

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 95-1982
THE EXECUTIVE OFFICER TO ENTER)
INTO AGREEMENTS WITH)
PORTLAND AREA CAMP FIRE) Introduced by
COUNCIL TO OPTION PROPERTIES) Mike Burton,
) Executive Officer

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, The Option to Purchase a Conservation Easement is part of Metro's Options Demonstration Project approved by Council Resolution No. 93-1832; and

WHEREAS, Funds to obtain options from willing sellers to purchase lands are allocated via Council Ordinance No. 93-511; and

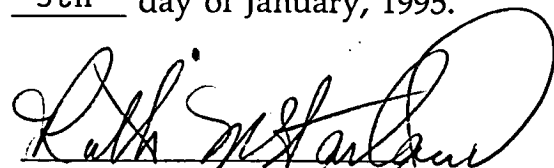
WHEREAS, A Process for Considering and Executing Options to Purchase Lands was adopted by Council Resolution No. 94-1919; and

WHEREAS, The three separate properties owned by Portland Area Camp Fire Council, as indicated in Exhibit A, are located in target areas or local share areas as set out in Resolution No. 94-2011A which referred a 135.6 million dollar bond measure for public consideration in the spring of 1995; now, therefore;

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to enter into three separate option agreements substantially similar to that which is attached as Exhibit A with Portland Area Camp Fire Council.

ADOPTED by the Metro Council this 5th day of January, 1995.


Ruth McFarland
Presiding Officer

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NUMBER 95-1982 FOR THE PURPOSE OF ENTERING INTO AGREEMENTS WITH THE PORTLAND AREA COUNCIL OF CAMP FIRE FOR AN OPTION FOR SEVERAL PROPERTIES

Date: December 28, 1994

Presented by: Berit Steyenson

PROPOSED ACTION

Resolution No. 95-1982 requests the approval of a resolution to authorize the Executive Officer to execute three Option Agreements with the Portland Area Council of Camp Fire (Camp Fire Council) to purchase separate parcels of property.

FACTUAL BACKGROUND AND ANALYSIS

The Options Demonstration Project approved by the Council Resolution 93-1832 provided funds to obtain options from willing sellers. The properties selected by this project are to be located in either local or regional Greenspaces target areas.

There are three separate parcel and three separate Option Agreements associated with this resolution. The parcels are:

- Camp Tolinda - 1.7 acres located adjacent to Forest Park on Maybrook Road (designated as a regional target area)
- Camp Lowami - 18.57 acres located on Johnson Creek at 15095 SW Hart Road in Beaverton (designated by THPRD as a local share project)
- Camp Weiko - 15.62 acres located near SE 129th and SE Flavel in the East Buttes (designated as a regional target area)

The potential acquisition of the three Camps in three different target areas provide a unique opportunity for the Greenspaces Options Demonstration Project. All three sites have generated widespread public support from both neighbors and former cam users. The Camp Fire Council has indicated that if the Camps are not acquired through the Greenspaces Program, they will be listed for sell.

BUDGET IMPACT

The Camp Fire Council will receive \$3,000 upon execution and recording of the Option Agreements. Funds for the purpose of optioning property has been approved in the 1994/95 FY budget.

The term of the Option Agreements runs to May 1, 1995. Purchase price will be fair market value as established by an agreed upon appraisal process. Acquisition funding is dependent upon passage of the Greenspaces bond measure.

EXHIBIT A

OPTION TO PURCHASE REAL PROPERTY

THIS OPTION AGREEMENT (the "Agreement") is made and entered into by and between JJ & Associates (the "Seller") and Metro, a municipal corporation of the State of Oregon organized under Oregon Revised Statutes, chapter 268, and the 1992 Metro Charter (the "Buyer"), this 15th day of December, 1994.

1. Grant of Option. Seller, in consideration of the sum of \$3,000, does hereby grant to Buyer the sole and exclusive option to purchase the real property described in Exhibit "A" attached and incorporated by this reference into this Agreement (the "Property") in the manner and for the price stated in this Agreement.
2. Option Terms.
 - 2.1 Term. This Agreement shall become effective (the effective date) on that date executed by Seller, provided that within 28 days thereafter, Buyer formally accepts the agreement and delivers to Seller a fully executed agreement and the *initial cash sum* as provided in Section 3. The initial term of the option shall commence on the effective date and shall continue for a period of six months until 6/15/95. Buyer shall have the right to extend the term of the option for an additional period of three months, commencing on the date the initial term expires and ending on 9/15/95. Buyer's payment of the *additional cash sum* due under Section 2 before the initial term expires shall be deemed to constitute an election to extend the option to the extended term date above.
 - 2.2 Exercise of Option. Buyer may exercise this option by written notice to Seller at any time during the term stating that Buyer has elected to exercise the option. Upon exercise of this option, Buyer shall be obligated to purchase the Property from Seller and Seller shall be obligated to sell the Property to Buyer for the price and in the manner herein set forth.
 - 2.3 Failure to Exercise Option. If Buyer fails for any reason to exercise this option in the manner set forth herein, Buyer shall have no further claim against or interest in the Property or any of the Option Money Payments, unless Buyer is entitled to a refund of the Option Money Payments under another provision of this Agreement. In the event of the failure to exercise the option, Buyer shall provide Seller with any instruments that Seller reasonably may deem necessary for the purpose of removing from the public record any cloud on title to the Property which is attributable to the grant or existence of this option.

3. Option Money. In payment for Seller's grant of this option, Buyer has paid or will pay Seller the following *option money payments*: (a) The *initial cash sum* of \$3,000 mentioned in Section 1; and (b) If Buyer elects to extend the option term under Section 2, Buyer will pay Seller at the time of the election the *additional cash sum* of \$1,000.
4. Purchase Price and Terms. Seller sets the Sale price at \$330,000 (three hundred and thirty thousand dollars) less the option payments made to seller. In the event the appraisal of the fair market value of the property indicates a value of at least 85% of the Sale price then the sale shall go forward to closing at the Sale price. In the event the indicated value is less than 85% of the Sale price then Metro is no longer obligated by this Agreement to proceed to closing but may still elect to proceed to closing at the Sale price. The appraisal shall be performed by an appraiser licensed in the State of Oregon and mutually selected by both parties. The appraiser shall be retained and paid by the Buyer.
5. Recording. On the effective date, Seller shall execute, acknowledge and deliver to Buyer a memorandum in the form attached as Exhibit B. In the event Buyer fails to exercise the option before the term expires, the memorandum will automatically terminate on that date and the Seller will not have to seek a release or quitclaim deed. Buyer shall record the memorandum.
6. Possession. Possession of the Property shall remain with Seller, subject to the covenants in this Agreement, until Buyer exercises the option and closing of the sale of the property. Buyer shall be entitled to exclusive possession of the Property on and after the closing date.
7. Access to Property. Seller grants to Buyer and its agents the right to enter on the Property at any reasonable times before the closing date for the purpose of conducting tests or studies that Buyer may deem necessary or appropriate in connection with its acquisition of the Property. Seller shall cooperate with Buyer in making such tests and studies. No soil tests or drilling shall be undertaken without first obtaining Seller's approval with respect to the agents retained to perform such work and the location and purpose of the tests or drilling. Buyer shall not interfere with or disturb the rights of any tenants of Seller in possession of any portion of the Property. Buyer shall protect, defend, and hold Seller harmless from any loss, liability, or damage to persons or property arising out of or related to Buyer's activities on the Property. If Buyer fails to exercise the option and purchase the Property, Buyer shall fully compensate Seller for any physical damage to the Property or charge on it attributable to Buyer's activities pursuant to this paragraph. In the event Buyer fails to exercise the option, Buyer shall deliver to Seller a legible copy of any reports, studies, and drawings owned by Buyer that relate to the Property.

