

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 10-4200
CHIEF OPERATING OFFICER TO ENTER INTO)	
AN INTERGOVERNMENTAL AGREEMENT WITH)	Introduced by Chief Operating Officer
THE NORTH CLACKAMAS PARKS AND)	Michael J. Jordan, with the concurrence
RECREATION DISTRICT AND THE CITY OF)	of Council President Carlotta Collette
HAPPY VALLEY FOR THE ACQUISITION,)	
CONSTRUCTION OF CAPITAL IMPROVEMENTS,)	
AND MANAGEMENT OF CERTAIN PROPERTY IN)	
THE EAST BUTTES TARGET AREA)	

WHEREAS, at the general election held on November 7, 2006, the voters of the Metro region approved the 2006 Natural Areas Bond Measure, authorizing Metro to sell \$227.4 million in general obligation bonds to fund natural area acquisition and water quality protection; and

WHEREAS, the East Buttes Target Area was identified in the 2006 Natural Areas Bond Measure as one of 27 regional target areas for land acquisition; and

WHEREAS, on September 13, 2007, the Metro Council adopted Resolution No. 07-3852 "Approving The Natural Areas Acquisition Refinement Plan For The East Buttes Target Area" authorizing the Chief Operating Officer to acquire properties in the East Buttes Target Area consistent with the Council-approved Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan; and

WHEREAS, Metro has entered into an agreement to purchase certain property located in the City of Happy Valley (the "City"), which property is owned by Cascade Pacific Council, Boy Scouts of America ("CPC") and is more specifically identified on the attached Exhibit A (the "Property"). The Property has been identified as a Tier I acquisition priority in the East Buttes Target Area; and

WHEREAS, Metro's acquisition of the Property will be in accordance with the Acquisition Parameters and Due Diligence Guidelines of the 2006 Natural Areas Program Implementation Work Plan; and

WHEREAS, Metro desires to enter into an intergovernmental agreement with North Clackamas Parks and Recreation District ("NCPRD") and the City of Happy Valley whereunder (1) Metro commits to acquire the Property from CPC, (2) following its acquisition, Metro commits to stabilize the natural resources on the Property and project manage the construction of certain capital improvements on the Property, (3) the City commits to contribute the balance of its 2006 Metro Natural Area Bond Measure local share funds towards the construction of such capital improvements made by Metro, and (4) NCPRD commits to managing the Property upon its opening to the public.

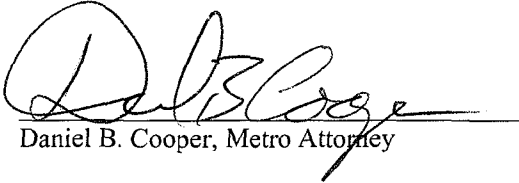
BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to enter into an intergovernmental agreement with North Clackamas Parks and Recreation District and the City of Happy Valley to provide for the acquisition, construction of capital improvements, and management of the Property, which agreement shall be substantially in the form attached hereto as Exhibit B.

ADOPTED by the Metro Council this 9 day of DECEMBER 2010.

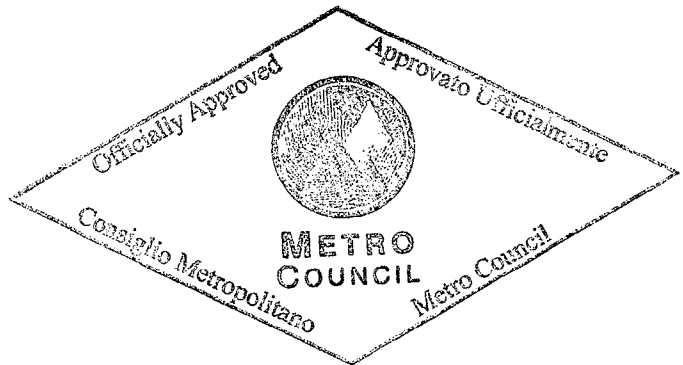


Carlotta Collette, Metro Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney



INTERGOVERNMENTAL AGREEMENT

SCOUTER MOUNTAIN MANAGEMENT AGREEMENT

This Intergovernmental Agreement (“Agreement”), entered into on the last date of signature below (the “Effective Date”), is by and between Metro, an Oregon municipal corporation (“Metro”), the City of Happy Valley, an Oregon municipal corporation (“City”), and North Clackamas Parks and Recreation District, a service district of Clackamas County organized pursuant to ORS chapter 451 (“NCPRD”) (collectively, the “Parties,” and each individually a “Party”).

