts of development on the environment. Property acquisition may be required for these projects. Further, some of the projects described herein will require participation of other public agencies. In addition, real property acquisition and disposition are Projects under the plan as described in Section V, paragraphs H and I.

.....

#### H. Real Property Acquisition

In addition to acquisition of real property, or any interest in real property, in conjunction with the Projects identified in paragraphs A through G., real property may be acquired as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A. This includes acquisition of real property from willing sellers to support development or redevelopment of retail, office, housing and mixed use projects within the Area.

1. Taxlot ID 2S12AC-00202; Burnham Street Property
2. Taxlots 2S102AD02800, 2S102AD02900, and 2S102AD03000; Burnham and Ash Avenue Properties
3. Taxlots 2S102AB02000 and 2S102AB02100, Main Street "Saxony Properties"

**AIS-2409**

**8.**

**Business Meeting**

**Meeting Date:** 11/24/2015

**Length (in minutes):** 5 Minutes

**Agenda Title:** Council Consideration of Sale of 12533-12537 SW Main Street (the “Saxony properties”)

**Submitted By:** Sean Farrelly, Community Development

**Item Type:** Resolution

**Meeting Type:** Council Business Meeting - Main

**Public Hearing** No

**Newspaper Legal Ad Required?:**

**Public Hearing Publication**

**Date in Newspaper:**

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**Information**

**ISSUE**

The Tigard City Council is requested to consider a resolution to approve the sale of the 12533-12537 SW Main Street properties as outlined in the purchase and sale agreement.

**STAFF RECOMMENDATION / ACTION REQUEST**

Staff recommends Council approve the resolution authorizing the sale.

**KEY FACTS AND INFORMATION SUMMARY**

Council is requested to convey the Saxony properties (12533-12537 SW Main Street) from the City of Tigard’s ownership to the City Center Development Agency. It is recommended that the property be conveyed in order to maintain the property’s eligibility for EPA Brownfields grant funding in the future.

The Saxony properties were acquired by the City of Tigard on July 7, 2015. The funding source was Park Bond proceeds. To be consistent with bond requirements, the Agency expects to have until January 30, 2017 to study the property for public space and private redevelopment. The study will determine what portion of the property could be redeveloped. This redevelopable portion will need to be sold at market price or at a price to proportionately reimburse the Park Bond, whichever is more. The balance of the property will then become public space. If the redevelopable portion of the property is not sold by January 30, 2017, the entire property becomes public space.

The city intends to apply for an EPA Brownfields Clean-up grant to remediate the property. Clean-up grants are available to properties owned by public agencies or non-profits. EPA informed the city that the Saxony properties are not currently eligible for Brownfields cleanup grant funding. This was due to EPA's grant eligibility requirement that property be purchased using an "All Appropriate Inquiry" standard. This includes a provision that the Phase 1 report be updated within 180 days prior to acquisition. The Phase 1 for Saxony was done in October 2012, and not updated. Staff and project consultants were not aware of this specific Phase 1 provision, and had worked under the assumption that the data gathered under the Prospective Purchaser Agreement (PPA) work plan, supervised by the Oregon Department of Environmental Quality, would meet the All Appropriate Inquiry requirement.

Staff inquired if the CCDA, a separate and distinct entity from the city, acquired the properties, would the properties then become "re-eligible" for the grant. EPA staff confirmed that the properties would be eligible, provided the Phase I was updated prior to the CCDA's acquisition.

The City Attorney drafted the attached purchase and sale agreement for the CCDA to acquire the property from the city. Since the property was purchased with Parks Bond funds, those funds are constitutionally protected and the city must comply with the language of the ballot title. The first priority of this project is to ensure that the voter approved bonds are protected and the project only uses the property in a manner that is permitted under the ballot title that was approved by the voters. The purchase and sale agreement includes covenants that bind the Agency to repaying the Park Bond fund the original purchase amount, or market value, whichever is greater, for the portion of the property not used for public space by January 30, 2017. The CCDA will acquire the property from the city for a nominal sum (\$1.00) at closing.

The Prospective Purchaser Agreement will be assigned to the CCDA. Oregon Department of Environmental Quality will be notified of the change.

The Phase 1 report update is in progress by consultant Amec Foster Wheeler. This will satisfy the "All Appropriate Inquiry" standard for the purchase.

If Council approves the sale of the Saxony properties and the Board of the CCDA approved the purchase, staff will submit an application for a \$400,000 EPA Brownfields Clean-up grant. The grant deadline is December 18, 2015.

## **OTHER ALTERNATIVES**

Council could choose not to adopt the resolution.

## **COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS**

## Tigard City Council 2015-17 Goals and Milestones

### Goal #2. Make Downtown Tigard a Place Where People Want to Be

Increase walkable access to open space by advancing plans for new downtown open space, including the Tigard Street Trail plaza, the Fanno Creek Overlook and a Main Street plaza, including programming.

## City Center Urban Renewal Plan

Goal 1: Revitalization of the Downtown should recognize the value of natural resources as amenities and as contributing to the special sense of place.

Goal 5: Promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments.

## Tigard Comprehensive Plan

### Economic Development

Goal 9.1 Develop and maintain a strong, diversified, and sustainable local economy

Goal 9.3 Make Tigard a prosperous and desirable place to live and do business

### Special Planning Areas- Downtown

Goal 15.2 Facilitate the development of an urban village.

Goal 15.3 Develop and improve the open space system and integrate natural features into downtown.

## Tigard Strategic Plan

Goal 2. Ensure development advances the vision

## **DATES OF PREVIOUS CONSIDERATION**

August 18, 2015, Discussion on Saxony Property Redevelopment Study

May 26, 2015, Authorize Purchase of Saxony Pacific Site

May 5, 2015, Discussion of Prospective Purchaser Agreement

April 8, 2014, Authorize CCDA Executive Director to negotiate voluntary property acquisitions

The purchase of the Saxony property was discussed in a number of Executive Sessions including:

October 27, 2015

December 2, 2014

October 28, 2014

September 2, 2014

January 7, 2014

December 3, 2013

November 5, 2013

October 1, 2013

September 3, 2013

August 20, 2013

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**Fiscal Impact**

**Cost:** N/A

**Budgeted (yes or no):** no

**Where Budgeted (department/program):** N/A

**Additional Fiscal Notes:**

The Saxony properties were purchased with Park Bond funds for \$515,500. The City Center Development Agency will purchase the properties for a nominal sum at closing, but the Parks Bond fund will be repaid for any portion of the property that is not used for public space by January 30, 2017, as per the purchase and sale agreement.

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**Attachments**

Resolution

Exhibit A

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CITY OF TIGARD, OREGON  
TIGARD CITY COUNCIL  
RESOLUTION NO. 15-

A RESOLUTION APPROVING THE TRANSFER OF TWO MAIN STREET PROPERTIES (12533-12537 SW MAIN STREET, TAXLOT IDS 2S102AB02000 AND 2S102AB02100) THROUGH A PURCHASE AND SALE AGREEMENT TO THE TIGARD CITY CENTER DEVELOPMENT AGENCY

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WHEREAS, Section 3.44.30 of the Tigard Municipal Code authorizes the Tigard City Council ("Council") to transfer real property to an urban renewal agency established by the Council pursuant to ORS Chapter 457 on such terms and conditions as the Council deems appropriate and upon making the required findings; and

WHEREAS, staff has proposed and recommends that the above-referenced properties be transferred through a purchase and sale agreement, attached as Exhibit A with the Tigard City Center Development Agency ("CCDA"); and

WHEREAS, the properties at 12533-12537 SW Main Street (tax lots 2S102AB02000 and 2S102AB02100) were purchased by the City of Tigard using Park Bond funds (Tigard Ballot Measure 34-81); and

WHEREAS, the purchase and sale agreement includes language that commits the Agency to repaying the Park Bond fund, or market value, whichever is greater, for the portion of the property not used for public space within two years.

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

SECTION 1. Findings:

- A. The City Center Development Agency was established by Council pursuant to ORS Chapter 457;
- B. Goal 5 of the City Center Urban Renewal Plan is to "Promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments". The City Center Development Agency intends to induce redevelopment, including public space, on these parcels to bring new residents to Downtown, promote revitalization and increase property tax revenue. Transfer to the urban renewal agency for redevelopment or other purpose is consistent with, and furthers the goals and objectives of, the adopted urban renewal plan;
- C. Transfer to the Agency furthers the public interest as it will increase the opportunities for cost-effective environmental remediation of the site, including making the properties eligible for brownfield clean-up grant funding, enable private sector investment and development, increase access to public spaces, promote an economically vibrant downtown area, and increase property tax revenues benefitting all city residents.
- D. The City has authority under Oregon State law (ORS 271.310 ) to dispose of real property when the public interest would be furthered.

SECTION 2. Ownership of the properties at 12533-12537 SW Main Street (tax lots 2S102AB02000 and 2S102AB02100) hereby is authorized to be transferred to the CCDA.

SECTION 3. This Resolution is effective immediately upon passage. The City Manager hereby is authorized to execute a purchase and sale agreement and such other documents as are necessary to effectuate the transfer, in consultation with the City Attorney.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
Mayor - City of Tigard

ATTEST:

\_\_\_\_\_  
City Recorder - City of Tigard

**PURCHASE AND SALE AGREEMENT**

**BETWEEN:** City Of Tigard, an Oregon Municipal Corporation (“Seller”)

**And:** City Center Development Agency, An ORS Chapter 457 Urban Renewal Agency (“Purchaser”)

**DATED:** \_\_\_\_\_, 2015 (“Effective Date”)

**RECITALS**

**A.** Seller owns two parcels of real property commonly known as 12533, 12535 and 12537 SW Main St., Tigard, Or. 97224 (Tax Map Nos: 2S102AB2000 and 2S102AB02100) both of which are more fully described on the attached and incorporated Exhibit ‘A’ (hereinafter the “Property”), including the improvements thereon.

**B.** Seller desires to sell the Property, and Purchaser desires to purchase the Property pursuant to the terms set forth in this Purchase and Sale Agreement (“Agreement”).

**C.** The parties acknowledge that the Property was purchased by Seller with proceeds of the bonds sold under the authority of City Ballot Measure 34-181, approved by the voters November 2, 2010 (the “Measure”). Purchaser will use the Property in a manner permitted under the Measure and to advance the purposes described in the Measure, including seeking environmental remediation grant funding.

**AGREEMENT**

NOW, THEREFORE, for good and valuable consideration described in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as set forth below.

**ARTICLE 1  
DEFINED TERMS**

**1.1 Closing.** The process described in Article 8 of this Agreement.

**1.2 Contingency Period.** As defined in Article 3.

**1.3 Deed.** A statutory special warranty deed in the form of Exhibit ‘B’ attached hereto which shall be used to convey the Property from Seller to Purchaser, subject to Seller’s right to repurchase and Purchaser’s post-closing obligations.

**1.4 Environmental Laws.** Any federal, state, or local laws, ordinances, codes, statutes, regulations, administrative rules, policies and orders, and other authority existing now or in the future that classify, regulate, list, or define Hazardous Materials.

**1.5 Hazardous Materials.** Any toxic or hazardous substance, material, waste, pollutant, contaminant, or infectious or radioactive material, including but not limited to those substances, materials, waste, chemicals, or mixtures that are (or that contain any) substances, chemicals, compounds, or mixtures regulated, either now or in the future, under any law, rule, regulation, code or ordinance.