8. Covenants of Seller. Seller acknowledges that the Covenants of Seller contained in this Agreement, including the Covenants contained in this Section 7 (the "Covenants"), are material inducements to Buyer to enter into this Agreement. The Covenants specifically delineated in this section are the following:

- 8.1 Information. Seller agrees to deliver to Buyer, within 20 days after the effective date, photocopies of all documents related to the use or ownership of the Property that Seller possesses, including (without limitation) all studies, reports, aerial photographs, and other documents of a like nature.
- 8.2 Maintenance. Before the Closing Date, Seller shall maintain the Property in the same condition as it now exists, ordinary wear and tear excepted, and shall not cause or permit any waste.
- 8.3 Seller's Promise to Remove Personal Property. Before the Closing Date, Seller promises to remove or cause to be removed from the subject Property at Seller's expense any and all personal property and/or trash, rubbish, or any other unsightly or offensive materials, unless otherwise agreed to in writing by Buyer.
- 8.4 Covenant to Maintain Property in Natural State. Seller, its successors and assigns hereby covenants, promises, agrees to maintain the Property to retain (specific features needed undisturbed).
- 8.5 Ownership. During the term, Seller shall not sell, contract to sell, assign, lease, or otherwise transfer the Property or any part of it, unless it is transferred subject to this option, nor grant an option to any third party to acquire all or any portion of it.

9. Seller's Representations.

- 9.1 Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the subject Property in accordance with this Agreement.
- 9.2 The subject Property has legal vehicular access to a public road.
- 9.3 No one other than Seller will be in possession of any portion of the subject Property at the close of escrow.
- 9.4 There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending or threatened against the subject Property, or any portion

thereof, or pending or threatened against Seller which could affect Seller's title to the subject Property, or any portion thereof, affect the value of the subject Property or any portion thereof, or subject an owner of the subject Property, or any portion thereof, to liability.

9.5 There are no:

- (a) Intended public improvements or private rights which will result in the creation of any liens upon the subject Property or any portion thereof;
- (b) Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the subject Property or any portion thereof;
- (c) Actual or impending mechanic's liens against the subject Property or any portion thereof; and
- (d) Notices or other information giving Seller reason to believe that any conditions existing on the subject Property or in the vicinity of the subject Property or in ground or surface waters associated with the subject Property may have a material effect on the value of the subject Property or subject the owner of the subject Property to potential liabilities under environmental laws.

9.6 Other than NONE, there is no lease, license, permit, option, right of first refusal, or other agreement, written or oral, which affects the subject Property or any portion thereof.

9.7 Neither the grant nor the exercise of the option will constitute a breach or default under any agreement to which Seller is bound and/or to which the subject Property is subject.

9.8 Hazardous Substances. For purposes of this subsection, the phrase "Hazardous Substances" has the same meaning as is designated in ORS 465.200(9). Seller warrants, represents, and covenants as follows:

- (a) To the knowledge of Seller, there are no Hazardous Substances in, upon, or buried on or beneath the Property and no Hazardous Substances have been emitted or released from the Property in violation of any environmental laws of the federal or state government;

- (b) Seller has not brought onto, stored on, buried, used on, emitted or released from, or allowed to be brought onto, stored on, buried, used on, or emitted or released from, the Property any Hazardous Substances in violation of any environmental laws of the federal or state government; and
- (c) To the knowledge of Seller, no underground storage tanks are located on the Property, including (without limitation) any storage tanks that contain, or previously contained, any Hazardous Substances, and Seller agrees not to cause or permit any such tanks to be installed in the Property before Closing.

9.9 Status of Seller. Seller warrants that Seller is not a foreign person, foreign partnership, foreign corporation, or foreign trust, as those terms are defined in IRC § 1445.

Each of the above representations is material and is relied upon by Buyer. Each of the above representations shall be deemed to have been made as of the close of escrow and shall survive the close of escrow. Seller shall indemnify, defend with counsel of Buyer's choice and hold Buyer harmless from all expense, loss, liability, damages and claims, including Buyer's attorney fees, if necessary, arising out of the breach of any of Seller's warranties, representations, and covenants. Upon close of escrow, if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer's counsel stating that each of the above representations is true and current as of the close of escrow.

If, before the close of escrow, Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to Buyer of those facts and information. If any of the foregoing warranties and representations cease to be true before the close of escrow, Seller shall be obligated to use its best efforts to remedy the problem before the close of escrow. If the problem is not remedied before close of escrow, Buyer may elect to either (a) terminate this Agreement in which case Buyer shall have no obligation to purchase the subject Property, or (b) defer the Closing Date until such problem has been remedied. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

10. Remedies Upon Default. In the event Seller defaults in the performance of any of Seller's obligations under this Agreement, Buyer shall, in addition to any and all other remedies provided in this Agreement or by law or equity, have the right of specific performance against Seller. In the event Buyer defaults in the performance of any of

its obligations under this Agreement, Seller shall have the right to retain the option consideration without thereby waiving Seller's right to recover damages for breach of contract or any other remedy provided in this Agreement or by law or equity.

11. Property Taxes and Expenses. During the term of this option, Seller shall pay all taxes, assessments, and expenses related to the Property. Property taxes shall be prorated as of the Closing Date.

12. Closing.

12.1 Time and Place. Closing of the sale and purchase of the Property (the "Closing") shall occur on a date (the "Closing Date") selected by Buyer, but in all events the Closing shall occur within 30 days after the date that the exercise notice is given. The escrow for the Closing shall be established at the office of Fidelity Title Company (the "Title Company"), at 900 SW Fifth St., Portland, OR 97204.

12.2 Closing Obligations. On the Closing Date, Seller and Buyer shall deposit the following documents and funds in escrow, and the Title Company shall close escrow in accordance with the instructions of Seller and Buyer.

12.2.1 Seller shall deposit the following:

- (a) The conveyance documents described in Section 11, duly executed and acknowledged;
- (b) A duly executed affidavit certifying that Seller is not a foreign person, trust, partnership, or corporation in compliance with the requirements of IRC § 1445;
- (c) Original counterparts of legible photocopies of all documents, feasibility studies, surveys, engineering reports, and other items of a similar nature in the possession of Seller that relate to the Property;
- (d) Such documents as Buyer or the Title Company may require to evidence the authority of Seller to consummate this transaction; and
- (e) Such other documents and funds, including (without limitation) escrow instructions, as are required of Seller to close the sale in accordance with this Agreement.

12.2.2 Buyer shall deposit the following:

- (a) The cash payment specified in Section 4, minus any credits available to Buyer under the terms of this Agreement;
- (b) Such documents as Seller or the Title Company may require to evidence the authority of Buyer to consummate the transaction contemplated; and
- (c) Such other documents and funds, including (without limitation) escrow instructions, as are required of Buyer to close the sale and purchase of the Property in accordance with this Agreement.

12.3 **Costs.** Buyer and Seller each shall pay one-half of the escrow fee of the Title Company with respect to the Closing. Seller shall pay the premium for the title insurance policy that Seller is obligated to provide to Buyer, and for all conveyance or excise taxes payable by reason of the purchase and sale of the Property. Buyer shall pay the fee (exclusive of any conveyance or excise tax) for recording the conveyance documents referred to herein.

12.4 **Prorations.** All items of expense incurred by Seller with respect to the Property shall be paid by Seller at Closing, without proration. All real property taxes and assessments payable with respect to the tax year in which Closing occurs shall be prorated between Seller and Buyer as of the Closing Date.

12.5 **Title Insurance Policies.** As soon as practicable after Closing, and in any event no later than 30 days after the Closing Date, Seller shall cause the Title Company to issue at Seller expense its standard form Owner's ALTA Title Insurance Policy, with extended coverage, in the amount of the purchase price, insuring fee simple title to the Property vested in Buyer, subject only to the permitted exceptions.

13. **Conveyance.** At the Closing, Seller shall execute, acknowledge, and deliver to Buyer a Statutory Warranty Deed conveying the Property to Buyer, subject only to the permitted exceptions.

14. **Waiver.** Failure by Seller or Buyer to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.

15. **Successors and Assigns.** Subject to the limitations on Seller's right to convey the Property set forth elsewhere herein, the terms, covenants, and conditions herein contained shall be binding on and inure to the benefit of the heirs, successors, and

assigns of Seller and Buyer. Buyer may assign its interest in this Option Agreement and the Property to any person or entity, without the consent of Seller. In the event that an assignee assumes the obligations of Buyer hereunder, then Buyer shall have no further liability with respect to this Agreement.