RECITALS

WHEREAS, on June 29, 2010, Metro entered into an Amended and Restated Agreement of Purchase and Sale (the “PSA”) with Cascade Pacific Council, Boy Scouts of America (“CPC”), owners of 190 acres of real property located at 11300 SE 147th Ave., Happy Valley, in the County of Clackamas, State of Oregon, commonly known by the following section and tax parcel numbers in Township 1 South, Range 2 East of the Willamette Meridian: Tax Parcels 400, 500 and 600 in Section 36A (respectively, “Tax Lot 36A-400,” “Tax Lot 36A-500,” and “Tax Lot 36A-600”), Tax Parcels 100 and 300 in Section 36B (respectively “Tax Lot 36B-100” and “Tax Lot 36B-300”), Tax Parcel 400 in Section 25 (“Tax Lot 25-400”), and Tax Parcel 300 in Section 25D (“Tax Lot 25D-300”) (collectively, the “Larger Property”).

WHEREAS, CPC has agreed to sell and convey to Metro all right, title, and interest in and to a portion of approximately 70 acres of the Larger Property, which area is depicted on the attached Exhibit A (the “Property” or “Scouter Mountain Natural Area”).

WHEREAS, Metro intends to purchase the Property, which was identified as a priority in the East Buttes Target Area, using funds from the Natural Areas Bond Measure approved by the voters on November 7, 2006 (“Metro Natural Areas Bond Measure”).

WHEREAS, NCPRD and the City want to support Metro’s acquisition of the Property in order to protect headwaters of healthy streams, butte tops and slopes, create scenic vistas that provide visual relief to urban residents, improve habitat and water quality, and preserve the Property as a natural area and park in accordance with the Metro Natural Areas Bond Measure and the Metro Greenspaces Master Plan.

WHEREAS, the Parties made significant investigations into options to restore the existing 22,000 square foot Chief Obie Lodge (the “Lodge”) located on the Property which was in significant disrepair, but based on the results of these investigations determined that restoring the Lodge was not feasible. CPC has therefore agreed to demolish the Lodge before selling the Property to Metro in exchange for a commitment from the Parties to construct a picnic shelter incorporating some salvage materials from the Lodge.

WHEREAS, following Metro's construction of the picnic shelter and related amenities and before opening the Property to the public, NCPRD desires to assume responsibility for the long term management of the Property, as more specifically identified herein.

WHEREAS, following Metro's acquisition of the Property, City desires to contribute the balance of its Metro Natural Area Bond Measure local share funds towards the construction of the picnic shelter and related capital improvements and amenities.

NOW, THEREFORE, the Parties agree as follows:

1. Term. This Agreement shall become effective upon the Effective Date and shall continue for a term of ten years, unless modified or terminated as provided herein. This Agreement shall automatically renew for one additional ten-year term unless, not later than ninety (90) days prior to the expiration of the initial term of this Agreement, one of the parties provides the other party with notice that it does not wish to renew this Agreement. Any party may terminate this Agreement for cause whenever that party determines that another party has failed to comply with a material term or condition of this Agreement and is therefore in default. The terminating party shall promptly notify the other parties in writing of that determination and document such default with reasonable particularity. The defaulting party shall then be provided with thirty (30) days to cure the problem, or to substantially pursue such a cure, if it is not possible to complete a cure within 30 days.