**1.6 Property.** Includes the land described in Exhibit 'A', together with all improvements, rights, privileges, servitudes and appurtenances thereunto belonging or appertaining, including all right, title, and interest of Seller, if any, in and to the streets, alleys, and rights-of-way adjacent to the land, and Seller's lessor interest existing in leases of the Property, which will be transferred.

**1.7 Property Documents.** Any and all documents in Seller's possession or control relating to the Property, including without limitation, land use approvals, land use applications, permits, licenses, leases and related documents, all environmental studies, reports, assessments, any agreements related to the Property that will survive Closing, maps, development agreements, surveys and studies relating to the Property prepared by third parties, but excluding (i) documents which are no longer in effect (ii) tax documents, (iii) documents subject to attorney client privilege, and (iv) documents relating to potential transactions which have not occurred and (v) appraisals.

## **ARTICLE 2 PURCHASE PRICE**

**2.1 Sale of Property.** Subject to the terms and conditions in this Agreement, Seller agrees to sell the Property to Purchaser, and Purchaser agrees to buy the Property from Seller.

**2.2 Purchase Price.** The Purchase Price due from Purchaser to Seller is:

**2.2.1** \$515,500 (representing the original purchase price for the Property paid by Seller) or the amount established by an independent MAI appraisal, whichever is greater as provided in Section 2.2.2; with \$1.00 due and payable at Closing, and the balance due on June 30, 2017 (the "Due Date") and subject to the City's Right to Repurchase as provided in Article 10 (the "Purchase Price").

**2.2.2** Purchaser may pay the balance of the Purchase Price at any time. At least sixty (60) days before tendering the remainder of the Purchase Price, but no later than January 30, 2017, Purchaser shall submit to Seller the qualifications of at least three MAI appraisers. Seller shall have 10 days to object to up to two of the appraisers. Purchaser shall select an appraiser not objected to by Seller and shall obtain a appraisal of the current fair market value of the Property at its highest and best use, which amount shall be the Purchase Price if greater than \$515,500.00 (the original purchase price for the Property paid by Seller).

**2.2.3** As further consideration, Purchaser shall assume, be bound by and fully perform Seller's obligations as set forth in the Consent Judgment (C152218CV) between Seller

and the State of Oregon, ex rel Dick Pederson, Director, Department of Environmental Quality, dated May 28, 2015.

### **ARTICLE 3 CONDITIONS PRECEDENT TO CLOSING**

**3.1 Purchaser's Deliveries.** At or before Closing, Purchaser shall deliver to Seller (i) the sum of \$1.00, (ii) an executed and acknowledged acceptance of the Deed, (iii) an executed counterpart of the Assignment and Assumption of the leases in the form of Exhibit 3.2 ("Assignment and Assumption"), duly executed by Purchaser, (iv) such documentation as may be necessary to assume the obligations under the Consent Judgment C152218CV, (v) a copy of the resolution or order authorizing the purchase and (vi) an executed Promissory Note in a form substantially conforming with Exhibit 'C' hereto securing payment of the remainder of the Purchase Price and all other documents and instruments reasonably requested by Seller to effectuate Closing.

**3.2 Seller's Deliveries.** At or before Closing, Seller shall deliver to Purchaser (i) an executed and acknowledged Deed, (ii) an executed Certificate of Non-Foreign Status, pursuant to Section 1445(b) (2) of the Internal Revenue Code, certifying that Seller is a non-foreign person, (iii) an executed counterpart of the Assignment and Assumption; (iii) a copy of the resolution or order authorizing the sale and (vi) all other documents and instruments reasonably requested by Closing. At Closing, Seller shall deliver possession of the Property to Purchaser, subject to the Lease Documents.

**3.3 Purchaser's Right to Analyze Property Documents.** Within ten (10) days after the Effective Date, Seller shall deliver all Property Documents to Purchaser. During the Contingency Period (as defined in Section 3.4 below), Purchaser shall have the right to analyze the Property Documents and determine, in Purchaser's sole, absolute and arbitrary discretion, whether the Property is suitable for Purchaser's intended use.

**3.4 Purchaser's Right to Analyze Property.** For a period of thirty (30) days after the Effective Date (the "Contingency Period"), unless extended by Purchaser as set forth below:

**3.4.1** Purchaser shall have the right to analyze the Property and determine, in Purchaser's sole, absolute and arbitrary discretion, whether the Property is suitable for Purchaser's intended use.

**3.4.2** Purchaser shall have the right, at no cost, to extend the Contingency Period two (2) times for a period of thirty (30) days each, upon ten (10) days prior written notice to the Seller stating the reasonable need for the extension.

**3.4.3** The parties acknowledge that Purchaser intends to apply for an EPA Brownfields Cleanup grant. Seller agrees to reasonably assist Purchaser in obtaining such grant, including facilitating Purchaser in performing all appropriate inquiries as defined by law and

qualifying for liability protection pursuant to 40 CFR Part 312 or as otherwise provided by law. The parties understand that Seller has:

**3.4.3.1** Obtained a Phase 1 and Phase II environmental assessment of the Property, copies of which are to be provided to Purchaser. Seller shall authorize and direct its environmental consultant(s) to make available to Purchaser any and all information obtained on behalf of Seller regarding the Property.

**3.4.3.2** Entered into a Consent Judgment with the State of Oregon, ex rel Dick Pederson, Director, Department of Environmental Quality, C152218CV, dated May 28, 2015, obligating Seller to undertake certain actions regarding the property as specified therein. Purchaser agrees that on Closing it shall be bound by and responsible for fully performing the obligations under that Consent Judgment. Seller shall cooperate and assist Purchaser as reasonably necessary in performing such obligations.

**3.4.3.3** Purchaser shall have the right to enter onto the Property, upon forty-eight (48) hour prior notice to Seller, to conduct any and all tests, investigations, and inspections deemed necessary by Purchaser. Seller shall have the right to be present at the inspections(s). Seller may, if it determines that access by Purchaser will interfere with the rights of current tenants, require coordination with such tenants and impose reasonable conditions on Purchaser's access.

**3.4.3.4** Such investigations and/or studies shall be conducted by Purchaser at its sole expense.

**3.4.4** Within the limits of the Oregon Tort Claims Act and the Oregon Constitution, Purchaser shall defend, indemnify and hold Seller harmless for, from, and against any claim, loss, or liability, or any claim of lien or damage which arises in connection with any entry on the Property by Purchaser or any activities on the Property by Purchaser, its agents, employees, and independent contractors; provided, however, that Purchaser shall have no obligation to indemnify, defend, or hold harmless Seller from any condition of the Property discovered by Purchaser, or from any loss of marketability of the Property as a consequence of such discovery. This agreement to indemnify, hold harmless and defend Seller shall survive Closing or other termination of this Agreement.

**3.4.5** In the event Purchaser elects not to close on the Property, upon such determination and termination of the Agreement, Purchaser agrees it will provide to Seller copies of all written reports resulting from any and all investigations conducted by the Purchaser during the Contingency Period, within five (5) days of termination of this Agreement. This provision will survive the Closing or termination of the Agreement.

**3.5 Notice of Termination; Failure to Notify.** If Purchaser determines, in Purchaser's sole, absolute, and arbitrary discretion, the Property is not suitable, Purchaser may terminate this Agreement by delivering written notice of termination to Seller prior to the

expiration of the Contingency Period, as it may be extended, in which case this Agreement shall immediately terminate.

**3.6 Review of Preliminary Report.** Within ten (10) days after the Effective Date, Seller shall provide Purchaser with a preliminary title report, describing title to the Property, and including legible copies of all recorded documents described in the preliminary report (collectively, the “Preliminary Report”). On or before ten (10) days after Purchaser’s receipt of the Preliminary Report, Purchaser shall deliver written notice of approval or disapproval of matters disclosed in the Preliminary Report, which approval or disapproval shall be in Purchaser’s sole and absolute discretion. Any notice of disapproval shall specify which title exceptions are unacceptable (the “Unacceptable Exceptions”). The matters disclosed in the Preliminary Report to which Seller does not object, along with the standard printed exceptions on a form of title insurance policy, shall be the “Permitted Exceptions” and included as exceptions in the Title Policy, along with any Unacceptable Exceptions that become Permitted Exceptions.

**3.7 Right to Cure Disapproval of Preliminary Report.** If Purchaser delivers notice of disapproval, Seller shall notify Purchaser in writing (a “Response Notice”) within five (5) days thereafter, whether Seller will agree to remove or otherwise cure, to Purchaser’s reasonable satisfaction, any Unacceptable Exception(s) prior to Closing. Notwithstanding any provision in this Agreement to the contrary, Seller shall be obligated to remove any deeds of trust and other monetary liens (other than liens for non-delinquent taxes and assessments). If Seller fails to timely provide a Response Notice, Seller shall be deemed to have elected not to cure any Unacceptable Exceptions. If Seller fails to agree to remove an Unacceptable Exception, Purchaser shall elect, by notice to Seller within five (5) days after the Response Notice (or, if no Response Notice is provided, within five (5) days after the Response Notice was due to either (I) terminate this Agreement or (II) waive Seller’s objection and accept title subject to the Unacceptable Exceptions which Seller has not agreed to cure (in which event such Unacceptable Exceptions shall be Permitted Exceptions). Failure of Purchaser to timely so elect shall be deemed an election to waive such Unacceptable Exceptions, in which event such Unacceptable Exceptions shall become Permitted Exceptions.

**3.8 Failure to Cure Disapproval of Preliminary Report.** If Seller, in its Response Notice, agrees to cure an Unacceptable Exception and thereafter fails to cure such Unacceptable Exception prior to Closing, Purchaser shall have the right to (i) terminate this Agreement (ii) suspend performance of its obligations under this Agreement at no cost to Purchaser and extend the Closing Date until that removal of the Unacceptable Exception has occurred (but no more than 45 days) or (iii) waive in writing its prior disapproval of such exception and accept title subject to such previously disapproved item, by delivering written notice of Purchaser’s election to Seller prior to Closing in which case such Unacceptable Exceptions will be Permitted Exceptions.

**3.9 Title Policy.** Seller shall be unconditionally committed to procure upon Closing, an ALTA standard coverage owner’s policy of title insurance for the Property, with a liability limit in the amount of the Purchase Price without regard to any future credits and insuring fee title vests in Purchaser subject only to the Permitted Exceptions (collectively, the “Title Policy”).

At Purchaser's option, Purchaser may elect to have the Title Policy issued with endorsements and/or in an ALTA extended coverage form, provided (I) that Purchaser pays any additional costs associated with issuance of such policy, and (II) Seller shall not be required to indemnify the title company to induce it to issue such extended coverage or endorsements.

**3.10 Approval.** This Agreement is specifically conditioned on approval by the Tigard City Council and the governing body of the City Center Development Agency before the end of the Contingency Period. If either governing body has not approved this Agreement on or before the expiration of the Contingency Period, this Agreement and the rights and obligations of the Purchaser and the Seller shall automatically terminate.