16. Notices. All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To Seller: J. J. & Associates
747 W. Powell Blvd.
Gresham, Oregon 97030

To Buyer: Metro
Attention: Nancy Chase
600 NE Grand Ave.
Portland, OR 97232-2736

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

17. Attorney Fees. If litigation is instituted with respect to this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, such amount to be set by the court before which the matter is heard.
18. No Commission. Each party represents to the other that it has not used a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. In the event any person asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, the party against whom the claim is asserted will hold the other party harmless from said claim.
19. Risk of Loss. Seller shall bear the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date, and regardless of whether the exercise notice has yet been given or is subsequently given, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within 15 days following receipt by

Buyer of written notice from Seller of such casualty or condemnation and Seller will return to Buyer the Option Money Payments previously paid.

20. Integration, Modification, or Amendments. This Agreement contains the entire agreement of the parties with respect to the Property and supersedes all prior written and oral negotiations and agreements with respect to the Property. Any modifications, changes, additions, or deletions to this Agreement must be approved by Seller and Buyer, in writing.
21. Representation. Seller and Buyer have each been represented by separate legal counsel of choice with respect to this transaction. Except as otherwise provided in Section 16, each party shall be responsible for all attorney fees incurred by it with respect to this Agreement.
22. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.
23. No Merger. The obligations contained in this Agreement, except for those specifically discharged in escrow (such as conveyance title to the subject Property and delivery of money and documents in the escrow), shall not merge with transfer of title but shall remain in effect until fulfilled.
24. Governing Law: Interpretation. This Agreement shall be governed by the laws of Oregon. In the event a court of competent jurisdiction holds any portion of this Agreement to be void or unenforceable as written, Seller and Buyer intend that (a) that portion of this Agreement be enforced to the extent permitted by law, and (b) the balance of this Agreement remain in full force and effect.
25. Time is of the Essence. Time is of the essence of this Agreement.
26. Statutory Disclaimer. THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Executed and effective on the day and year first above written.

SELLER:

JJ Associates

By: *James J. Moore*

Name: _____

Title: _____

BUYER:

By: _____

Name: _____

Title: _____

Attachments:

Exhibit A - Property

Exhibit B - Form of Memorandum

KLA.
1220
10/04/94



First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

MULTNOMAH COUNTY OFFICES

HOLLYWOOD OFFICE
4127 NE Sandy Blvd.
Portland, OR 97212
(503) 249-0656
FAX (503) 249-0325

EAST SIDE OFFICE
10735 S.E. Stark, Suite 100
Portland, Oregon 97216-2796
(503) 255-9103
FAX (503) 255-4327

MAIN OFFICE
200 S.W. Market, Suite 150
Portland, Oregon 97201-5705
(503) 790-7890
FAX (503) 790-7891

GRESHAM OFFICE
594 N.W. Eastman Parkway
Gresham, Oregon 97030
(503) 667-1333
FAX (503) 665-8374

THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 11,
TOWNSHIP 1 SOUTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY
OF MULTNOMAH AND STATE OF OREGON.

EXCEPT THE RIGHT OF THE PUBLIC IN AND TO THAT PART THEREOF INCLUDED WITHIN
THE BOUNDARIES OF COUNTY ROAD NO. 1423, (GORDON CREEK);

RECEIVED
DEC 19 1994
General Services

When recorded, mail to:
Metro
600 NE Grand Avenue
Portland, OR 97232-2736
Attn.: Office of General Counsel



METRO

Exhibit B

MEMORANDUM OF OPTION

This is a memorandum of a certain Option Agreement dated 12/15, 1994, between JJA Associates ("Seller"), and Metro, an Oregon municipal corporation ("Buyer"). By said Option Agreement, Seller has granted to Buyer an exclusive option to purchase that certain real property in Multnomah County, Oregon, described in Exhibit A attached herein and incorporated herein by this reference.

Said option extends from the date of the Option Agreement through and including 9/15/95, at which time it shall automatically expire.

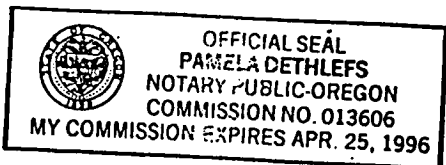
SELLER:

JJA Associates By
James G. Moore

State of Oregon)
County of Multnomah) ss.

On this 15th day of Dec., 1994, before me Pamela Dethlefs the undersigned Notary Public, personally appeared JAMES G. MOORE and _____ personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

Pamela Dethlefs
My commission expires: 4/25/96



OPTION AGREEMENT

Date: ~~November~~ ^{December} 21, 1994 *ms*

Between: PORTLAND AREA COUNCIL OF CAMP FIRE, INC., a nonprofit corporation incorporated in the state of Oregon ("Camp Fire") whose address is 619 S.W. 11th Avenue, Suite 200, Portland, Oregon 97205-2694

And: METRO, a municipal corporation of the state of Oregon organized under Oregon Revised Statutes, Chapter 268, and 1992 Metro Charter ("Metro") whose address is 600 N.E. Grand Avenue, Portland, Oregon 97232-2736

Recitals

A. The real property which is the subject of this option is the undeveloped land commonly known as Tolinda Day Camp located in Multnomah County, Portland, Oregon, and more particularly described on Exhibit A attached hereto (the "Property").

B. Metro would like to purchase the Property for the purpose of maintaining it as a natural area in perpetuity for the public use and enjoyment.

C. Camp Fire desires to grant an option to purchase the Property to Metro and Metro desires to obtain such an option from Camp Fire subject to the terms and conditions contained herein.

In consideration of the foregoing recitals, the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree:

1. Option. Camp Fire hereby grants to Metro an option to purchase the Property, subject to the terms and conditions contained herein.

2. Purchase Price.

(a) The purchase price for the Property shall be cash at closing in an amount equal to the Fair Market Value (as hereinafter defined) of the Property.

(b) Fair Market Value shall be determined in the manner set out in this paragraph 2 and shall be based on the highest and best use of the Property as determined in a full narrative written appraisal prepared by an Oregon state certified appraiser on behalf of Metro or Camp Fire, as the case may be.

(c) Within 20 days after Metro exercises its option to purchase the Property, Metro shall, at its sole cost, obtain an

appraisal of the Property and deliver a true and complete copy of the appraisal to Camp Fire.

(d) If Camp Fire does not notify Metro in writing within 10 days after receiving the appraisal from Metro ("Receipt of Metro's Appraisal") that the valuation contained in the appraisal is unacceptable, then the purchase price for the Property shall be determined by the Fair Market Value valuation contained in the appraisal provided by Metro.

(e) If the valuation contained in Metro's appraisal for the Property is unacceptable to Camp Fire: (i) Camp Fire shall notify Metro in writing that the valuation is unacceptable within the 10-day period after Receipt of Metro's Appraisal; (ii) Camp Fire shall, at its sole cost, obtain an appraisal of the Property and deliver a true and complete copy of the appraisal to Metro within the 40-day period after Receipt of Metro's Appraisal; (iii) and subject to the provisions of subparagraph 2.(f), the Fair Market Value for the Property and the purchase price for the Property shall be determined by taking the average of the Metro appraisal and the Camp Fire appraisal.

(f) If the Fair Market Value of the Property set forth in the Camp Fire appraisal is more than 10 percent in excess of the Fair Market Value set forth in the Metro appraisal, Camp Fire shall have the right, upon written notice to Metro, to cancel this option and terminate Metro's right to purchase the Property unless Metro agrees to purchase the Property at a price equal to the Fair Market Value as set forth in the Camp Fire appraisal. In case of cancellation, the option fee and earnest money deposited by Metro shall be promptly refunded.