2. Metro's Roles and Responsibilities

2.1. Property Acquisition Terms. Metro shall be responsible for ensuring that the following items occur, in accordance with the terms of the PSA between Metro and CPC:

a) CPC shall have removed from the Property the Lodge and any related personal property, trash, rubbish, and debris.

b) CPC shall have removed from the Property all of the camping cabins (and related utilities), which cabins are generally located in the Northwest corner of Tax Lot 36A-600 and the southwest corner of Tax Lot 25D-300.

c) Metro shall have obtained an access easement from CPC, which easement shall provide vehicular and pedestrian access to the Property from 147th Avenue.

2.2. Decommissioning of Certain Trails. After Metro acquires the Property from CPC, Metro shall make reasonable efforts to decommission portions of two existing trails located in the southwest corner of Tax Lot 25D-300. The purpose behind decommissioning the trails is to address NCPRD and CPC's concern that the public may use the trails to access and trespass onto CPC's retained adjacent property.

2.3. Stabilization. For two years following the acquisition of the Property from CPC (the "Stabilization Period"), Metro shall be responsible for generally stabilizing the natural resources on the Property in accordance with the "Desired Future Conditions" set forth on the attached

Exhibit B. Promptly following its acquisition of the Property, Metro shall, in coordination with NCPRD, prepare a stabilization plan which will further describe the stabilization goals and the responsibilities of the Parties. The stabilization plan shall, among other things, inventory the natural resources and improvements on the Property and become part of the management plan described below in Section 5. For clarity, “stabilization” generally will include (without limitation) the following activities: boundary posting, installing fencing and gates as needed, weed control initiation, and revegetation of disturbed sites.

2.4. Project Management of Capital Improvements. In accordance with the provisions set forth below in Section 3.1 and subject to the funding limitations outlined below in Section 3.2, following Metro’s acquisition of the Property, Metro shall be responsible for constructing the following improvements: a picnic shelter, washrooms, walking/hiking trails, and the main entry gate. The foregoing improvements are referred to herein collectively as the “Capital Improvements.”

2.4.1. Shelter Design. The overall design of the picnic shelter and washroom facilities (together, the “Shelter”) shall be generally in accordance with the concepts developed by Scott Edwards Architecture LLP on September 14, 2010. Metro will collaborate with NCPRD and City on final design of the Shelter and will provide NCPRD and City the opportunity to review the plans, specifications and cost estimates for the Shelter design plan at the preliminary, advanced and final stage of the plan preparation.

2.4.2. Trail System Design. Metro will collaborate with NCPRD and City on the final design of the trail system for the Property (the “Trail System”) and will provide NCPRD and City the opportunity to review the plans, specifications and cost estimates for the Trail System design plan at the preliminary, advanced and final stage of the plan preparation. The Parties agree that all trail planning shall be designed to minimize disturbance to surrounding habitats, avoid important natural resources areas, and employ adequate erosion control protections.

2.4.3. Construction of Capital Improvements. Metro will obtain all local, state or federal permits necessary to construct the Capital Improvements. Metro will provide NCPRD with full copies of all “as-built” drawings of the Capital Improvements. Metro will also provide and coordinate appropriate training for NCPRD staff regarding the construction and proper maintenance of the Capital Improvements. Any additional capital improvements deemed necessary at the site will be mutually agreed upon by Metro and NCPRD and, upon completion of their construction, shall be considered part of the Property and shall be managed by NCPRD. As the land owner, Metro retains ownership of the Capital Improvements and will budget renewal and replacement funds in accordance with Metro’s renewal and replacement policy. As renewal and replacement projects are due, Metro and NCPRD will come to an agreement as to who will manage the project at Metro’s expense. For purposes of this Agreement, “renewal and replacement” shall mean the construction, reconstruction or major renovation on assets. “Renewal and replacement” does not include minor alteration, ordinary repair or maintenance necessary in order to preserve or repair an asset nor does it include the total replacement of an entire asset.