**3.11 Approval of Leases & Estoppel Certificates.** Within ten (10) days of the Effective Date, Seller will provide to Purchaser copies of all current leases affecting the Property, copies of any related documents other than leases which provide for or discuss any matters affecting the occupancy of the Property by the tenants who have any right now or in the future with respect to the Premises, including but not limited to options to lease, relocation rights, termination rights, and/or expansion or contraction rights (collectively, the "Lease Documents"). Purchaser may terminate this Agreement at any time during the Contingency Period if Purchaser shall determine in the exercise of its sole discretion that any documents described herein are not satisfactory. Effective on the Closing Date, Seller will assign to Purchaser all leases then in effect.

**3.12 Contingency Failure.** If Purchaser fails to notify Seller in writing by the end of the Contingency Period that the conditions set forth in this Article 3 have been satisfied or waived, this Agreement and the rights and obligations of the Purchaser and the Seller shall automatically terminate.

**3.13 Damage or Destruction; Eminent Domain.** If, prior to the Closing, all or a material part of the Property is damaged or destroyed, or taken or appropriated by any public or quasi-public authority under the power of eminent domain or such an eminent domain action is threatened pursuant to a resolution of intention to condemn filed by any public entity, Purchaser may either (i) terminate this Agreement or (ii) elect to receive an assignment from Seller in lieu of the part of the Property that has been so damaged or taken of all of Seller's rights to any award and/or proceeds attributable to said damaged or taken part of the Property, and the parties shall proceed to Closing pursuant to this Agreement provided that Purchaser may not terminate this Agreement pursuant to this Section if Purchaser is the condemning government entity.

#### **ARTICLE 4 SELLER'S REPRESENTATIONS AND WARRANTIES**

**4.1 Representations and Warranties of Seller.** Seller represents and warrants that, as of the Effective Date, the end of the Contingency Period, and the Closing, that all of the representations and warranties contained in this Agreement are and shall be true and correct, and shall survive Closing for a period of one (1) year. Each of Seller's representations and warranties is material to and is being relied upon by Purchaser and the continuing truth thereof

shall constitute a condition precedent to Purchaser's obligations hereunder. Seller represents and warrants to Purchaser as follows:

**4.1.1 Proof of Authority.** Seller has authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, and shall deliver such proof of the power and authority of the persons executing and/or delivering any instruments, documents, or certificates on behalf of the Seller to act for or bind the Seller, as may be reasonably required by Purchaser.

**4.1.2 Title to the Property.** Seller has sole legal and beneficial fee title to the Property, and has not granted any person or entity any right or interest in the Property except as set forth in this Agreement, in the Preliminary Report, and the Lease Documents. Seller agrees to transfer to Purchaser, via Statutory Special Warranty Deed in the form of Exhibit 'B', the Property, subject only to the Permitted Exceptions.

**4.1.3 Property Documents, Lease Documents; No Defaults.** To Seller's knowledge, the Property Documents, including lease documents delivered by Seller to Purchaser are true, correct and complete copies and there are no other documents or instruments in Seller's possession and control that would constitute Property Documents that have not been delivered by Seller or otherwise made available to Purchaser. Seller has no knowledge of any default by Seller under any Property Documents.

**4.1.4 Pending Transactions, Suits or Proceedings.** To Seller's knowledge, there are no suits, proceedings, litigation, condemnation, or investigations pending or threatened against or affecting the Property or Seller as the owner of the Property in any court at law or in equity, or before or by any governmental department, commission, board, agency or instrumentality.

**4.1.5 No Further Encumbrances.** As long as this Agreement remains in force, Seller will not lease, transfer, option, mortgage, pledge, or convey its interest in the Property or any portion thereof nor any right therein, nor shall Seller enter into any agreement granting to any person or entity any option to purchase or rights superior to Purchaser with respect to the Property or any part thereof.

**4.1.6 Environmental Conditions.** Except as provided in the Consent Judgment C152218CV dated May 28, 2015, and documents provided to Purchaser, to Seller's knowledge, the Property is not now in violation of, and is not currently under investigation for the violation of, any Environmental Laws. Seller hereby assigns to Purchaser as of the Closing, to the extent assignable, all claims, counterclaims, defenses or actions, whether at common law or pursuant to any other applicable federal or state or other laws, if any, that Seller may have against third parties to the extent relating to the existence of Hazardous Materials in, at, on, under or about the Property.

**4.1.7 Construction or Other Liens.** Seller warrants that, at the time of Closing, no work, labor or materials have been expended, bestowed or placed upon the Property,

which will remain unpaid at Closing or upon which a lien may be filed, excepting work, labor, or materials for which the tenant under the Lease Documents is responsible.

**4.1.8 No Option or Right of First Refusal to Acquire Premises.** Seller represents that no person or entity has any right of first refusal or option to acquire any interest in the property or any part thereof.

**4.1.9 Conduct Pending Closing; Covenants.**

**4.1.9.1 Conduct of Property.** Seller hereby agrees that Seller will not modify, cancel, extend or otherwise change in any material manner any of the terms, covenants or conditions of the Property Documents or Lease Documents, nor enter into any additional leases as to the Property without Purchaser's written consent, nor enter into any other agreements having a material effect on the Property without the prior written consent of Purchaser, which Purchaser shall not unreasonably withhold.

**4.1.9.2 No Alterations.** Seller will not make any material alterations to the Property prior to the Closing, provided nothing herein prohibits alterations made by a tenant permitted by such tenant's Lease.

**4.1.9.3 Condition of the Property Through Closing.** Seller shall, between the Effective Date and the Closing Date: (i) maintain the Property in substantially the same condition as it was on the Effective Date, with no tree cutting, timber harvesting or altering of the Property in any way, subject to casualty and to alterations made by a tenant permitted by such tenant's Lease, (ii) keep all existing insurance policies affecting the Property in full force and effect, (iii) make all regular payments of interest and principal on any existing financing, (iv) pay all real property taxes and assessments against the Property prior to delinquency, (v) comply with all government regulations, and (vi) keep Purchaser timely advised of any repair or improvement which is known by Seller required to keep the Property in substantially the same condition as it was on the Effective Date.

**ARTICLE 5  
AS-IS SALE**

**AS-IS Sale.** The Property is being sold to, and accepted by, Purchaser at Closing in its then-present condition, AS-IS, WHERE IS, WITH ALL FAULTS, and without any warranty whatsoever, express or implied, except for the representations and warranties set forth in Article 4 and in the Deed to be delivered at Closing. Purchaser acknowledges that (a) it is purchasing the Property AS-IS, WHERE IS, WITH ALL FAULTS; (b) it will have made or performed any and all tests, surveys, or other examinations of the Property as Purchaser deems necessary prior to the end of the Contingency Period; and (c) it shall rely solely on its own inspection, examination, and evaluation of the Property in assessing and determining the condition of the Property. Seller and Seller's agents have not made, are not now making, and specifically hereby disclaim, any and all warranties and representations of any kind, express or implied, oral or

written, with respect to the Property, except for any representation or warranty made in Article 4 or any warranty of title to be contained in the Deed to be delivered at Closing. The provisions of this Article 5 shall survive Closing.

## **ARTICLE 6 PURCHASER'S REPRESENTATIONS AND WARRANTIES**

**6.1 Purchaser's Representation and Warranties.** Purchaser represents and warrants that, as of the Effective Date, the end of the Contingency Period, and Closing, all of the representations and warranties of Purchaser contained in this Agreement are and shall be true and correct, and shall survive Closing for a period of one (1) year. Each of Purchaser's representations and warranties is material to and is being relied upon by Seller and the continuing truth thereof shall constitute a condition precedent to Seller's obligations hereunder. Purchaser represents and warrants to Seller as follows:

**6.1.1 Authority.** The execution and delivery of this Agreement has been duly authorized and approved by all requisite action of Purchaser, and the consummation of the transactions contemplated hereby will be duly authorized and approved by all requisite action of Purchaser, and no other authorizations or approvals will be necessary in order to enable Purchaser to enter into or to comply with the terms of this Agreement.

**6.1.2 Binding Effect of Documents.** This Agreement and the other documents to be executed by Purchaser hereunder, upon execution and delivery thereof by Purchaser, will have been duly entered into by Purchaser, and will constitute legal, valid and binding obligations of Purchaser. To Purchaser's actual knowledge, neither this Agreement nor anything provided to be done under this Agreement violates or shall violate any contract, document, understanding, agreement or instrument to which Purchaser is a party or by which it is bound.

## **ARTICLE 7 PRORATED FEES AND COSTS**

**7.1 Prorations.** Taxes will be prorated as of the Closing date.

**7.2 Seller's Fees and Costs.** Seller shall pay: (i) the costs for the Title Policy (but not extended coverage or endorsements requested by Purchaser; (ii) Seller's recording charges; and (iii) one-half of any transfer taxes.

**7.3 Purchaser's Fees and Costs.** Purchaser shall pay (i) Purchaser's recording charges; (ii) if requested by Purchaser, any extended coverage and endorsements for the Title Policy; and (iii) one-half of any transfer taxes.

**7.4 Other Costs.** Except as otherwise provided in this Agreement, each party shall bear and pay the expense of its own attorneys, accountants and other professionals incurred in negotiating this Agreement.

## **ARTICLE 8 CLOSING**

**8.1 Closing.** Closing shall consist of (i) payment of the amount due and recording the Deed and providing a conformed copy to each Party; (ii) confirming execution of all documents necessary for Closing; and (iii) delivering funds and documents as set forth herein, when and only when the parties have confirmed that all terms and conditions of this Agreement have been met and each of the conditions set forth below have been satisfied:

**8.1.1 Funds and Instruments.** All funds and instruments required pursuant to this Agreement have been delivered.

**8.1.2 Satisfaction of Conditions Precedent.** Each of the conditions precedent set forth in the Agreement have been either satisfied or waived, or deemed waived.

**8.1.3 Liens and Encumbrances.** All liens and encumbrances required to be paid by Seller have been paid and satisfied at Seller's sole expense, including without limitation any trust deed or mortgage affecting the Property. The Property shall be conveyed free of encumbrances, except for the Permitted Exceptions and those expressly accepted or waived by Purchaser pursuant to the terms of this Agreement.

**8.1.4 Assignment and Assumption Document.** The parties shall have executed the Assignment and Assumption of the leases and such documents as are necessary for purchaser to assume the obligations under Consent Judgment C152218CV.

**8.1.5 Closing.** Closing shall occur on the date that is thirty (30) days after expiration of the Contingency Period unless agreed otherwise in writing by the parties.

## **ARTICLE 9 DEFAULT AND REMEDIES**

### **9.1 Pre-Closing Remedies:**

**9.1.1. Purchaser's Breach.** If Purchaser breaches this Agreement, which breach Purchaser fails to cure within thirty (30) days after receipt of written notice thereof from Seller, Seller may terminate this Agreement and receive as liquidated damages reimbursement of Seller's reasonable and necessary costs associated with this transaction and termination thereof, including attorney fees.

**9.1.2. Seller's Breach.** In the event of Seller's breach, which breach Seller fails to cure within thirty (30) days of receipt of written notice thereof from Purchaser, Purchaser may elect to either (i) terminate this Agreement, or receive as liquidated damages reimbursement for Purchaser's costs associated with this transaction, including attorney fees, or (ii) seek an action for specific performance in order to enforce Purchaser's rights hereunder.

**9.1.3. Liquidated Damages.** The parties agree that the amounts stated above have been agreed to as a reasonable compensation and the exclusive financial remedy for default, since the precise amount of such compensation would be difficult to determine.