3. Option Fee. Metro shall pay an option fee in the amount of One Thousand and No/100 Dollars (\$1,000) to Camp Fire upon its execution of this agreement. The option fee shall be deemed to have been fully earned by Camp Fire and nonrefundable upon its delivery to Camp Fire. If Metro closes the transaction in accordance with the terms of this agreement, then the option fee shall be credited against the purchase price for the Property set out in paragraph 2, above. Metro acknowledges that the option fee represents reasonable compensation to Camp Fire for providing Metro the option to purchase the Property pursuant to the terms of this agreement. As additional consideration, Metro shall, at no expense to Camp Fire, deliver to Camp Fire copies of all appraisals, environmental studies, surveys and any other reports or documents relating to the Property prepared by or for Metro as and when received by Metro.

4. Exercise of Option, Closing. Metro may exercise the option to purchase the Property by delivering written notice to Camp Fire accompanied with earnest money in the amount of \$1,667 on or before 5 p.m., April 30, 1995. The transaction shall close on or

before the 90th day after Camp Fire's receipt of Metro's election to exercise the option. During the term of the option, Camp Fire shall not sell the Property to any entity or person other than Metro. However, if Metro fails to exercise the option on or before 5 p.m., April 30, 1995: Camp Fire may, in its sole discretion retain the Property or sell it to a third party; Metro shall have no right to claim any interest in or right to the Property from an after May 1, 1995; and Metro shall execute any documents reasonably requested by Camp Fire to evidence the termination of this agreement.

5. Use of Property. Camp Fire is entering into this agreement with the hope that the Property will be maintained as a natural area for the public use and enjoyment.

6. Property Management. Metro has coordinated this option, with Multnomah County with the understanding that the agency will be given the first right of refusal to manage the Property following Metro's purchase of the Property. In the event the agency does not accept management responsibility for the Property, management of the Property will be Metro's responsibility. In either event, or in the event that the Property is managed by any other party, Camp Fire shall be entitled to assist and participate in developing the management plan for the Property.

7. Designated Name. In consideration for the sale of the Property to Metro, Metro shall cause the name or designation of the Property to include the word Tolinda.

8. Preliminary Title Report. Metro shall obtain a preliminary title report ("report") on the Property prior to the expiration of the option period, so that Metro can examine the condition of title to the Property. Metro shall deliver a copy of the preliminary title report to Camp Fire within five days after Metro's receipt of the report. Unless otherwise expressly agreed by the parties in writing prior to the expiration of the option period, if Metro exercises this option, Metro will be deemed to have approved the report and all exceptions contained therein, and will be deemed to have agreed to purchase the Property subject to all exceptions contained in the report.

9. Title Policy. Metro shall, at its sole expense, obtain a title insurance policy in connection with its purchase of the Property. If Metro requires an extended coverage owner's policy of title insurance, Metro shall pay all charges and satisfy all requirements of the title insurance company, including the delivery of an ALTA survey, except that Camp Fire shall execute title affidavits generally required by the title insurance company in order to issue the extended coverage policy, so long as Camp Fire shall incur no cost or expense relating thereto and in Camp Fire's reasonable opinion execution thereof will not create any liability to Camp Fire.

10. Escrow Agent. The purchase of the Property shall be closed in escrow with the title company issuing the preliminary title report.

11. Escrow Instructions. The parties shall deliver a fully executed counterpart of this agreement to the escrow agent. The parties shall execute such escrow instructions, not inconsistent with this agreement, as the escrow agent shall deem reasonably necessary for its protection, including the escrow agent's general provisions.

12. Deliveries into Escrow. In addition to any other documents provided for herein, the following documents shall be deposited into escrow no later than two business days prior to the close of escrow to be delivered, processed and recorded as hereafter provided. Each document shall be executed by duly authorized representatives of the parties where required and duly notarized where appropriate:

(a) Camp Fire shall deliver a bargain and sale deed conveying the Property to Metro free and clear of all liens and encumbrances except zoning ordinances, building and use restrictions, easements of record, the exceptions approved by Metro as contemplated by paragraph 8, above.

(b) Camp Fire shall deliver a transferor's certification of nonforeign status.

(c) Camp Fire and Metro shall deliver such additional funds, documents and/or instructions as are necessary on their part to comply with the terms of this agreement or are required by the escrow agent to enable it to issue the title insurance requested by Metro.

13. Escrow and Other Costs and Fees, Prorations. All real estate transfer taxes imposed by any taxing authority and recording fees incurred in connection with this transaction shall be paid by Metro. Camp Fire and Metro shall each pay one-half of the escrow agent's fee. General and special county and city taxes and assessments, if any, for the current fiscal year shall be prorated as of the close of escrow based upon the most readily available tax bills.

14. AS IS Sale. Metro acknowledges that:

(a) Neither Camp Fire nor anyone purporting to act for Camp Fire has made any representations or warranties, express or implied, concerning zoning regulations or other governmental requirements, site or physical condition, use, marketability or any other matter concerning the Property.

(b) Metro shall rely solely on Metro's independent examination, investigation and audit of the Property.

(c) Metro has inspected or will inspect, review and approve the physical and environmental condition of the Property during the option period.

(d) Upon exercise of the option, Metro will purchase the Property in its "AS IS" condition, with all faults.

(e) 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, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRANCES AS DEFINED IN ORS 30.930 IN ALL ZONES. 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 APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

15. Environmental Waiver and Indemnity. Metro hereby waives its right to recover from Camp Fire, any and all damages, losses, liabilities, costs or expenses whatsoever (including attorneys' fees, court costs and litigation expenses) and claims therefor, whether direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way growing out of or connected with the physical or environmental condition of the Property (or any portion thereon that arises after closing or any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, including the Superfund Amendments and Reauthorization Act of 1986 (42 USC Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 USC Sections 9601 et seq.), the Clean Water Act (33 USC Sections 466 et seq.), the Safe Drinking Water Act (14 USC Sections 1401-50), the Hazardous Materials Transportation Act (49 USC Sections 1801 et seq.), the Toxic Substance Control Act (15 USC Sections 2601-29) and all similar statutes now or in the future enacted by any federal, state, county, or local governments or agencies. Effective on the date that Metro exercises this option, Metro agrees to indemnify and hold Camp Fire harmless from and against any and all claims (including third party claims), demands, liabilities, damages, costs and expenses, including without limitation investigatory expenses, cleanup costs and attorney fees, of whatever kind or nature arising from or in any way connected with the environmental condition of the Property after closing and the efforts of Metro and/or its contractors to correct or remedy the same. The obligations of indemnity set forth herein shall survive the close of escrow and shall not be merged with the deed to be delivered to Metro at close of escrow.

16. Access to the Property. Metro and its agents and employees are granted the right during the option period to enter on the Property for any reasonable business purpose in connection

with its acquisition thereof Metro assumes all risks associated with or relating to its entry onto the Property. Metro shall indemnify, defend (with counsel of Metro's choice, subject to the reasonable approval of Camp Fire), protect and hold Camp Fire harmless from any and all causes of action, claims, liabilities, losses, damages, claims, demands and expenses (including without limitation actual attorney fees, court costs and litigation expenses) of any kind or nature arising directly or indirectly from such entry onto the Property, including but not limited to claims of liens of any nature. The obligations of indemnity set forth herein shall survive the expiration of the option or the close of escrow (as the case may be) and shall not be merged with the deed to be delivered to Metro at close of escrow.

17. No Liens or Improvements. In no event shall Metro, prior to the time it obtains record title to the Property, have the right to cause to be recorded any liens against the Property, whether mechanic's liens, materialmen's liens, any other statutory lien or otherwise, nor may Metro cause to be constructed improvements on the Property. Metro will not engage the services of any person which could assert lien rights against the Property for the value of such services without first making arrangements for payment for those services which are satisfactory to Camp Fire. Metro agrees to indemnify and hold Camp Fire harmless from and against all claims, loss, liability or expense arising from or related to any such work performed on or on account of the Property on behalf of Metro. The obligations of indemnity set forth herein shall survive the expiration of the option or the close of escrow (as the case may be) and shall not be merged with the special warranty deed to be delivered to Metro at close of escrow.

18. Metro Default.

(a) If Metro fails to comply with any of its obligations under this agreement, Camp Fire shall have the unilateral right to cancel the escrow and this agreement by written notice to Metro and retain the option fee and the earnest money.