3. Funding for Construction of Improvements.

3.1. Total Estimate and Allocation of Cost. The Parties estimate that it will cost approximately \$483,000 to (a) design and construct the Shelter and (b) plan and construct the Trail System. City hereby agrees to contribute the balance of its Local Share Funds from the Metro Natural Area Bond Measure (approximately \$383,000) towards the construction of the Shelter and Trail System. In exchange for a corresponding reduction to the purchase price in the PSA with CPC, Metro hereby agrees to contribute the remaining \$100,000 towards the construction of the Shelter and Trail System. As used herein, “construction” includes Metro for staff time expended to project manage the construction of the Capital Improvements. City and Metro hereby agree that the funds identified above shall be expended as follows: (i) no more than \$433,000 shall be allocated to the design and construction the Shelter and (ii) no more than \$50,000 shall be allocated to the planning and construction of Trail System. Any remaining funds not used to cover the design and construction costs of the Shelter and Trail System shall be returned to City’s Local Share Natural Areas Bond Fund.

3.2. Infeasibility. Should the Shelter construction plan or the Trail System construction plan become infeasible due to funding or other limitations, the Parties shall communicate with one another and use best efforts to seek a satisfactory resolution. Notwithstanding the foregoing, should Metro reasonably determine that constructing and completing the Capital Improvements within the \$470,000 budget is not feasible, then Metro shall not be obligated to complete the Capital Improvements and neither Metro nor City shall be obligated to make the financial contributions set forth above in Section 3.1.

4. Opening of the Property to the Public. The Scouter Mountain Natural Area shall not be open to the public until the completion of the Capital Improvements, Stabilization Plan and Management Plan, unless otherwise agreed by the parties. NCPRD, Metro and City shall collaborate on the formal opening of the Property to the public. The Parties agree to work together to agree upon a date by when the Property will be opened to the public, which date the Parties agree shall be following the completion of the Capital Improvements. If any party plans or organizes any community/media events to publicize the Property, such party agrees to provide the other Parties with at least three weeks written notice of any such event in order to coordinate with and allow for participation by staff and elected officials. No party has agreed to fund opening events in this agreement. Such event shall be funded in a methodology agreed to the Parties at the time and shall be dependent on available funds for such an event.

5. NCPRD’s Management Responsibilities.

5.1. General Responsibilities. Upon the earlier of (a) the date the Property is opened to the public or (b) the expiration of the Stabilization Period, NCPRD shall thereafter be responsible for the daily and ongoing management, maintenance and operation of the Property. The Property shall be managed, maintained and operated in accordance with its intended use as a natural area, with one goal being protection of natural resources and the enhancement and protection of wildlife habitat, and another goal being public recreation consistent with the foregoing. NCPRD’s management, maintenance and operations of the Property shall be qualitatively comparable to NCPRD’s management, maintenance and operations provided at other facilities that NCPRD owns or manages. Metro shall periodically visit and inspect the Property to ensure

that NCPRD's management is in accordance with this Agreement. NCPRD's responsibilities shall include:

- (a) Daily management, maintenance and operation of the facilities, projects, and improvements, including the Capital Improvements;
- (b) Staffing and funding the operation and maintenance of the Property with NCPRD's own financial and staffing resources, volunteers, and/or by seeking available grant funding;
- (c) Managing the natural resources on the site generally in accordance with the "Scouter Mountain Desired Future Conditions" outlined on Exhibit B;
- (d) Responding to and resolving public inquiries, nuisance complaints, and mitigating threats to the resources of the Property in a timely manner. NCPRD shall notify Metro of any such inquiry or complaint regarding a significant natural resource-related issue, including, without limitation, illegal dumping, dying trees, and fires. NCPRD and Metro shall coordinate to respond in a timely manner to resolve nuisance complaints regarding significant natural resources. If Metro is issued a nuisance notice for the Property by a governmental body with authority to issue a notice, Metro shall forward such notice to NCPRD. To the extent a governmental body with authority requires the expenditure of significant funds with respect to the Property, NCPRD and Metro agree to meet and discuss the nature of the requirement and appropriate cost-sharing;
- (e) Obtaining any authorizations or permits necessary for management, maintenance and operation of the Property. Any permits granted by NCPRD to users of the Property shall comply with the terms and limitations set forth in this Agreement and the Management Plan described in Section 5.2 of this Agreement. NCPRD shall be responsible for contacting and coordinating with other local or state agencies regarding any and all management, maintenance and operational issues that may arise with respect to the Property. NCPRD shall consult with Metro not fewer than twenty (20) days prior to NCPRD applying for any development permit applicable to the Property.