**9.2 Seller's Post Closing Remedies:** If Purchaser breaches its post-Closing obligations under this Agreement, which breach Purchaser fails to cure within thirty (30) days after receipt of written notice thereof from Seller; Seller may, in addition to any other remedy provided by law:

**9.2.1** Immediately exercise its right to repurchase provided for in Article 10.

**9.2.2** File an action for specific performance of Purchaser's obligations.

**9.2.3** File an action to collect all amounts due under the Promissory Note executed by Purchaser, the full amount of which shall be immediately due and payable.

**9.3** Notwithstanding any other provision of this Agreement, if Purchaser takes any action that violates the Measure, or Purchaser's Measure-related Post Closing Obligations, including but not limited to those set forth in Section 10.2, below, the entire Purchase Price shall immediately be due and payable, and Purchaser shall immediately pay the remainder of the Purchase Price to Seller in full and not in installments.

## **ARTICLE 10 SELLER'S RIGHT TO REPURCHASE and PURCHASER'S POST CLOSING OBLIGATIONS**

**10.1 Right to Repurchase.** Seller retains, and Purchaser acknowledges, Seller's right to repurchase the Property at any time prior to Purchaser paying the full amount of the Purchase Price, or on Purchaser's default, on 10 days written notice of its intent to repurchase the Property, or any portion thereof, for purposes consistent with the uses authorized by City of Tigard Ballot Measure 34-81.

**10.1.1** The repurchase price shall be \$515,500.00, pro-rated by the square footage to be purchased, or the fair market value of the property or portion thereof, established in the same manner as provided for in Section 2.2.1, whichever is less.

**10.1.2** If Seller exercises its right to repurchase a portion of the Property less than the whole, Seller shall be responsible for obtaining any lot line adjustment or land division necessary to complete the repurchase.

**10.1.3** Closing of the repurchase shall occur in a commercially reasonable manner generally consistent with the Closing provided for herein.

**10.2 Purchaser's Post-Closing Obligations.** Until such time as Purchaser has paid the full amount of the Purchase Price, Purchaser shall:

**10.2.1** Not enter into any rental agreement or lease, earnest money, option, development agreement, deed, easement or other document relating to transfer or sale of any portion of the Property without first obtaining Seller's written consent. No lease shall extend beyond expiration of Seller's right to repurchase. The rental amount of any such lease of the Property or any portion of the Property shall be at fair market value. No lease shall provide an option to purchase or other property interest beyond that normally associated with a tenant.

**10.2.2** Not permit or suffer any lien or other encumbrance against the Property without Seller's written consent.

**10.2.3** Comply, and not take any action inconsistent, with the obligations set forth in the Consent Judgment (C152218CV) between Seller and the State of Oregon, ex rel Dick Pederson, Director, Department of Environmental Quality, dated May 28, 2015. Within the limits of the Oregon Tort Claims Act, Purchaser shall indemnify, defend and hold harmless Seller against any claim arising from Purchaser's failure to comply with, or negligent compliance with, the obligations set forth in the referenced Consent Judgment.

**10.2.4** Hold the Property to advance the purposes set forth in the Measure.

**10.2.5** Not authorize or suffer any action with regard to the Property that would cause it to diminish in value or not advance the purposes set forth in the Measure. Purchaser may demolish and remove the existing structures on the Property, conduct environmental remediation, and take other actions with the consent of City that advance the purposes of the Measure.

**10.2.6** Not make any changes to the Property or take any other action related to the Property that benefits any particular private party.

**10.3 Survival.** This Article 10 shall survive Closing.

## **ARTICLE 11 GENERAL PROVISIONS**

**11.1 Attorney's Fees.** If any action is instituted between Seller and Purchaser in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs of action, including, without limitation, attorneys' fees and costs as fixed by the court therein.

**11.2 Construction of Agreement.** The agreements contained herein shall not be construed in favor of or against either party, but shall be construed as if both parties prepared this Agreement.

**11.3 Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein. The foregoing sentence shall in no way affect



or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

**11.11 Successors and Assigns.** Subject to limitations expressed in this Agreement, each and all of the covenants and conditions of this Agreement shall inure to the benefit of and shall be binding upon the successors-in-interest, assigns, and representatives of the parties hereto. As used in the foregoing, “successors” shall refer to the parties’ interest in the Property and to the successors to all or substantially all of their assets and to their successors by merger or consolidation.

**11.12 Time of the Essence.** Time is of the essence of each and every provision of this Agreement.

**11.13 Waiver.** No waiver by Purchaser or Seller of a breach of any of the terms, covenants or conditions of this Agreement by the other party shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default by Purchaser or Seller hereunder shall be implied from any omission by the other party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect a default other than as specified in such waiver. The consent or approval by Purchaser or Seller to or of any act by the other party requiring the consent or approval of the first party shall not be deemed to waive or render unnecessary such party’s consent or approval to or of any subsequent similar acts by the other party.

**11.14 Negation of Agency and Partnership.** Any agreement by either party to cooperate with the other in connection with any provision of this Agreement shall not be construed as making either party an agent or partner of the other party.

**11.15 Calculation of Time.** Unless specified otherwise, all periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday or such holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or such holiday.

**11.16 Statutory Disclaimer.** 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 TO INQUIRE ABOUT 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.

**11.17 Counterparts.** This Agreement may be executed in counterparts, each of which, when taken together, shall constitute fully executed originals.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

SELLER

PURCHASER

City of Tigard, an Oregon municipal corporation

City Center Development Agency, an ORS Chapter 457 agency

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

- Exhibit A - Property
- Exhibit B – Deed
- Exhibit C – Assignment of Lease

## EXHIBIT A



## EXHIBIT A

### Legal Description

A tract of land being a portion of Lot 3, BURNHAM TRACT, a duly recorded subdivision in Washington County plat records, said land being located in the Northeast quarter of Section 2, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tigard, County of Washington, State of Oregon, being further described as follows:

Beginning at the most Easterly corner of said Lot 3, BURNHAM TRACT, being a point on the centerline of S.W. Burnham Road; thence S45°06'43"W, along the Southeasterly line of said Lot 3, a distance of 30.00 feet to a point on the Southwesterly right-of-way line of said S.W. Burnham Road; thence S45°06'43"W, continuing on the Southeasterly line of said Lot 3, a distance of 314.41 feet to the Southwesterly line of a 30.00 foot easement recorded in Washington County Deed Book 890 Page 753; thence N44°28'10"W, 15.00 feet Southwesterly of, and parallel to, an existing sewer line, a distance of 190.74 feet to a point on the Northwesterly line of said Lot 3; thence N51°56'00"E, along the Northwesterly line of said Lot 3, a distance of 312.87 feet to a point on said Southwesterly right-of-way line of said S.W. Burnham Road; thence continuing N51°56'00"E, a distance of 30.27 feet to the most Northerly corner of said Lot 3, being a point on the centerline of said S.W. Burnham Road; thence S45°46'00"E, along said centerline, a distance of 150.00 feet to the point of beginning.

Excepting Therefrom that portion of said Lot dedicated to the public for street, road and utility purposes in document recorded October 13, 1978 in Book 1118, Page 567.

And Further Excepting Therefrom that portion of said Lot granted and dedicated to the City of Tigard for street and utility purposes in document recorded January 8, 1980, as Recorder's Number 80000717.

The foregoing property is the same property which is occasionally described as:

Lot 3, BURNHAM TRACT, in the City of Tigard, Washington County, Oregon.

Excepting Therefrom that portion of said Lot dedicated to the public for street, road and utility purposes in document recorded October 13, 1976, page 567.

And Further Excepting Therefrom that portion of said Lot granted and dedicated to the City of Tigard for street and utility purposes in document recorded January 8, 1980, Recorder's No. 80000717.

And Further Excepting Therefrom that portion of said Lot conveyed to the City of Tigard by deed recorded August 6, 1980, Recorder's No. 80026999.

And Further Excepting Therefrom that portion of said Lot conveyed to Gerald L. Cach and Joan L. Cach, husband and wife, by deed recorded August 11, 1980, Recorder's No. 80027467.

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Title Data, Inc. FA POR10411 WN 2004028753.003

EXHIBIT B

AFTER RECORDING RETURN TO:

City Center Development Agency  
Attn: Executive Director  
13125 SW Hall Blvd  
Tigard OR 97223

UNTIL A CHANGE IS REQUESTED

SEND TAX STATEMENTS TO:

City Center Development Agency  
Attn: Executive Director  
13125 SW Hall Blvd  
Tigard OR 97223

*This space is reserved for recorder's use.*

STATUTORY SPECIAL WARRANTY DEED

The City of Tigard, an Oregon Municipal Corporation (“Grantor”) hereby conveys and warrants to the City Center Development Agency, an ORS chapter 457 urban renewal agency, (“Grantee”), the following described real property free of encumbrances created or suffered by Grantor except as specifically set forth herein:

See Exhibit A attached hereto.

The true consideration for this conveyance is \_\_\_\_\_. This conveyance is made subject to Grantor’s right to repurchase and Grantee’s obligations as set forth in the Purchase and Sale Agreement between the parties dated \_\_\_\_\_ and the matters set forth on Exhibit B attached hereto.

**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. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. 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 DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO**

**INQUIRE ABOUT 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.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

GRANTOR

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF OREGON            )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_, 2015 by \_\_\_\_\_ as \_\_\_\_\_ of the City of Tigard.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

ACCEPTED:

GRANTEE

City Center Development Agency, an ORS chapter 457 urban renewal agency

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF OREGON            )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_, 2015, by \_\_\_\_\_ as \_\_\_\_\_ of the City Center Development Agency, an ORS chapter 457 urban renewal agency.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_



**EXHIBIT A**

**Legal Description**

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PortIndI-2140012.1 0099999-00001

Title Data, Inc. FA POR10411 WN 2004028753.003

Exhibit B  
[to be provided after review of preliminary report]

Exhibit C  
**ASSIGNMENT OF LEASE**

THIS Assignment and Assumption of Lease (“Agreement”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, between the City of Tigard, an Oregon municipal corporation (“Assignor”) and the City Center Development Agency, an ORS chapter 457 urban renewal agency (“Assignee”)

**RECITALS**

A. Assignor owns the fee interest in those certain premises described on Exhibit A attached and incorporated hereto (the “Premises”).

B. A portion of the Premises are leased pursuant to the lease attached and incorporated as Exhibit B (the “Lease”). Assignor holds all right, title and interest in and to the lessor’s interest under the Lease.

C. Pursuant to that certain Purchase and Sale Agreement dated \_\_\_\_\_, 20\_\_\_, between Assignor and Assignee (the “Agreement”), Assignor has agreed to sell the Premises to Assignee and in connection with the sale has agreed to assign the Lease to Assignee and Assignee has agreed to assume the Lease.

**AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

**1. Assignment.**

Effective as of the Effective Date of this Assignment, Assignor hereby transfers, sets over and assigns to Assignee all right, title and interest of Assignor in and to the Lease, TO HAVE AND TO HOLD the same to Assignee, its successors and assigns forever; SUBJECT , HOWEVER, to each and every provision of the Lease and as hereinafter provided.

**2. Acceptance of Assignment.**

Effective as of the Effective Date, Assignee accepts the within assignment and agrees to perform and discharge all of the covenants, terms, conditions and provisions to be kept, observed and performed by Assignor as lessor under the Lease.