(b) If escrow fails to close for any reason other than a Camp Fire default, then all appraisals, surveys, environmental reports and any other documents shall be deemed assigned to Camp Fire without expense to Camp Fire and shall be delivered to Camp Fire by Metro within 10 days after cancellation of escrow. Metro agrees to execute, within 10 days of Camp Fire's request, such documents as Camp Fire reasonably requires to evidence the foregoing assignments.

(c) In addition to any other remedies provided by this agreement, if Metro fails to perform its obligations hereunder or otherwise defaults under the terms of this agreement, Camp Fire shall have the right to pursue all

remedies available to it at law or in equity, including, without limitation, specific performance.

19. Camp Fire Default. If Camp Fire fails to deliver title on the close of escrow and Metro has complied with all of the terms of this agreement, Camp Fire shall be deemed to have defaulted under this agreement. Upon such event, Metro shall have the right to recover the earnest money and to pursue all remedies available to it at law or in equity, including, without limitation, specific performance.

20. Brokerage Commissions. Camp Fire and Metro represent and warrant to each other that they have not dealt with or through any real estate broker, salesperson, finder or the like relevant to this transaction. Each party hereto agrees to hold harmless, protect, defend and indemnify the other from and against any and all causes of action, liabilities, losses, damages, claims, costs and expenses (including but not limited to actual attorney fees, court costs, and litigation expenses) arising out of any claim of any brokers, agents or finders claiming a commission or fee as a result of the act of such indemnifying party, and such indemnifying party shall pay any and all costs, liabilities and claims by any such broker, agent or finder, licensed or otherwise claiming through, under or by reason of the conduct of such indemnifying party. The obligations of indemnity set forth herein shall survive the close of escrow and shall not be merged with the deed to be delivered to Metro at close of escrow.

21. Notices. Any notice which either party may desire to give to the other party must be in writing and may be given by personal delivery or air courier or by mailing the same by registered or certified mail, return receipt requested (or by telecopy if followed by one of the aforementioned methods), to the party to whom the notice is directed at the address of such party appearing on the first page of this agreement, or such other address as the parties may hereafter designate. All notices are deemed received only upon the earlier of actual receipt by the party to which the notice was intended or 48 hours from deposit in mail or with courier.

22. Possession. Camp Fire shall deliver possession of the Property to Metro on the close of escrow.

23. Risk of Loss. Camp Fire shall bear the risk of all loss or damage to the Property from all causes, through the date of closing. Metro shall bear the risk of all loss or damage to the Property from and after the date of closing. If, before the closing, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened: Camp Fire shall give Metro written notice of such event; Metro may terminate this agreement by giving written notice

to Camp Fire within 15 days following receipt of such notice; and Camp Fire shall be entitled to retain the option fee.

24. Memorandum of Option. A memorandum of option in a form reasonably acceptable to the parties shall be executed on behalf of Camp Fire and delivered to Metro. Metro may record the memorandum in the county records where the Property is located. In the event that the option is not exercised as provided herein, the memorandum will automatically terminate and Metro, at its sole expense, will immediately prepare a quitclaim deed and record it in the county records as evidence that the option has terminated.

25. Miscellaneous.

(a) Metro shall have no right to assign its rights under this agreement, except to a governmental agency.

(b) Should any party hereto reasonably retain counsel for the purpose of enforcing or preventing the breach of any provision hereof, including but not limited to instituting any action or proceeding to enforce any provision hereof, for damages by reason of any alleged breach of any provision hereof, for a declaration of such party's rights or obligations hereunder, or for any other judicial remedy, then, if such matter is settled by judicial determination (which term includes arbitration), the prevailing party (whether at trial or on appeal) shall be entitled to be reimbursed by the losing party for all costs and expenses incurred, including but not limited to actual attorneys' fees and costs incurred at trial or on appeal..

(c) This agreement shall be construed according to its fair meaning and as if prepared by both parties hereto.

(d) Titles and captions are for convenience only and shall not constitute a portion of this agreement.

(e) No breach of any provision hereof can be waived unless in writing. A waiver by any party hereto of a breach of any of the provisions hereof to be performed by the other party shall not be construed as waiver of any succeeding breach of the same or any other provision.

(f) Any alteration, change or modification of or to this agreement, in order to become effective, shall be made in writing and in each such instance executed on behalf of each party hereto.

(g) If any provision of this agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid, illegal or unenforceable, the remainder of this agreement, or the application of such provision, to persons or circumstances other than those as to

whom or which it is held invalid, illegal or unenforceable, shall not be affected thereby, and each provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.

(h) This agreement contains the entire understanding between the parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are superseded and shall be of no further force or effect.

(i) This agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Telecopied documents shall be considered originals, provided that the original documents are subsequently mailed or delivered, as appropriate.

(j) Time is of the essence of this agreement and of each and every provision hereof in which time is an element.

(k) Each individual executing this agreement on behalf of Metro and Camp Fire represents and warrants that he or she is duly authorized to execute and deliver this agreement on behalf of such party.

(l) This agreement shall be binding upon and shall inure to the benefit of Metro and Camp Fire and their respective heirs, personal representatives, successors and permitted assigns. No third party benefit is intended by any provision of this agreement nor may a third party act in reliance upon any provision hereof.

(m) Whenever under the terms of this agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday, or legal holiday, such time for performance shall be extended to the next business day. Except as otherwise provided herein, all references herein to "days" shall mean calendar days.

(n) This agreement shall not be effective until fully executed (whether by counterpart or otherwise) by all of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date set forth above.

METRO

By _____

Title _____

PORTLAND AREA COUNCIL OF CAMP FIRE, INC.

By Maggu Stone

Title Executive Director

EXHIBIT A
to Tolinda Option Agreement

A tract of land in the Northeast quarter of the Southwest quarter of Section 23, Township 1 South, Range 2 East of the Willamette Meridian, described as follows:

Beginning at a point in the West line of said Northeast quarter of the Southwest quarter which is 617 feet South from the intersection of said West line with the Southerly line of S.E. Flavel Street (Bogges County Road No. 1324); thence due East 305 feet; thence North $3^{\circ} 52'$ East 590 feet to the Southerly line of said S.E. Flavel Street; thence Easterly, along the Southerly line of said road, 490 feet; thence South $17^{\circ} 30'$ West 900 feet, more or less, to a point in the South line of a tract of land conveyed to Paul B. Bergh, et ux, by deed recorded May 18, 1945 in PsDeed Book 934 at page 57; thence North $88^{\circ} 05'$ West, along the South line of said Bergh Tract, 589 feet to the Southwest corner thereof, being a point in the West line of the Northeast quarter of the Southwest quarter of said Section; thence North, along said West line of the Northeast quarter of the Southwest quarter, 365 feet to the point of beginning; in Multnomah County, Oregon

OPTION AGREEMENT

Date: ~~November~~ ^{December} 21, 1994 *MS*

Between: PORTLAND AREA COUNCIL OF CAMP FIRE, INC., a nonprofit corporation incorporated in the state of Oregon ("Camp Fire") whose address is 619 S.W. 11th Avenue, Suite 200, Portland, Oregon 97205-2694

And: METRO, a municipal corporation of the state of Oregon organized under Oregon Revised Statutes, Chapter 268, and 1992 Metro Charter ("Metro") whose address is 600 N.E. Grand Avenue, Portland, Oregon 97232-2736

Recitals

A. The real property which is the subject of this option is the undeveloped land commonly known as Lowami Day Camp located in Washington County, Beaverton, Oregon, and more particularly described as: Lot 3, Aldrich Acreage, Washington County, Oregon (the "Property").

B. Metro would like to purchase the Property for the purpose of maintaining it as a natural area in perpetuity for the public use and enjoyment.

C. Camp Fire desires to grant an option to purchase the Property to Metro and Metro desires to obtain such an option from Camp Fire subject to the terms and conditions contained herein.

In consideration of the foregoing recitals, the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree:

1. Option. Camp Fire hereby grants to Metro an option to purchase the Property, subject to the terms and conditions contained herein.