For purposes of this Agreement, "maintenance" is hereby defined as minor alteration, ordinary repair or effort necessary in order to preserve or repair an asset due to normal wear and tear. Maintenance also includes work and effort (project, staff time and/or materials) necessary to repair an asset so that it will reach its designated life span or retain market value if replaced for technological or economical reasons. "Maintenance" is contrasted with "renewing" an asset in that renewal is a refurbishment that will extend the life of the asset beyond its current expected life span.

5.2. Long-Term Management Plan. Following Metro's acquisition of the Property, NCPRD and Metro shall cooperate to develop an area-specific management plan for the Property ("Management Plan"). The Management Plan shall (a) set forth the acceptable management, operation, maintenance, user fees and types and levels of programmed and public use and trail and improvement standards applicable to the Property, (b) ensure that the Property and the

Capital Improvements are managed, maintained and operated in accordance with both the Metro Greenspaces Master Plan and this Agreement, and (c) ensure that any future improvements contemplated on the Property be consistent with the goals of protecting and enhancing the Property's natural resources and wildlife habitat, and providing for public recreation and education consistent with the foregoing. The Management Plan shall also identify the rules and regulations applicable to use of the Scouter Mountain Natural Area, which rules and regulations NCPRD shall be responsible for enforcing. The parties acknowledge that NCPRD may later assign to the City, and the City may assume from NCPRD, the responsibility for enforcing such applicable rules and regulations. The Management Plan shall specifically more fully address the following:

(a) Rules and regulations to be adopted related to public use of the Scouter Mountain Natural Area, including prohibitions on dogs, bicycles off-road, fires, camping, firearms, hunting, smoking, intrusive noise, and plant collecting; NCPRD's plan to notify the public of such rules and regulations; the processes for enforcing and amending such rules and regulations.

(b) NCPRD's right to schedule and permit events that are consistent with the use of the Property as described in this Agreement;

(c) NCPRD's right to set and collect user fees associated with use of the onsite improvements in order to recover costs associated with NCPRD's management, maintenance and operation; the percentage of the user fees collected which shall be reserved for capital repair and replacement;

(d) NCPRD's right to make "major modifications or additions" to the facilities, projects and improvements made by Metro pursuant to Section 2 of this Agreement. "Major modifications or additions" as referred to in this paragraph include, without limitation, any new structures or parking areas, enlarging a parking area of structure, and trail additions and realignments other than routine repairs.

5.3. Compliance with Metro's Easement Policy. All requests for easements, rights of way, and leases on or affecting the Property shall be submitted to Metro in accordance with the Metro Easement Policy, Resolution No. 97-2539B, passed by the Metro Council on November 6, 1997. No easement or other real property interest in the Property may be granted without the express written consent of the Metro Council.

5.4. Right of Entry. Metro grants to NCPRD (and its respective agents and contractors) the right to enter the Property for the purpose of performing all duties and responsibilities under this Agreement.