**3. Assignor’s Indemnity of Assignee.**

Assignor hereby agrees to defend and indemnify Assignee, its directors, officers, employees, agents, representatives, successors and assigns, and each of them, from and against

any and all claims, suits, demands, causes of action, actions, liabilities, losses, damages, costs and expenses (including reasonable attorney's fees) arising out of or resulting from any breach or default committed or alleged to have been committed by Assignor as lessor under the Lease prior to the Effective Date.

**4. Assignee's Indemnity of Assignor.**

Within the limits of the Oregon Tort Claims Act and Oregon Constitution, Assignee hereby agrees to defend and indemnify Assignor, and its respective directors, officers, employees, agents, representatives, successors and assigns, and each of them, from and against any and all claims, suits, demands, causes of action, actions, liabilities, losses, damages, costs and expenses (including reasonable attorney's fees) arising out of or resulting from any breach or default committed or alleged to have been committed by Assignee, its successors or assigns, as the lessor under the Lease from and after the Effective Date.

**5. Effective Date.**

This Assignment shall be effective as of the date of recording of the deed conveying title to the Premises to Assignee (the "Effective Date").

**6. Counterparts.**

This Assignment may be executed in one or more counterparts by the parties hereto. All Counterparts shall be construed together and shall constitute one agreement.

**7. Binding Effect.**

This Assignment shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed on behalf of each of them respectively, by their respective officer's thereunto duly authorized, in multiple originals, all as of the day and year first above written.

**ASSIGNOR**

**ASSIGNEE**

City of Tigard, an Oregon municipal corporation

City Center Development Agency, an ORS Ch. 457 urban renewal agency

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A

Premises

**EXHIBIT B**

**The Leases**



space and mixed use development located in the Urban Renewal Area. Transfer of the properties to the Agency furthers the public interest as it will increase the opportunities for cost-effective environmental remediation of the site, including making the properties eligible for brownfield clean-up grant funding.

The property was purchased by the city using Park Bond funds. The first priority of this project is to ensure that the voter approved bonds are protected and the project only uses the property in a manner that is permitted under the ballot title that was approved by the voters. The purchase and sale agreement includes covenants that bind the Agency to repaying the Park Bond fund the original purchase amount, or market value, whichever is greater, for the portion of the property not used for public space by January 30, 2017. A feasibility study for the site is currently underway.

## **OTHER ALTERNATIVES**

The CCDA Board could choose not to adopt the resolution to purchase the properties.

## **COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS**

### Tigard City Council 2015-17 Goals and Milestones

Goal #2. Make Downtown Tigard a Place Where People Want to Be

Increase walkable access to open space by advancing plans for new downtown open space, including the Tigard Street Trail plaza, the Fanno Creek Overlook and a Main Street plaza, including programming.

### City Center Urban Renewal Plan

Goal 1: Revitalization of the Downtown should recognize the value of natural resources as amenities and as contributing to the special sense of place.

Goal 5: Promote high quality development of retail, office and residential uses that support and are supported by public streetscape, transportation, recreation and open space investments.

### Tigard Comprehensive Plan

Economic Development

Goal 9.1 Develop and maintain a strong, diversified, and sustainable local economy

Goal 9.3 Make Tigard a prosperous and desirable place to live and do business

Special Planning Areas- Downtown

Goal 15.2 Facilitate the development of an urban village.

Goal 15.3 Develop and improve the open space system and integrate natural features into downtown.

### Tigard Strategic Plan

Goal 2. Ensure development advances the vision

## **DATES OF PREVIOUS CONSIDERATION**

August 18, 2015, Discussion on Saxony Property Redevelopment Study  
May 26, 2015, Authorize Purchase of Saxony Pacific Site  
May 5, 2015, Discussion of Prospective Purchaser Agreement  
April 8, 2014, Authorize CCDA Executive Director to negotiate voluntary property acquisitions

The purchase of the Saxony property was discussed in a number of Executive Sessions including:

December 2, 2014  
October 28, 2014  
September 2, 2014  
January 7, 2014  
December 3, 2013  
November 5, 2013  
October 1, 2013  
September 3, 2013  
August 20, 2013

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### **Fiscal Impact**

**Cost:** \$1  
**Budgeted (yes or no):** Yes  
**Where Budgeted (department/program):** CCDA

#### **Additional Fiscal Notes:**

The Saxony properties were purchased with Park Bond funds for \$515,500. The City Center Development Agency will purchase the properties for \$1.00 at closing and the Parks Bond fund will be repaid for any portion of the property that is not used for public space by January 30, 2017, as per the purchase and sale agreement.

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### **Attachments**

CCDA Resolution  
Exhibit A

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CITY OF TIGARD, OREGON  
CITY CENTER DEVELOPMENT AGENCY  
RESOLUTION NO. 15-\_\_\_\_\_

A RESOLUTION APPROVING THE ACQUISITION OF TWO MAIN STREET PROPERTIES (12533-12537 SW MAIN STREET, TAXLOT IDS 2S102AB02000 AND 2S102AB02100) AND AUTHORIZING THE EXECUTIVE DIRECTOR OF THE CCDA TO TAKE ALL NECESSARY ACTION TO COMPLETE THE PROPERTY PURCHASE

---

WHEREAS, ORS 457. 170(3) authorizes the City Center Development Agency (CCDA) to acquire real property pursuant to its approved urban renewal plan; and

WHEREAS, the City Center Urban Renewal Plan authorizes the acquisition of real property within the Urban Renewal Area as determined by the Agency to be necessary to further the Goals and Objectives of the City Center Renewal Plan and as provided in Section VIII, paragraph A (“Goals”); and

WHEREAS, Taxlot IDs 2S102AB02000 and 2S102AB02100, (12533-12537 SW Main Street) are future redevelopment opportunities for open space and mixed use development located in the Urban Renewal Area; and

WHEREAS, the City Center Urban Renewal Plan has been amended to include the property acquisition as a project; and

WHEREAS, the agency and the property owner (the City of Tigard) have reached an agreement on the purchase/ sale of the property.

NOW, THEREFORE, BE IT RESOLVED, by the Tigard City Center Development Agency that:

SECTION 1:           The Board of City Center Development Agency agrees to the terms of the Purchase and Sale Agreement attached as Exhibit A.

SECTION 2:           The Board of the City Center Development Agency authorizes the Executive Director of the CCDA to take all necessary action to complete the acquisition of Taxlot IDs 2S102AB02000 and 2S102AB02100, (12533-12537 SW Main Street) on behalf of the Agency. This includes, but is not limited to, execution of the Purchase and Sale Agreement, acceptance of a deed conveying the property, signing leases or assignments of leases on the property and all other closing documents.

SECTION 3:           This resolution is effective immediately upon passage.

PASSED:             This \_\_\_\_\_ day of \_\_\_\_\_, 2015.

---

Chair – City of Tigard  
City Center Development Agency

ATTEST:

---

Recorder – City of Tigard City Center Development Agency

**PURCHASE AND SALE AGREEMENT**

**BETWEEN:** City Of Tigard, an Oregon Municipal Corporation (“Seller”)

**And:** City Center Development Agency, An ORS Chapter 457 Urban Renewal Agency (“Purchaser”)

**DATED:** \_\_\_\_\_, 2015 (“Effective Date”)

**RECITALS**

**A.** Seller owns two parcels of real property commonly known as 12533, 12535 and 12537 SW Main St., Tigard, Or. 97224 (Tax Map Nos: 2S102AB2000 and 2S102AB02100) both of which are more fully described on the attached and incorporated Exhibit ‘A’ (hereinafter the “Property”), including the improvements thereon.

**B.** Seller desires to sell the Property, and Purchaser desires to purchase the Property pursuant to the terms set forth in this Purchase and Sale Agreement (“Agreement”).

**C.** The parties acknowledge that the Property was purchased by Seller with proceeds of the bonds sold under the authority of City Ballot Measure 34-181, approved by the voters November 2, 2010 (the “Measure”). Purchaser will use the Property in a manner permitted under the Measure and to advance the purposes described in the Measure, including seeking environmental remediation grant funding.

**AGREEMENT**

NOW, THEREFORE, for good and valuable consideration described in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as set forth below.

**ARTICLE 1  
DEFINED TERMS**

**1.1 Closing.** The process described in Article 8 of this Agreement.

**1.2 Contingency Period.** As defined in Article 3.

**1.3 Deed.** A statutory special warranty deed in the form of Exhibit ‘B’ attached hereto which shall be used to convey the Property from Seller to Purchaser, subject to Seller’s right to repurchase and Purchaser’s post-closing obligations.

**1.4 Environmental Laws.** Any federal, state, or local laws, ordinances, codes, statutes, regulations, administrative rules, policies and orders, and other authority existing now or in the future that classify, regulate, list, or define Hazardous Materials.

**1.5 Hazardous Materials.** Any toxic or hazardous substance, material, waste, pollutant, contaminant, or infectious or radioactive material, including but not limited to those substances, materials, waste, chemicals, or mixtures that are (or that contain any) substances, chemicals, compounds, or mixtures regulated, either now or in the future, under any law, rule, regulation, code or ordinance.

**1.6 Property.** Includes the land described in Exhibit 'A', together with all improvements, rights, privileges, servitudes and appurtenances thereunto belonging or appertaining, including all right, title, and interest of Seller, if any, in and to the streets, alleys, and rights-of-way adjacent to the land, and Seller's lessor interest existing in leases of the Property, which will be transferred.

**1.7 Property Documents.** Any and all documents in Seller's possession or control relating to the Property, including without limitation, land use approvals, land use applications, permits, licenses, leases and related documents, all environmental studies, reports, assessments, any agreements related to the Property that will survive Closing, maps, development agreements, surveys and studies relating to the Property prepared by third parties, but excluding (i) documents which are no longer in effect (ii) tax documents, (iii) documents subject to attorney client privilege, and (iv) documents relating to potential transactions which have not occurred and (v) appraisals.

## **ARTICLE 2 PURCHASE PRICE**

**2.1 Sale of Property.** Subject to the terms and conditions in this Agreement, Seller agrees to sell the Property to Purchaser, and Purchaser agrees to buy the Property from Seller.

**2.2 Purchase Price.** The Purchase Price due from Purchaser to Seller is:

**2.2.1** \$515,500 (representing the original purchase price for the Property paid by Seller) or the amount established by an independent MAI appraisal, whichever is greater as provided in Section 2.2.2; with \$1.00 due and payable at Closing, and the balance due on June 30, 2017 (the "Due Date") and subject to the City's Right to Repurchase as provided in Article 10 (the "Purchase Price").

**2.2.2** Purchaser may pay the balance of the Purchase Price at any time. At least sixty (60) days before tendering the remainder of the Purchase Price, but no later than January 30, 2017, Purchaser shall submit to Seller the qualifications of at least three MAI appraisers. Seller shall have 10 days to object to up to two of the appraisers. Purchaser shall select an appraiser not objected to by Seller and shall obtain a appraisal of the current fair market value of the Property at its highest and best use, which amount shall be the Purchase Price if greater than \$515,500.00 (the original purchase price for the Property paid by Seller).

**2.2.3** As further consideration, Purchaser shall assume, be bound by and fully perform Seller's obligations as set forth in the Consent Judgment (C152218CV) between Seller

and the State of Oregon, ex rel Dick Pederson, Director, Department of Environmental Quality, dated May 28, 2015.