2. Purchase Price.

(a) The purchase price for the Property shall be cash at closing in an amount equal to the Fair Market Value (as hereinafter defined) of the Property.

(b) Fair Market Value shall be determined in the manner set out in this paragraph 2 and shall be based on the highest and best use of the Property as determined in a full narrative written appraisal prepared by an Oregon state certified appraiser on behalf of Metro or Camp Fire, as the case may be.

(c) Within 20 days after Metro exercises its option to purchase the Property, Metro shall, at its sole cost, obtain an appraisal of the Property and deliver a true and complete copy of the appraisal to Camp Fire.

(d) If Camp Fire does not notify Metro in writing within 10 days after receiving the appraisal from Metro ("Receipt of Metro's Appraisal") that the valuation contained in the appraisal is unacceptable, then the purchase price for the Property shall be determined by the Fair Market Value valuation contained in the appraisal provided by Metro.

(e) If the valuation contained in Metro's appraisal for the Property is unacceptable to Camp Fire: (i) Camp Fire shall notify Metro in writing that the valuation is unacceptable within the 10-day period after Receipt of Metro's Appraisal; (ii) Camp Fire shall, at its sole cost, obtain an appraisal of the Property and deliver a true and complete copy of the appraisal to Metro within the 40-day period after Receipt of Metro's Appraisal; (iii) and subject to the provisions of subparagraph 2.(f), the Fair Market Value for the Property and the purchase price for the Property shall be determined by taking the average of the Metro appraisal and the Camp Fire appraisal.

(f) If the Fair Market Value of the Property set forth in the Camp Fire appraisal is more than 10 percent in excess of the Fair Market Value set forth in the Metro appraisal, Camp Fire shall have the right, upon written notice to Metro, to cancel this option and terminate Metro's right to purchase the Property unless Metro agrees to purchase the Property at a price equal to the Fair Market Value as set forth in the Camp Fire appraisal. In case of cancellation, the option fee and earnest money deposited by Metro shall be promptly refunded.

3. Option Fee. Metro shall pay an option fee in the amount of One Thousand and No/100 Dollars (\$1,000) to Camp Fire upon its execution of this agreement. The option fee shall be deemed to have been fully earned by Camp Fire and nonrefundable upon its delivery to Camp Fire. If Metro closes the transaction in accordance with the terms of this agreement, then the option fee shall be credited against the purchase price for the Property set out in paragraph 2, above. Metro acknowledges that the option fee represents reasonable compensation to Camp Fire for providing Metro the option to purchase the Property pursuant to the terms of this agreement. As additional consideration, Metro shall, at no expense to Camp Fire, deliver to Camp Fire copies of all appraisals, environmental studies, surveys and any other reports or documents relating to the Property prepared by or for Metro as and when received by Metro.

4. Exercise of Option, Closing. Metro may exercise the option to purchase the Property by delivering written notice to Camp

Fire accompanied with earnest money in the amount of \$1,667 on or before 5 p.m., April 30, 1995. The transaction shall close on or before the 90th day after Camp Fire's receipt of Metro's election to exercise the option. During the term of the option, Camp Fire shall not sell the Property to any entity or person other than Metro. However, if Metro fails to exercise the option on or before 5 p.m., April 30, 1995: Camp Fire may, in its sole discretion retain the Property or sell it to a third party; Metro shall have no right to claim any interest in or right to the Property from an after May 1, 1995; and Metro shall execute any documents reasonably requested by Camp Fire to evidence the termination of this agreement.

5. Use of Property. Camp Fire is entering into this agreement with the hope that the Property will be maintained as a natural area for the public use and enjoyment.

6. Property Management. Metro has coordinated this option, with Multnomah County with the understanding that the agency will be given the first right of refusal to manage the Property following Metro's purchase of the Property. In the event the agency does not accept management responsibility for the Property, management of the Property will be Metro's responsibility. In either event, or in the event that the Property is managed by any other party, Camp Fire shall be entitled to assist and participate in developing the management plan for the Property.

7. Designated Name. In consideration for the sale of the Property to Metro, Metro shall cause the name or designation of the Property to include the word Lowami.

8. Preliminary Title Report. Metro shall obtain a preliminary title report ("report") on the Property prior to the expiration of the option period, so that Metro can examine the condition of title to the Property. Metro shall deliver a copy of the preliminary title report to Camp Fire within five days after Metro's receipt of the report. Unless otherwise expressly agreed by the parties in writing prior to the expiration of the option period, if Metro exercises this option, Metro will be deemed to have approved the report and all exceptions contained therein, and will be deemed to have agreed to purchase the Property subject to all exceptions contained in the report.

9. Title Policy. Metro shall, at its sole expense, obtain a title insurance policy in connection with its purchase of the Property. If Metro requires an extended coverage owner's policy of title insurance, Metro shall pay all charges and satisfy all requirements of the title insurance company, including the delivery of an ALTA survey, except that Camp Fire shall execute title affidavits generally required by the title insurance company in order to issue the extended coverage policy, so long as Camp Fire shall incur no cost or expense relating thereto and in Camp Fire's reasonable opinion execution thereof will not create any liability to Camp Fire.

10. Escrow Agent. The purchase of the Property shall be closed in escrow with the title company issuing the preliminary title report.

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(a) Camp Fire shall deliver a bargain and sale deed conveying the Property to Metro free and clear of all liens and encumbrances except zoning ordinances, building and use restrictions, easements of record, the exceptions approved by Metro as contemplated by paragraph 8, above.

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(a) Neither Camp Fire nor anyone purporting to act for Camp Fire has made any representations or warranties, express or implied, concerning zoning regulations or other governmental requirements, site or physical condition, use, marketability or any other matter concerning the Property.

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(c) Metro has inspected or will inspect, review and approve the physical and environmental condition of the Property during the option period.

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(e) 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, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRANCES AS DEFINED IN ORS 30.930 IN ALL ZONES. 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 APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

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(a) If Metro fails to comply with any of its obligations under this agreement, Camp Fire shall have the unilateral right to cancel the escrow and this agreement by written notice to Metro and retain the option fee and the earnest money.

(b) If escrow fails to close for any reason other than a Camp Fire default, then all appraisals, surveys, environmental reports and any other documents shall be deemed assigned to Camp Fire without expense to Camp Fire and shall be delivered to Camp Fire by Metro within 10 days after cancellation of escrow. Metro agrees to execute, within 10 days of Camp Fire's request, such documents as Camp Fire reasonably requires to evidence the foregoing assignments.

(c) In addition to any other remedies provided by this agreement, if Metro fails to perform its obligations hereunder or otherwise defaults under the terms of this agreement, Camp Fire shall have the right to pursue all

remedies available to it at law or in equity, including, without limitation, specific performance.

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to Camp Fire within 15 days following receipt of such notice; and Camp Fire shall be entitled to retain the option fee.

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(f) Any alteration, change or modification of or to this agreement, in order to become effective, shall be made in writing and in each such instance executed on behalf of each party hereto.

(g) If any provision of this agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid, illegal or unenforceable, the remainder of this agreement, or the application of such provision, to persons or circumstances other than those as to

whom or which it is held invalid, illegal or unenforceable, shall not be affected thereby, and each provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.

(h) This agreement contains the entire understanding between the parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are superseded and shall be of no further force or effect.

(i) This agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Telecopied documents shall be considered originals, provided that the original documents are subsequently mailed or delivered, as appropriate.

(j) Time is of the essence of this agreement and of each and every provision hereof in which time is an element.

(k) Each individual executing this agreement on behalf of Metro and Camp Fire represents and warrants that he or she is duly authorized to execute and deliver this agreement on behalf of such party.

(l) This agreement shall be binding upon and shall inure to the benefit of Metro and Camp Fire and their respective heirs, personal representatives, successors and permitted assigns. No third party benefit is intended by any provision of this agreement nor may a third party act in reliance upon any provision hereof.

(m) Whenever under the terms of this agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday, or legal holiday, such time for performance shall be extended to the next business day. Except as otherwise provided herein, all references herein to "days" shall mean calendar days.

(n) This agreement shall not be effective until fully executed (whether by counterpart or otherwise) by all of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date set forth above.