6. Signage and Acknowledgement. Each Party shall recognize and document in any on-site signs, publications, media presentations, web site information, press releases, or other written materials or presentations referencing the Property, that are produced by or at the direction of such Party, that funding for acquisition of the Property came from the Metro 2006 Natural Areas Bond Measure. Signs erected on the Property shall be in prominent and highly visible locations near each primary public access point or viewing access area to acknowledge the property

acquisition funding partnership described in this Agreement. Regarding acknowledgment of Metro's funding, such signage shall be either: (a) a standard, free-standing sign provided by Metro, which Metro shall make available to NCPRD upon request, or (b) the inclusion of Metro's logo and script in NCPRD's signage, with Metro's logo and script of a size equal and comparable to the size of NCPRD's logo and script (Metro shall make its graphics available to NCPRD upon request). If NCPRD chooses to incorporate Metro's logo and script into its own sign, it shall do so at its own cost and expense.

7. Project Managers; Notices.

7.1. Project Managers. Each party hereby identifies the following individuals as contact persons during the development of the Stabilization Plan: Kate Holleran (Metro) and Tonia Burns (NCPRD). Each party hereby identifies the following individuals as contact persons during the development of the Management Plan: Dan Moeller (Metro) and Michelle Healey (NCPRD).

7.2. Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by fax and regular mail, addressed as follows:

To Metro: Metro Natural Areas Bond Measure Program Director
Kathleen Brennan Hunter
600 N.E. Grand Avenue
Portland, OR 97232-2736
Tel. 503-797-1948
Fax 503-797-1849

To NCPRD: North Clackamas Parks and Recreation District
Gary Barth, Director
150 Beaver Creek Road
Oregon City, OR 97045
Tel. 503-742-4348
Fax 503-742-4349

To City: City of Happy Valley
Jason Tuck, City Manager
16000 SE Misty Drive
Happy Valley, OR 97086
Tel. 503-783-3833

8. General Provisions.

8.1. Taxes and Assessments. The parties acknowledge that the Property is presently exempt from real property taxes and assessments, and all parties shall use best efforts to continue to maintain the tax exemption of the Property. In the event the Property or any portion thereof

becomes subject to any taxes or assessments as a result of NCPRD's use, operation, or management of the Property, NCPRD shall be responsible for paying such tax or assessment.

8.2. Mutual Indemnification. To the maximum extent permitted by law and subject to the limitations of the Oregon Tort Claims Act, ORS Chapter 30, and the Oregon Constitution, Metro shall defend, indemnify and hold harmless the other parties to this Agreement, their officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from Metro's performance of its responsibilities under this Agreement. To the maximum extent permitted by law and subject to the limitations of the Oregon Tort Claims Act, ORS Chapter 30, and the Oregon Constitution, NCPRD shall defend, indemnify and hold harmless the other parties to this Agreement, their officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from NCPRD's performance of its responsibilities under this Agreement. To the maximum extent permitted by law and subject to the limitations of the Oregon Tort Claims Act, ORS Chapter 30, and the Oregon Constitution, City shall defend, indemnify and hold harmless the other parties to this Agreement, their officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from City's performance of its responsibilities under this Agreement.

8.3. Insurance. During the term of this contract each party shall maintain Commercial General Liability Insurance covering Bodily Injury and Property Damage, or alternatively shall maintain self-insurance funds, in amounts equal to or greater than the limits provided in the Oregon Tort Claims Act. Proof of such insurance or self-insurance funds shall be provided by any party upon request of any other party.

8.4. Oregon Constitution and Tax Exempt Bond Covenants. The source of funds for the acquisition and stabilization of the Property 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. NCPRD and City covenant that they 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 NCPRD and/or City breach this covenant, Metro shall be entitled to whatever remedies are available either to cure the default or to compensate Metro for any loss it may suffer as a result thereof. In such an event, Metro shall work cooperatively with NCPRD and/or City to address such breach.

8.5. Laws of Oregon; Public Contracts. This Agreement shall be governed by the laws of the State of Oregon, and the Parties agree to submit to the jurisdiction of the courts of the State of

Oregon. All applicable provisions of ORS chapters 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 by this reference as if such provisions were a part of this Agreement.