### **ARTICLE 3 CONDITIONS PRECEDENT TO CLOSING**

**3.1 Purchaser's Deliveries.** At or before Closing, Purchaser shall deliver to Seller (i) the sum of \$1.00, (ii) an executed and acknowledged acceptance of the Deed, (iii) an executed counterpart of the Assignment and Assumption of the leases in the form of Exhibit 3.2 ("Assignment and Assumption"), duly executed by Purchaser, (iv) such documentation as may be necessary to assume the obligations under the Consent Judgment C152218CV, (v) a copy of the resolution or order authorizing the purchase and (vi) an executed Promissory Note in a form substantially conforming with Exhibit 'C' hereto securing payment of the remainder of the Purchase Price and all other documents and instruments reasonably requested by Seller to effectuate Closing.

**3.2 Seller's Deliveries.** At or before Closing, Seller shall deliver to Purchaser (i) an executed and acknowledged Deed, (ii) an executed Certificate of Non-Foreign Status, pursuant to Section 1445(b) (2) of the Internal Revenue Code, certifying that Seller is a non-foreign person, (iii) an executed counterpart of the Assignment and Assumption; (iii) a copy of the resolution or order authorizing the sale and (vi) all other documents and instruments reasonably requested by Closing. At Closing, Seller shall deliver possession of the Property to Purchaser, subject to the Lease Documents.

**3.3 Purchaser's Right to Analyze Property Documents.** Within ten (10) days after the Effective Date, Seller shall deliver all Property Documents to Purchaser. During the Contingency Period (as defined in Section 3.4 below), Purchaser shall have the right to analyze the Property Documents and determine, in Purchaser's sole, absolute and arbitrary discretion, whether the Property is suitable for Purchaser's intended use.

**3.4 Purchaser's Right to Analyze Property.** For a period of thirty (30) days after the Effective Date (the "Contingency Period"), unless extended by Purchaser as set forth below:

**3.4.1** Purchaser shall have the right to analyze the Property and determine, in Purchaser's sole, absolute and arbitrary discretion, whether the Property is suitable for Purchaser's intended use.

**3.4.2** Purchaser shall have the right, at no cost, to extend the Contingency Period two (2) times for a period of thirty (30) days each, upon ten (10) days prior written notice to the Seller stating the reasonable need for the extension.

**3.4.3** The parties acknowledge that Purchaser intends to apply for an EPA Brownfields Cleanup grant. Seller agrees to reasonably assist Purchaser in obtaining such grant, including facilitating Purchaser in performing all appropriate inquiries as defined by law and

qualifying for liability protection pursuant to 40 CFR Part 312 or as otherwise provided by law. The parties understand that Seller has:

**3.4.3.1** Obtained a Phase 1 and Phase II environmental assessment of the Property, copies of which are to be provided to Purchaser. Seller shall authorize and direct its environmental consultant(s) to make available to Purchaser any and all information obtained on behalf of Seller regarding the Property.

**3.4.3.2** Entered into a Consent Judgment with the State of Oregon, ex rel Dick Pederson, Director, Department of Environmental Quality, C152218CV, dated May 28, 2015, obligating Seller to undertake certain actions regarding the property as specified therein. Purchaser agrees that on Closing it shall be bound by and responsible for fully performing the obligations under that Consent Judgment. Seller shall cooperate and assist Purchaser as reasonably necessary in performing such obligations.

**3.4.3.3** Purchaser shall have the right to enter onto the Property, upon forty-eight (48) hour prior notice to Seller, to conduct any and all tests, investigations, and inspections deemed necessary by Purchaser. Seller shall have the right to be present at the inspections(s). Seller may, if it determines that access by Purchaser will interfere with the rights of current tenants, require coordination with such tenants and impose reasonable conditions on Purchaser's access.

**3.4.3.4** Such investigations and/or studies shall be conducted by Purchaser at its sole expense.

**3.4.4** Within the limits of the Oregon Tort Claims Act and the Oregon Constitution, Purchaser shall defend, indemnify and hold Seller harmless for, from, and against any claim, loss, or liability, or any claim of lien or damage which arises in connection with any entry on the Property by Purchaser or any activities on the Property by Purchaser, its agents, employees, and independent contractors; provided, however, that Purchaser shall have no obligation to indemnify, defend, or hold harmless Seller from any condition of the Property discovered by Purchaser, or from any loss of marketability of the Property as a consequence of such discovery. This agreement to indemnify, hold harmless and defend Seller shall survive Closing or other termination of this Agreement.

**3.4.5** In the event Purchaser elects not to close on the Property, upon such determination and termination of the Agreement, Purchaser agrees it will provide to Seller copies of all written reports resulting from any and all investigations conducted by the Purchaser during the Contingency Period, within five (5) days of termination of this Agreement. This provision will survive the Closing or termination of the Agreement.

**3.5 Notice of Termination; Failure to Notify.** If Purchaser determines, in Purchaser's sole, absolute, and arbitrary discretion, the Property is not suitable, Purchaser may terminate this Agreement by delivering written notice of termination to Seller prior to the

expiration of the Contingency Period, as it may be extended, in which case this Agreement shall immediately terminate.

**3.6 Review of Preliminary Report.** Within ten (10) days after the Effective Date, Seller shall provide Purchaser with a preliminary title report, describing title to the Property, and including legible copies of all recorded documents described in the preliminary report (collectively, the “Preliminary Report”). On or before ten (10) days after Purchaser’s receipt of the Preliminary Report, Purchaser shall deliver written notice of approval or disapproval of matters disclosed in the Preliminary Report, which approval or disapproval shall be in Purchaser’s sole and absolute discretion. Any notice of disapproval shall specify which title exceptions are unacceptable (the “Unacceptable Exceptions”). The matters disclosed in the Preliminary Report to which Seller does not object, along with the standard printed exceptions on a form of title insurance policy, shall be the “Permitted Exceptions” and included as exceptions in the Title Policy, along with any Unacceptable Exceptions that become Permitted Exceptions.

**3.7 Right to Cure Disapproval of Preliminary Report.** If Purchaser delivers notice of disapproval, Seller shall notify Purchaser in writing (a “Response Notice”) within five (5) days thereafter, whether Seller will agree to remove or otherwise cure, to Purchaser’s reasonable satisfaction, any Unacceptable Exception(s) prior to Closing. Notwithstanding any provision in this Agreement to the contrary, Seller shall be obligated to remove any deeds of trust and other monetary liens (other than liens for non-delinquent taxes and assessments). If Seller fails to timely provide a Response Notice, Seller shall be deemed to have elected not to cure any Unacceptable Exceptions. If Seller fails to agree to remove an Unacceptable Exception, Purchaser shall elect, by notice to Seller within five (5) days after the Response Notice (or, if no Response Notice is provided, within five (5) days after the Response Notice was due to either (I) terminate this Agreement or (II) waive Seller’s objection and accept title subject to the Unacceptable Exceptions which Seller has not agreed to cure (in which event such Unacceptable Exceptions shall be Permitted Exceptions). Failure of Purchaser to timely so elect shall be deemed an election to waive such Unacceptable Exceptions, in which event such Unacceptable Exceptions shall become Permitted Exceptions.

**3.8 Failure to Cure Disapproval of Preliminary Report.** If Seller, in its Response Notice, agrees to cure an Unacceptable Exception and thereafter fails to cure such Unacceptable Exception prior to Closing, Purchaser shall have the right to (i) terminate this Agreement (ii) suspend performance of its obligations under this Agreement at no cost to Purchaser and extend the Closing Date until that removal of the Unacceptable Exception has occurred (but no more than 45 days) or (iii) waive in writing its prior disapproval of such exception and accept title subject to such previously disapproved item, by delivering written notice of Purchaser’s election to Seller prior to Closing in which case such Unacceptable Exceptions will be Permitted Exceptions.

**3.9 Title Policy.** Seller shall be unconditionally committed to procure upon Closing, an ALTA standard coverage owner’s policy of title insurance for the Property, with a liability limit in the amount of the Purchase Price without regard to any future credits and insuring fee title vests in Purchaser subject only to the Permitted Exceptions (collectively, the “Title Policy”).

At Purchaser's option, Purchaser may elect to have the Title Policy issued with endorsements and/or in an ALTA extended coverage form, provided (I) that Purchaser pays any additional costs associated with issuance of such policy, and (II) Seller shall not be required to indemnify the title company to induce it to issue such extended coverage or endorsements.

**3.10 Approval.** This Agreement is specifically conditioned on approval by the Tigard City Council and the governing body of the City Center Development Agency before the end of the Contingency Period. If either governing body has not approved this Agreement on or before the expiration of the Contingency Period, this Agreement and the rights and obligations of the Purchaser and the Seller shall automatically terminate.

**3.11 Approval of Leases & Estoppel Certificates.** Within ten (10) days of the Effective Date, Seller will provide to Purchaser copies of all current leases affecting the Property, copies of any related documents other than leases which provide for or discuss any matters affecting the occupancy of the Property by the tenants who have any right now or in the future with respect to the Premises, including but not limited to options to lease, relocation rights, termination rights, and/or expansion or contraction rights (collectively, the "Lease Documents"). Purchaser may terminate this Agreement at any time during the Contingency Period if Purchaser shall determine in the exercise of its sole discretion that any documents described herein are not satisfactory. Effective on the Closing Date, Seller will assign to Purchaser all leases then in effect.

**3.12 Contingency Failure.** If Purchaser fails to notify Seller in writing by the end of the Contingency Period that the conditions set forth in this Article 3 have been satisfied or waived, this Agreement and the rights and obligations of the Purchaser and the Seller shall automatically terminate.

**3.13 Damage or Destruction; Eminent Domain.** If, prior to the Closing, all or a material part of the Property is damaged or destroyed, or taken or appropriated by any public or quasi-public authority under the power of eminent domain or such an eminent domain action is threatened pursuant to a resolution of intention to condemn filed by any public entity, Purchaser may either (i) terminate this Agreement or (ii) elect to receive an assignment from Seller in lieu of the part of the Property that has been so damaged or taken of all of Seller's rights to any award and/or proceeds attributable to said damaged or taken part of the Property, and the parties shall proceed to Closing pursuant to this Agreement provided that Purchaser may not terminate this Agreement pursuant to this Section if Purchaser is the condemning government entity.

#### **ARTICLE 4 SELLER'S REPRESENTATIONS AND WARRANTIES**

**4.1 Representations and Warranties of Seller.** Seller represents and warrants that, as of the Effective Date, the end of the Contingency Period, and the Closing, that all of the representations and warranties contained in this Agreement are and shall be true and correct, and shall survive Closing for a period of one (1) year. Each of Seller's representations and warranties is material to and is being relied upon by Purchaser and the continuing truth thereof

shall constitute a condition precedent to Purchaser's obligations hereunder. Seller represents and warrants to Purchaser as follows:

**4.1.1 Proof of Authority.** Seller has authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, and shall deliver such proof of the power and authority of the persons executing and/or delivering any instruments, documents, or certificates on behalf of the Seller to act for or bind the Seller, as may be reasonably required by Purchaser.

**4.1.2 Title to the Property.** Seller has sole legal and beneficial fee title to the Property, and has not granted any person or entity any right or interest in the Property except as set forth in this Agreement, in the Preliminary Report, and the Lease Documents. Seller agrees to transfer to Purchaser, via Statutory Special Warranty Deed in the form of Exhibit 'B', the Property, subject only to the Permitted Exceptions.