METRO

By _____

Title _____

PORTLAND AREA COUNCIL OF CAMP FIRE, INC.

By Maggie Stone

Title Executive Director

OPTION AGREEMENT

Date: ~~November~~ ^{December} 21, 1994 ²¹¹⁵

Between: PORTLAND AREA COUNCIL OF CAMP FIRE, INC., a nonprofit corporation incorporated in the state of Oregon ("Camp Fire") whose address is 619 S.W. 11th Avenue, Suite 200, Portland, Oregon 97205-2694

And: METRO, a municipal corporation of the state of Oregon organized under Oregon Revised Statutes, Chapter 268, and 1992 Metro Charter ("Metro") whose address is 600 N.E. Grand Avenue, Portland, Oregon 97232-2736

Recitals

A. The real property which is the subject of this option is the undeveloped land commonly known as Wekio Day Camp located in Multnomah County, Portland, Oregon, and more particularly described as: Lots 4, 5, 6, and 7, Block 11, MAYBROOK NO. 2, Multnomah County, Portland, Oregon (the "Property").

B. Metro would like to purchase the Property for the purpose of maintaining it as a natural area in perpetuity for the public use and enjoyment.

C. Camp Fire desires to grant an option to purchase the Property to Metro and Metro desires to obtain such an option from Camp Fire subject to the terms and conditions contained herein.

In consideration of the foregoing recitals, the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree:

1. Option. Camp Fire hereby grants to Metro an option to purchase the Property, subject to the terms and conditions contained herein.

2. Purchase Price.

(a) The purchase price for the Property shall be cash at closing in an amount equal to the Fair Market Value (as hereinafter defined) of the Property.

(b) Fair Market Value shall be determined in the manner set out in this paragraph 2 and shall be based on the highest and best use of the Property as determined in a full narrative written appraisal prepared by an Oregon state certified appraiser on behalf of Metro or Camp Fire, as the case may be.

(c) Within 20 days after Metro exercises its option to purchase the Property, Metro shall, at its sole cost, obtain an appraisal of the Property and deliver a true and complete copy of the appraisal to Camp Fire.

(d) If Camp Fire does not notify Metro in writing within 10 days after receiving the appraisal from Metro ("Receipt of Metro's Appraisal") that the valuation contained in the appraisal is unacceptable, then the purchase price for the Property shall be determined by the Fair Market Value valuation contained in the appraisal provided by Metro.

(e) If the valuation contained in Metro's appraisal for the Property is unacceptable to Camp Fire: (i) Camp Fire shall notify Metro in writing that the valuation is unacceptable within the 10-day period after Receipt of Metro's Appraisal; (ii) Camp Fire shall, at its sole cost, obtain an appraisal of the Property and deliver a true and complete copy of the appraisal to Metro within the 40-day period after Receipt of Metro's Appraisal; (iii) and subject to the provisions of subparagraph 2.(f), the Fair Market Value for the Property and the purchase price for the Property shall be determined by taking the average of the Metro appraisal and the Camp Fire appraisal.

(f) If the Fair Market Value of the Property set forth in the Camp Fire appraisal is more than 10 percent in excess of the Fair Market Value set forth in the Metro appraisal, Camp Fire shall have the right, upon written notice to Metro, to cancel this option and terminate Metro's right to purchase the Property unless Metro agrees to purchase the Property at a price equal to the Fair Market Value as set forth in the Camp Fire appraisal. In case of cancellation, the option fee and earnest money deposited by Metro shall be promptly refunded.

3. Option Fee. Metro shall pay an option fee in the amount of One Thousand and No/100 Dollars (\$1,000) to Camp Fire upon its execution of this agreement. The option fee shall be deemed to have been fully earned by Camp Fire and nonrefundable upon its delivery to Camp Fire. If Metro closes the transaction in accordance with the terms of this agreement, then the option fee shall be credited against the purchase price for the Property set out in paragraph 2, above. Metro acknowledges that the option fee represents reasonable compensation to Camp Fire for providing Metro the option to purchase the Property pursuant to the terms of this agreement. As additional consideration, Metro shall, at no expense to Camp Fire, deliver to Camp Fire copies of all appraisals, environmental studies, surveys and any other reports or documents relating to the Property prepared by or for Metro as and when received by Metro.

4. Exercise of Option, Closing. Metro may exercise the option to purchase the Property by delivering written notice to Camp

Fire accompanied with earnest money in the amount of \$1,667 on or before 5 p.m., April 30, 1995. The transaction shall close on or before the 90th day after Camp Fire's receipt of Metro's election to exercise the option. During the term of the option, Camp Fire shall not sell the Property to any entity or person other than Metro. However, if Metro fails to exercise the option on or before 5 p.m., April 30, 1995: Camp Fire may, in its sole discretion retain the Property or sell it to a third party; Metro shall have no right to claim any interest in or right to the Property from an after May 1, 1995; and Metro shall execute any documents reasonably requested by Camp Fire to evidence the termination of this agreement.

5. Use of Property. Camp Fire is entering into this agreement with the hope that the Property will be maintained as a natural area for the public use and enjoyment.

6. Property Management. Metro has coordinated this option, with Multnomah County with the understanding that the agency will be given the first right of refusal to manage the Property following Metro's purchase of the Property. In the event the agency does not accept management responsibility for the Property, management of the Property will be Metro's responsibility. In either event, or in the event that the Property is managed by any other party, Camp Fire shall be entitled to assist and participate in developing the management plan for the Property.

7. Designated Name. In consideration for the sale of the Property to Metro, Metro shall cause the name or designation of the Property to include the word Wekio.

8. Preliminary Title Report. Metro shall obtain a preliminary title report ("report") on the Property prior to the expiration of the option period, so that Metro can examine the condition of title to the Property. Metro shall deliver a copy of the preliminary title report to Camp Fire within five days after Metro's receipt of the report. Unless otherwise expressly agreed by the parties in writing prior to the expiration of the option period, if Metro exercises this option, Metro will be deemed to have approved the report and all exceptions contained therein, and will be deemed to have agreed to purchase the Property subject to all exceptions contained in the report.

9. Title Policy. Metro shall, at its sole expense, obtain a title insurance policy in connection with its purchase of the Property. If Metro requires an extended coverage owner's policy of title insurance, Metro shall pay all charges and satisfy all requirements of the title insurance company, including the delivery of an ALTA survey, except that Camp Fire shall execute title affidavits generally required by the title insurance company in order to issue the extended coverage policy, so long as Camp Fire shall incur no cost or expense relating thereto and in Camp Fire's reasonable opinion execution thereof will not create any liability to Camp Fire.

10. Escrow Agent. The purchase of the Property shall be closed in escrow with the title company issuing the preliminary title report.

11. Escrow Instructions. The parties shall deliver a fully executed counterpart of this agreement to the escrow agent. The parties shall execute such escrow instructions, not inconsistent with this agreement, as the escrow agent shall deem reasonably necessary for its protection, including the escrow agent's general provisions.

12. Deliveries into Escrow. In addition to any other documents provided for herein, the following documents shall be deposited into escrow no later than two business days prior to the close of escrow to be delivered, processed and recorded as hereafter provided. Each document shall be executed by duly authorized representatives of the parties where required and duly notarized where appropriate:

(a) Camp Fire shall deliver a bargain and sale deed conveying the Property to Metro free and clear of all liens and encumbrances except zoning ordinances, building and use restrictions, easements of record, the exceptions approved by Metro as contemplated by paragraph 8, above.

(b) Camp Fire shall deliver a transferor's certification of nonforeign status.

(c) Camp Fire and Metro shall deliver such additional funds, documents and/or instructions as are necessary on their part to comply with the terms of this agreement or are required by the escrow agent to enable it to issue the title insurance requested by Metro.

13. Escrow and Other Costs and Fees, Prorations. All real estate transfer taxes imposed by any taxing authority and recording fees incurred in connection with this transaction shall be paid by Metro. Camp Fire and Metro shall each pay one-half of the escrow agent's fee. General and special county and city taxes and assessments, if any, for the current fiscal year shall be prorated as of the close of escrow based upon the most readily available tax bills.