8.6. Amendment. This Agreement may be amended at any time with the written consent of all Parties.

8.7. Assignment. Except as otherwise provided herein, the Parties may not assign any of their rights or responsibilities under this Agreement without prior written consent from the other Parties, except a Party may delegate or subcontract for performance of any of their responsibilities under this Agreement.

8.8. Severability. If any covenant or provision of this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

8.9. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior oral or written agreements or representations relating to the Property. No waiver, consent, modification or change of terms of this Agreement shall bind the Parties unless in writing and signed by each party.

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

METRO

NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

By: _____

By: _____

Name: Michael Jordan

Title: _____

Title: Chief Operating Officer

Date: _____

Date: _____

CITY OF HAPPY VALLEY

By: _____

Name: Jason Tuck

Title: City Manager

Date: _____

Exhibit A Property Depiction
Exhibit B Desired Future Conditions

Exhibit B
Desired Future Conditions

The Property includes approximate four acres of wet meadow, two and a half acres of grass meadow, four acres of water reservoir easement, one and a half acres of roads including the road to the cemetery and fifty seven acres of upland closed forest. The combination of the wet meadow, associated edges and the older closed-canopy forest provides a variety of valuable wildlife habitat.

The desired future condition for the wet meadow is an appropriately diverse native shrub/forbs/grass plant community with a minimal amount of invasive plants (<10% by cover).

The desired future condition for the upland forest is a mature closed canopy forest dominated by Douglas-fir with western red cedar and hemlock, vertical diversity and canopy gaps, and large snags and down wood approaching historic levels. Invasive and non-native plants shall be less than 10% cover.

Any trails established in the natural area will be of minimal width and well constructed to prevent erosion and minimize fragmentation of the intact core habitat and high value areas.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4200, AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT AND THE CITY OF HAPPY VALLEY FOR THE ACQUISITION, CONSTRUCTION OF CAPITAL IMPROVEMENTS, AND MANAGEMENT OF CERTAIN PROPERTY IN THE EAST BUTTES TARGET AREA

Date: December 9, 2010

Prepared by: Kathleen Brennan-Hunter
503-797-1948

BACKGROUND

A Tier One objective of the 2006 East Buttes Target Area refinement plan is “Acquire land on Scouters Mountain in close proximity to other public land holdings to create a larger contiguous open space on the Butte.” Earlier this year Metro entered into an agreement with the Cascade Pacific Council, Boy Scouts of America (“CPC”) to purchase approximately 70 acres of property on the Butte, which property is more specifically described on Exhibit A attached to the Resolution (referred to herein as the “Property” or “the Scouter Mountain Natural Area”). Metro will be the fee owner of the Property and North Clackamas Parks and Recreation District (“NCPRD”) is supporting the acquisition by agreeing to assume long term management responsibilities. In addition, the City of Happy Valley (the “City”) is supporting the acquisition by agreeing to contribute the funds necessary to construct certain improvements on the Property. NCPRD and the City are collectively referred to herein as the “Partners.”

Located in the City of Happy Valley and rising more than 700 feet above the valley floor, Scouter Mountain is part of the Boring Lava Field. This forested cinder cone is a significant part of the regional view shed. The Property includes approximately four acres of wet meadow and 66 acres of upland closed forest. The combination of the wet meadow, associated edges and the older closed-canopy forest provides a diversity of wildlife habitat. The forest is dominated by Douglas-fir with western red cedar and hemlock.

Resolution 10-4200 (the “Resolution”) requests authorization for Metro to enter into an intergovernmental agreement (the “IGA”) which will provide for the following: (1) Following Metro’s acquisition of the Scouter Mountain Natural Area from CPC, Metro will stabilize natural resources on the Property and project manage the construction of certain capital improvements on the Property; (2) the City will contribute the balance of its Metro Natural Area Bond Measure local share funds towards the construction of such capital improvements; and (3) following the construction of such capital improvements, NCPRD will assume long-term management of the Scouter Mountain Natural Area. The IGA outlines the general responsibilities and obligations of the parties and provides that prior to NCPRD taking on management, the parties will agree upon a more detailed Management Plan for the Scouter Mountain Natural Area. The proposed form of IGA is attached as Exhibit B to the Resolution. Additional background information related to the acquisition of the Scouter Mountain Natural Area is provided below to provide additional context to this IGA.