**4.1.3 Property Documents, Lease Documents; No Defaults.** To Seller's knowledge, the Property Documents, including lease documents delivered by Seller to Purchaser are true, correct and complete copies and there are no other documents or instruments in Seller's possession and control that would constitute Property Documents that have not been delivered by Seller or otherwise made available to Purchaser. Seller has no knowledge of any default by Seller under any Property Documents.

**4.1.4 Pending Transactions, Suits or Proceedings.** To Seller's knowledge, there are no suits, proceedings, litigation, condemnation, or investigations pending or threatened against or affecting the Property or Seller as the owner of the Property in any court at law or in equity, or before or by any governmental department, commission, board, agency or instrumentality.

**4.1.5 No Further Encumbrances.** As long as this Agreement remains in force, Seller will not lease, transfer, option, mortgage, pledge, or convey its interest in the Property or any portion thereof nor any right therein, nor shall Seller enter into any agreement granting to any person or entity any option to purchase or rights superior to Purchaser with respect to the Property or any part thereof.

**4.1.6 Environmental Conditions.** Except as provided in the Consent Judgment C152218CV dated May 28, 2015, and documents provided to Purchaser, to Seller's knowledge, the Property is not now in violation of, and is not currently under investigation for the violation of, any Environmental Laws. Seller hereby assigns to Purchaser as of the Closing, to the extent assignable, all claims, counterclaims, defenses or actions, whether at common law or pursuant to any other applicable federal or state or other laws, if any, that Seller may have against third parties to the extent relating to the existence of Hazardous Materials in, at, on, under or about the Property.

**4.1.7 Construction or Other Liens.** Seller warrants that, at the time of Closing, no work, labor or materials have been expended, bestowed or placed upon the Property,

which will remain unpaid at Closing or upon which a lien may be filed, excepting work, labor, or materials for which the tenant under the Lease Documents is responsible.

**4.1.8 No Option or Right of First Refusal to Acquire Premises.** Seller represents that no person or entity has any right of first refusal or option to acquire any interest in the property or any part thereof.

**4.1.9 Conduct Pending Closing; Covenants.**

**4.1.9.1 Conduct of Property.** Seller hereby agrees that Seller will not modify, cancel, extend or otherwise change in any material manner any of the terms, covenants or conditions of the Property Documents or Lease Documents, nor enter into any additional leases as to the Property without Purchaser's written consent, nor enter into any other agreements having a material effect on the Property without the prior written consent of Purchaser, which Purchaser shall not unreasonably withhold.

**4.1.9.2 No Alterations.** Seller will not make any material alterations to the Property prior to the Closing, provided nothing herein prohibits alterations made by a tenant permitted by such tenant's Lease.

**4.1.9.3 Condition of the Property Through Closing.** Seller shall, between the Effective Date and the Closing Date: (i) maintain the Property in substantially the same condition as it was on the Effective Date, with no tree cutting, timber harvesting or altering of the Property in any way, subject to casualty and to alterations made by a tenant permitted by such tenant's Lease, (ii) keep all existing insurance policies affecting the Property in full force and effect, (iii) make all regular payments of interest and principal on any existing financing, (iv) pay all real property taxes and assessments against the Property prior to delinquency, (v) comply with all government regulations, and (vi) keep Purchaser timely advised of any repair or improvement which is known by Seller required to keep the Property in substantially the same condition as it was on the Effective Date.

**ARTICLE 5  
AS-IS SALE**

**AS-IS Sale.** The Property is being sold to, and accepted by, Purchaser at Closing in its then-present condition, AS-IS, WHERE IS, WITH ALL FAULTS, and without any warranty whatsoever, express or implied, except for the representations and warranties set forth in Article 4 and in the Deed to be delivered at Closing. Purchaser acknowledges that (a) it is purchasing the Property AS-IS, WHERE IS, WITH ALL FAULTS; (b) it will have made or performed any and all tests, surveys, or other examinations of the Property as Purchaser deems necessary prior to the end of the Contingency Period; and (c) it shall rely solely on its own inspection, examination, and evaluation of the Property in assessing and determining the condition of the Property. Seller and Seller's agents have not made, are not now making, and specifically hereby disclaim, any and all warranties and representations of any kind, express or implied, oral or

written, with respect to the Property, except for any representation or warranty made in Article 4 or any warranty of title to be contained in the Deed to be delivered at Closing. The provisions of this Article 5 shall survive Closing.

## **ARTICLE 6 PURCHASER'S REPRESENTATIONS AND WARRANTIES**

**6.1 Purchaser's Representation and Warranties.** Purchaser represents and warrants that, as of the Effective Date, the end of the Contingency Period, and Closing, all of the representations and warranties of Purchaser contained in this Agreement are and shall be true and correct, and shall survive Closing for a period of one (1) year. Each of Purchaser's representations and warranties is material to and is being relied upon by Seller and the continuing truth thereof shall constitute a condition precedent to Seller's obligations hereunder. Purchaser represents and warrants to Seller as follows:

**6.1.1 Authority.** The execution and delivery of this Agreement has been duly authorized and approved by all requisite action of Purchaser, and the consummation of the transactions contemplated hereby will be duly authorized and approved by all requisite action of Purchaser, and no other authorizations or approvals will be necessary in order to enable Purchaser to enter into or to comply with the terms of this Agreement.

**6.1.2 Binding Effect of Documents.** This Agreement and the other documents to be executed by Purchaser hereunder, upon execution and delivery thereof by Purchaser, will have been duly entered into by Purchaser, and will constitute legal, valid and binding obligations of Purchaser. To Purchaser's actual knowledge, neither this Agreement nor anything provided to be done under this Agreement violates or shall violate any contract, document, understanding, agreement or instrument to which Purchaser is a party or by which it is bound.

## **ARTICLE 7 PRORATED FEES AND COSTS**

**7.1 Prorations.** Taxes will be prorated as of the Closing date.

**7.2 Seller's Fees and Costs.** Seller shall pay: (i) the costs for the Title Policy (but not extended coverage or endorsements requested by Purchaser; (ii) Seller's recording charges; and (iii) one-half of any transfer taxes.

**7.3 Purchaser's Fees and Costs.** Purchaser shall pay (i) Purchaser's recording charges; (ii) if requested by Purchaser, any extended coverage and endorsements for the Title Policy; and (iii) one-half of any transfer taxes.

**7.4 Other Costs.** Except as otherwise provided in this Agreement, each party shall bear and pay the expense of its own attorneys, accountants and other professionals incurred in negotiating this Agreement.

## **ARTICLE 8 CLOSING**

**8.1 Closing.** Closing shall consist of (i) payment of the amount due and recording the Deed and providing a conformed copy to each Party; (ii) confirming execution of all documents necessary for Closing; and (iii) delivering funds and documents as set forth herein, when and only when the parties have confirmed that all terms and conditions of this Agreement have been met and each of the conditions set forth below have been satisfied:

**8.1.1 Funds and Instruments.** All funds and instruments required pursuant to this Agreement have been delivered.

**8.1.2 Satisfaction of Conditions Precedent.** Each of the conditions precedent set forth in the Agreement have been either satisfied or waived, or deemed waived.

**8.1.3 Liens and Encumbrances.** All liens and encumbrances required to be paid by Seller have been paid and satisfied at Seller's sole expense, including without limitation any trust deed or mortgage affecting the Property. The Property shall be conveyed free of encumbrances, except for the Permitted Exceptions and those expressly accepted or waived by Purchaser pursuant to the terms of this Agreement.

**8.1.4 Assignment and Assumption Document.** The parties shall have executed the Assignment and Assumption of the leases and such documents as are necessary for purchaser to assume the obligations under Consent Judgment C152218CV.

**8.1.5 Closing.** Closing shall occur on the date that is thirty (30) days after expiration of the Contingency Period unless agreed otherwise in writing by the parties.

## **ARTICLE 9 DEFAULT AND REMEDIES**

### **9.1 Pre-Closing Remedies:**

**9.1.1. Purchaser's Breach.** If Purchaser breaches this Agreement, which breach Purchaser fails to cure within thirty (30) days after receipt of written notice thereof from Seller, Seller may terminate this Agreement and receive as liquidated damages reimbursement of Seller's reasonable and necessary costs associated with this transaction and termination thereof, including attorney fees.

**9.1.2. Seller's Breach.** In the event of Seller's breach, which breach Seller fails to cure within thirty (30) days of receipt of written notice thereof from Purchaser, Purchaser may elect to either (i) terminate this Agreement, or receive as liquidated damages reimbursement for Purchaser's costs associated with this transaction, including attorney fees, or (ii) seek an action for specific performance in order to enforce Purchaser's rights hereunder.

**9.1.3. Liquidated Damages.** The parties agree that the amounts stated above have been agreed to as a reasonable compensation and the exclusive financial remedy for default, since the precise amount of such compensation would be difficult to determine.

**9.2 Seller's Post Closing Remedies:** If Purchaser breaches its post-Closing obligations under this Agreement, which breach Purchaser fails to cure within thirty (30) days after receipt of written notice thereof from Seller; Seller may, in addition to any other remedy provided by law:

**9.2.1** Immediately exercise its right to repurchase provided for in Article 10.

**9.2.2** File an action for specific performance of Purchaser's obligations.

**9.2.3** File an action to collect all amounts due under the Promissory Note executed by Purchaser, the full amount of which shall be immediately due and payable.

**9.3** Notwithstanding any other provision of this Agreement, if Purchaser takes any action that violates the Measure, or Purchaser's Measure-related Post Closing Obligations, including but not limited to those set forth in Section 10.2, below, the entire Purchase Price shall immediately be due and payable, and Purchaser shall immediately pay the remainder of the Purchase Price to Seller in full and not in installments.

## **ARTICLE 10 SELLER'S RIGHT TO REPURCHASE and PURCHASER'S POST CLOSING OBLIGATIONS**

**10.1 Right to Repurchase.** Seller retains, and Purchaser acknowledges, Seller's right to repurchase the Property at any time prior to Purchaser paying the full amount of the Purchase Price, or on Purchaser's default, on 10 days written notice of its intent to repurchase the Property, or any portion thereof, for purposes consistent with the uses authorized by City of Tigard Ballot Measure 34-81.

**10.1.1** The repurchase price shall be \$515,500.00, pro-rated by the square footage to be purchased, or the fair market value of the property or portion thereof, established in the same manner as provided for in Section 2.2.1, whichever is less.

**10.1.2** If Seller exercises its right to repurchase a portion of the Property less than the whole, Seller shall be responsible for obtaining any lot line adjustment or land division necessary to complete the repurchase.

**10.1.3** Closing of the repurchase shall occur in a commercially reasonable manner generally consistent with the Closing provided for herein.

**10.2 Purchaser's Post-Closing Obligations.** Until such time as Purchaser has paid the full amount of the Purchase Price, Purchaser shall:

**10.2.1** Not enter into any rental agreement or lease, earnest money, option, development agreement, deed, easement or other document relating to transfer or sale of any portion of the Property without first obtaining Seller's written consent. No lease shall extend beyond expiration of Seller's right to repurchase. The rental amount of any such lease of the Property or any portion of the Property shall be at fair market value. No lease shall provide an option to purchase or other property interest beyond that normally associated with a tenant.