Metro and the Partners, together with CPC, have made significant investigations into determining the feasibility of restoring the existing 22,000 square foot Chief Obie Lodge (the “Lodge”) located on the Property. The Lodge is currently in a state of significant disrepair. The Lodge was closed in July 2004 for fire safety concerns and has since suffered greatly from further deferred maintenance. Based on the results of recent investigations, including a complete analysis of restoration alternatives prepared by a third-party engineering firm, it was concluded that restoring the Lodge was not feasible. CPC has therefore agreed to demolish the Lodge before selling the Property to Metro in exchange for a commitment from the Metro and the Partners to construct a picnic shelter, restrooms and trails on the site

in commemoration of the Lodge (the “Capital Improvements”).

Metro and the Partners, together with CPC, have collaborated on the nature of the Capital Improvements to be constructed on the Scouter Mountain Natural Area following Metro’s acquisition. The Capital Improvements will be funded by a \$100,000 contribution by CPC and a \$372,000 contribution by the City. The City’s contribution will come from the remainder of its 2006 Natural Areas Bond Measure local share funds. The preliminary design concept and cost estimate for the Capital Improvements has been completed by Scott Edwards Architecture, and such concept includes a picnic shelter (approximately 1,500 square feet in size) with flush restrooms, incorporating certain salvage materials from the Lodge. The final design of Capital Improvements will be decided upon by Metro, in collaboration with both the Partners and CPC. Metro has committed to complete the construction of the Capital Improvements within two years of its acquisition of the Property.

Metro and the Partners desire to work together and pool their resources in order to facilitate the acquisition of the Scouter Mountain Natural Area. The primary goals for the Scouter Mountain Natural Area will be protecting the property’s natural resources, enhancing and protecting wildlife habitat, and providing for public access to nature. The IGA clearly outlines the responsibilities and obligations of the parties with respect to the stabilization, construction of Capital Improvements, and the long-term management responsibilities. NCPRD Commission and the Happy Valley City Council will be considering the approved the IGA at their respective meetings the week of December 6th.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

Resolution No. 06-3672B, “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisitions and Water Quality Protection,” was adopted on March 9, 2006.

The voters approved Metro’s 2006 Natural Areas Bond Measure at the general election held on November 6, 2006.

Resolution No. 07-3852, “Approving the Natural Areas Acquisition Refinement Plan for the East Buttes Target Area” was adopted by Metro Council on September 13, 2007.

3. Anticipated Effects

Metro will acquire the Property with 2006 Natural Area Bond funds, in accordance with the terms of its approved work plan. Following its acquisition of the Property, Metro will stabilize the natural resources and commence construction of the Capital Improvements. The Capital Improvements will be funded by financial contributions from the City and CPC. Before transitioning management of the Scouter Mountain Natural Area to NCPRD, NCPRD and Metro shall agree upon a detailed Management Plan for the Property. Upon opening the Scouter Mountain Natural Area to the public, all property management responsibilities will be assumed by NCPRD, whereafter NCPRD will be responsible for the daily operations of the built facilities, overall operations, and property maintenance.

4. Budget Impacts

The Property will be acquired and stabilized with Metro 2006 Natural Area Bond funds. The Capital Improvements will be paid for with a \$100,000 contribution from CPC and a \$370,000

contribution from the City.

All renewal and replacement projects will be budgeted and paid for by Metro. The amount of the renewal and replacement contribution necessary will be determined following the completion of the capital improvement. Following NCPRD's assumption of the management of the Scouter Mountain Natural Area, any additional capital improvement investments will be agreed upon in advance by both Metro and NCPRD as to the substance of the improvement and how the costs for the improvement will be paid.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 10-4200