**10.2.2** Not permit or suffer any lien or other encumbrance against the Property without Seller's written consent.

**10.2.3** Comply, and not take any action inconsistent, with the obligations set forth in the Consent Judgment (C152218CV) between Seller and the State of Oregon, ex rel Dick Pederson, Director, Department of Environmental Quality, dated May 28, 2015. Within the limits of the Oregon Tort Claims Act, Purchaser shall indemnify, defend and hold harmless Seller against any claim arising from Purchaser's failure to comply with, or negligent compliance with, the obligations set forth in the referenced Consent Judgment.

**10.2.4** Hold the Property to advance the purposes set forth in the Measure.

**10.2.5** Not authorize or suffer any action with regard to the Property that would cause it to diminish in value or not advance the purposes set forth in the Measure. Purchaser may demolish and remove the existing structures on the Property, conduct environmental remediation, and take other actions with the consent of City that advance the purposes of the Measure.

**10.2.6** Not make any changes to the Property or take any other action related to the Property that benefits any particular private party.

**10.3 Survival.** This Article 10 shall survive Closing.

## **ARTICLE 11 GENERAL PROVISIONS**

**11.1 Attorney's Fees.** If any action is instituted between Seller and Purchaser in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs of action, including, without limitation, attorneys' fees and costs as fixed by the court therein.

**11.2 Construction of Agreement.** The agreements contained herein shall not be construed in favor of or against either party, but shall be construed as if both parties prepared this Agreement.

**11.3 Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superseded and merged herein. The foregoing sentence shall in no way affect



or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

**11.11 Successors and Assigns.** Subject to limitations expressed in this Agreement, each and all of the covenants and conditions of this Agreement shall inure to the benefit of and shall be binding upon the successors-in-interest, assigns, and representatives of the parties hereto. As used in the foregoing, “successors” shall refer to the parties’ interest in the Property and to the successors to all or substantially all of their assets and to their successors by merger or consolidation.

**11.12 Time of the Essence.** Time is of the essence of each and every provision of this Agreement.

**11.13 Waiver.** No waiver by Purchaser or Seller of a breach of any of the terms, covenants or conditions of this Agreement by the other party shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant or condition herein contained. No waiver of any default by Purchaser or Seller hereunder shall be implied from any omission by the other party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect a default other than as specified in such waiver. The consent or approval by Purchaser or Seller to or of any act by the other party requiring the consent or approval of the first party shall not be deemed to waive or render unnecessary such party’s consent or approval to or of any subsequent similar acts by the other party.

**11.14 Negation of Agency and Partnership.** Any agreement by either party to cooperate with the other in connection with any provision of this Agreement shall not be construed as making either party an agent or partner of the other party.

**11.15 Calculation of Time.** Unless specified otherwise, all periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday or such holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or such holiday.

**11.16 Statutory Disclaimer.** 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 TO INQUIRE ABOUT 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.

**11.17 Counterparts.** This Agreement may be executed in counterparts, each of which, when taken together, shall constitute fully executed originals.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

SELLER

PURCHASER

City of Tigard, an Oregon municipal corporation

City Center Development Agency, an ORS Chapter 457 agency

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

Exhibit A - Property  
Exhibit B – Deed  
Exhibit C – Assignment of Lease

## EXHIBIT A



## EXHIBIT A

### Legal Description

A tract of land being a portion of Lot 3, BURNHAM TRACT, a duly recorded subdivision in Washington County plat records, said land being located in the Northeast quarter of Section 2, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tigard, County of Washington, State of Oregon, being further described as follows:

Beginning at the most Easterly corner of said Lot 3, BURNHAM TRACT, being a point on the centerline of S.W. Burnham Road; thence S45°06'43"W, along the Southeasterly line of said Lot 3, a distance of 30.00 feet to a point on the Southwesterly right-of-way line of said S.W. Burnham Road; thence S45°06'43"W, continuing on the Southeasterly line of said Lot 3, a distance of 314.41 feet to the Southwesterly line of a 30.00 foot easement recorded in Washington County Deed Book 890 Page 753; thence N44°28'10"W, 15.00 feet Southwesterly of, and parallel to, an existing sewer line, a distance of 190.74 feet to a point on the Northwesterly line of said Lot 3; thence N51°56'00"E, along the Northwesterly line of said Lot 3, a distance of 312.87 feet to a point on said Southwesterly right-of-way line of said S.W. Burnham Road; thence continuing N51°56'00"E, a distance of 30.27 feet to the most Northerly corner of said Lot 3, being a point on the centerline of said S.W. Burnham Road; thence S45°46'00"E, along said centerline, a distance of 150.00 feet to the point of beginning.

Excepting Therefrom that portion of said Lot dedicated to the public for street, road and utility purposes in document recorded October 13, 1978 in Book 1118, Page 567.

And Further Excepting Therefrom that portion of said Lot granted and dedicated to the City of Tigard for street and utility purposes in document recorded January 8, 1980, as Recorder's Number 80000717.

The foregoing property is the same property which is occasionally described as:

Lot 3, BURNHAM TRACT, in the City of Tigard, Washington County, Oregon.

Excepting Therefrom that portion of said Lot dedicated to the public for street, road and utility purposes in document recorded October 13, 1976, page 567.

And Further Excepting Therefrom that portion of said Lot granted and dedicated to the City of Tigard for street and utility purposes in document recorded January 8, 1980, Recorder's No. 80000717.

And Further Excepting Therefrom that portion of said Lot conveyed to the City of Tigard by deed recorded August 6, 1980, Recorder's No. 80026999.

And Further Excepting Therefrom that portion of said Lot conveyed to Gerald L. Cach and Joan L. Cach, husband and wife, by deed recorded August 11, 1980, Recorder's No. 80027467.

PortInd1-2140012.1 0099999-00001

Title Data, Inc. FA POR10411 WN 2004028753.003

EXHIBIT B

AFTER RECORDING RETURN TO:

City Center Development Agency  
Attn: Executive Director  
13125 SW Hall Blvd  
Tigard OR 97223

UNTIL A CHANGE IS REQUESTED

SEND TAX STATEMENTS TO:

City Center Development Agency  
Attn: Executive Director  
13125 SW Hall Blvd  
Tigard OR 97223

*This space is reserved for recorder's use.*

STATUTORY SPECIAL WARRANTY DEED

The City of Tigard, an Oregon Municipal Corporation (“Grantor”) hereby conveys and warrants to the City Center Development Agency, an ORS chapter 457 urban renewal agency, (“Grantee”), the following described real property free of encumbrances created or suffered by Grantor except as specifically set forth herein:

See Exhibit A attached hereto.

The true consideration for this conveyance is \_\_\_\_\_. This conveyance is made subject to Grantor’s right to repurchase and Grantee’s obligations as set forth in the Purchase and Sale Agreement between the parties dated \_\_\_\_\_ and the matters set forth on Exhibit B attached hereto.

**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. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. 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 DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO**

**INQUIRE ABOUT 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.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

GRANTOR

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF OREGON            )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_, 2015 by \_\_\_\_\_ as \_\_\_\_\_ of the City of Tigard.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

ACCEPTED:

GRANTEE

City Center Development Agency, an ORS chapter 457 urban renewal agency

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF OREGON            )  
  ) ss.  
County of \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_, 2015, by \_\_\_\_\_ as \_\_\_\_\_ of the City Center Development Agency, an ORS chapter 457 urban renewal agency.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_



**EXHIBIT A**

**Legal Description**

A tract of land being a portion of Lot 3, BURNHAM TRACT, a duly recorded subdivision in Washington County plat records, said land being located in the Northeast quarter of Section 2, Township 2 South, Range 1 West of the Willamette Meridian, in the City of Tigard, County of Washington, State of Oregon, being further described as follows:

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And Further Excepting Therefrom that portion of said Lot conveyed to the City of Tigard by deed recorded August 6, 1980, Recorder's No. 80026999.

And Further Excepting Therefrom that portion of said Lot conveyed to Gerald L. Cach and Joan L. Cach, husband and wife, by deed recorded August 11, 1980, Recorder's No. 80027467.

PortIndI-2140012.1 0099999-00001

Title Data, Inc. FA POR10411 WN 2004028753.003

Exhibit B  
[to be provided after review of preliminary report]

Exhibit C  
**ASSIGNMENT OF LEASE**

THIS Assignment and Assumption of Lease (“Agreement”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the City of Tigard, an Oregon municipal corporation (“Assignor”) and the City Center Development Agency, an ORS chapter 457 urban renewal agency (“Assignee”)

**RECITALS**

A. Assignor owns the fee interest in those certain premises described on Exhibit A attached and incorporated hereto (the “Premises”).

B. A portion of the Premises are leased pursuant to the lease attached and incorporated as Exhibit B (the “Lease”). Assignor holds all right, title and interest in and to the lessor’s interest under the Lease.

C. Pursuant to that certain Purchase and Sale Agreement dated \_\_\_\_\_, 20\_\_\_\_, between Assignor and Assignee (the “Agreement”), Assignor has agreed to sell the Premises to Assignee and in connection with the sale has agreed to assign the Lease to Assignee and Assignee has agreed to assume the Lease.

**AGREEMENT**

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

**1. Assignment.**

Effective as of the Effective Date of this Assignment, Assignor hereby transfers, sets over and assigns to Assignee all right, title and interest of Assignor in and to the Lease, TO HAVE AND TO HOLD the same to Assignee, its successors and assigns forever; SUBJECT , HOWEVER, to each and every provision of the Lease and as hereinafter provided.

**2. Acceptance of Assignment.**

Effective as of the Effective Date, Assignee accepts the within assignment and agrees to perform and discharge all of the covenants, terms, conditions and provisions to be kept, observed and performed by Assignor as lessor under the Lease.

**3. Assignor’s Indemnity of Assignee.**

Assignor hereby agrees to defend and indemnify Assignee, its directors, officers, employees, agents, representatives, successors and assigns, and each of them, from and against

any and all claims, suits, demands, causes of action, actions, liabilities, losses, damages, costs and expenses (including reasonable attorney's fees) arising out of or resulting from any breach or default committed or alleged to have been committed by Assignor as lessor under the Lease prior to the Effective Date.

**4. Assignee's Indemnity of Assignor.**

Within the limits of the Oregon Tort Claims Act and Oregon Constitution, Assignee hereby agrees to defend and indemnify Assignor, and its respective directors, officers, employees, agents, representatives, successors and assigns, and each of them, from and against any and all claims, suits, demands, causes of action, actions, liabilities, losses, damages, costs and expenses (including reasonable attorney's fees) arising out of or resulting from any breach or default committed or alleged to have been committed by Assignee, its successors or assigns, as the lessor under the Lease from and after the Effective Date.

**5. Effective Date.**

This Assignment shall be effective as of the date of recording of the deed conveying title to the Premises to Assignee (the "Effective Date").

**6. Counterparts.**

This Assignment may be executed in one or more counterparts by the parties hereto. All Counterparts shall be construed together and shall constitute one agreement.

**7. Binding Effect.**

This Assignment shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed on behalf of each of them respectively, by their respective officer's thereunto duly authorized, in multiple originals, all as of the day and year first above written.

**ASSIGNOR**

City of Tigard, an Oregon municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**ASSIGNEE**

City Center Development Agency, an ORS Ch. 457 urban renewal agency

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A

Premises

**EXHIBIT B**

**The Leases**