14. AS IS Sale. Metro acknowledges that:

(a) Neither Camp Fire nor anyone purporting to act for Camp Fire has made any representations or warranties, express or implied, concerning zoning regulations or other governmental requirements, site or physical condition, use, marketability or any other matter concerning the Property.

(b) Metro shall rely solely on Metro's independent examination, investigation and audit of the Property.

(c) Metro has inspected or will inspect, review and approve the physical and environmental condition of the Property during the option period.

(d) Upon exercise of the option, Metro will purchase the Property in its "AS IS" condition, with all faults.

(e) 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, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRANCES AS DEFINED IN ORS 30.930 IN ALL ZONES. 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 APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

15. Environmental Waiver and Indemnity. Metro hereby waives its right to recover from Camp Fire, any and all damages, losses, liabilities, costs or expenses whatsoever (including attorneys' fees, court costs and litigation expenses) and claims therefor, whether direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way growing out of or connected with the physical or environmental condition of the Property (or any portion thereon that arises after closing or any law or regulation applicable thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, including the Superfund Amendments and Reauthorization Act of 1986 (42 USC Sections 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 USC Sections 9601 et seq.), the Clean Water Act (33 USC Sections 466 et seq.), the Safe Drinking Water Act (14 USC Sections 1401-50), the Hazardous Materials Transportation Act (49 USC Sections 1801 et seq.), the Toxic Substance Control Act (15 USC Sections 2601-29) and all similar statutes now or in the future enacted by any federal, state, county, or local governments or agencies. Effective on the date that Metro exercises this option, Metro agrees to indemnify and hold Camp Fire harmless from and against any and all claims (including third party claims), demands, liabilities, damages, costs and expenses, including without limitation investigatory expenses, cleanup costs and attorney fees, of whatever kind or nature arising from or in any way connected with the environmental condition of the Property after closing and the efforts of Metro and/or its contractors to correct or remedy the same. The obligations of indemnity set forth herein shall survive the close of escrow and shall not be merged with the deed to be delivered to Metro at close of escrow.

16. Access to the Property. Metro and its agents and employees are granted the right during the option period to enter on the Property for any reasonable business purpose in connection

with its acquisition thereof Metro assumes all risks associated with or relating to its entry onto the Property. Metro shall indemnify, defend (with counsel of Metro's choice, subject to the reasonable approval of Camp Fire), protect and hold Camp Fire harmless from any and all causes of action, claims, liabilities, losses, damages, claims, demands and expenses (including without limitation actual attorney fees, court costs and litigation expenses) of any kind or nature arising directly or indirectly from such entry onto the Property, including but not limited to claims of liens of any nature. The obligations of indemnity set forth herein shall survive the expiration of the option or the close of escrow (as the case may be) and shall not be merged with the deed to be delivered to Metro at close of escrow.

17. No Liens or Improvements. In no event shall Metro, prior to the time it obtains record title to the Property, have the right to cause to be recorded any liens against the Property, whether mechanic's liens, materialmen's liens, any other statutory lien or otherwise, nor may Metro cause to be constructed improvements on the Property. Metro will not engage the services of any person which could assert lien rights against the Property for the value of such services without first making arrangements for payment for those services which are satisfactory to Camp Fire. Metro agrees to indemnify and hold Camp Fire harmless from and against all claims, loss, liability or expense arising from or related to any such work performed on or on account of the Property on behalf of Metro. The obligations of indemnity set forth herein shall survive the expiration of the option or the close of escrow (as the case may be) and shall not be merged with the special warranty deed to be delivered to Metro at close of escrow.

18. Metro Default.

(a) If Metro fails to comply with any of its obligations under this agreement, Camp Fire shall have the unilateral right to cancel the escrow and this agreement by written notice to Metro and retain the option fee and the earnest money.

(b) If escrow fails to close for any reason other than a Camp Fire default, then all appraisals, surveys, environmental reports and any other documents shall be deemed assigned to Camp Fire without expense to Camp Fire and shall be delivered to Camp Fire by Metro within 10 days after cancellation of escrow. Metro agrees to execute, within 10 days of Camp Fire's request, such documents as Camp Fire reasonably requires to evidence the foregoing assignments.

(c) In addition to any other remedies provided by this agreement, if Metro fails to perform its obligations hereunder or otherwise defaults under the terms of this agreement, Camp Fire shall have the right to pursue all

remedies available to it at law or in equity, including, without limitation, specific performance.

19. Camp Fire Default. If Camp Fire fails to deliver title on the close of escrow and Metro has complied with all of the terms of this agreement, Camp Fire shall be deemed to have defaulted under this agreement. Upon such event, Metro shall have the right to recover the earnest money and to pursue all remedies available to it at law or in equity, including, without limitation, specific performance.

20. Brokerage Commissions. Camp Fire and Metro represent and warrant to each other that they have not dealt with or through any real estate broker, salesperson, finder or the like relevant to this transaction. Each party hereto agrees to hold harmless, protect, defend and indemnify the other from and against any and all causes of action, liabilities, losses, damages, claims, costs and expenses (including but not limited to actual attorney fees, court costs, and litigation expenses) arising out of any claim of any brokers, agents or finders claiming a commission or fee as a result of the act of such indemnifying party, and such indemnifying party shall pay any and all costs, liabilities and claims by any such broker, agent or finder, licensed or otherwise claiming through, under or by reason of the conduct of such indemnifying party. The obligations of indemnity set forth herein shall survive the close of escrow and shall not be merged with the deed to be delivered to Metro at close of escrow.

21. Notices. Any notice which either party may desire to give to the other party must be in writing and may be given by personal delivery or air courier or by mailing the same by registered or certified mail, return receipt requested (or by telecopy if followed by one of the aforementioned methods), to the party to whom the notice is directed at the address of such party appearing on the first page of this agreement, or such other address as the parties may hereafter designate. All notices are deemed received only upon the earlier of actual receipt by the party to which the notice was intended or 48 hours from deposit in mail or with courier.

22. Possession. Camp Fire shall deliver possession of the Property to Metro on the close of escrow.

23. Risk of Loss. Camp Fire shall bear the risk of all loss or damage to the Property from all causes, through the date of closing. Metro shall bear the risk of all loss or damage to the Property from and after the date of closing. If, before the closing, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened: Camp Fire shall give Metro written notice of such event; Metro may terminate this agreement by giving written notice

to Camp Fire within 15 days following receipt of such notice; and Camp Fire shall be entitled to retain the option fee.

24. Memorandum of Option. A memorandum of option in a form reasonably acceptable to the parties shall be executed on behalf of Camp Fire and delivered to Metro. Metro may record the memorandum in the county records where the Property is located. In the event that the option is not exercised as provided herein, the memorandum will automatically terminate and Metro, at its sole expense, will immediately prepare a quitclaim deed and record it in the county records as evidence that the option has terminated.

25. Miscellaneous.

(a) Metro shall have no right to assign its rights under this agreement, except to a governmental agency.

(b) Should any party hereto reasonably retain counsel for the purpose of enforcing or preventing the breach of any provision hereof, including but not limited to instituting any action or proceeding to enforce any provision hereof, for damages by reason of any alleged breach of any provision hereof, for a declaration of such party's rights or obligations hereunder, or for any other judicial remedy, then, if such matter is settled by judicial determination (which term includes arbitration), the prevailing party (whether at trial or on appeal) shall be entitled to be reimbursed by the losing party for all costs and expenses incurred, including but not limited to actual attorneys' fees and costs incurred at trial or on appeal.

(c) This agreement shall be construed according to its fair meaning and as if prepared by both parties hereto.

(d) Titles and captions are for convenience only and shall not constitute a portion of this agreement.

(e) No breach of any provision hereof can be waived unless in writing. A waiver by any party hereto of a breach of any of the provisions hereof to be performed by the other party shall not be construed as waiver of any succeeding breach of the same or any other provision.

(f) Any alteration, change or modification of or to this agreement, in order to become effective, shall be made in writing and in each such instance executed on behalf of each party hereto.

(g) If any provision of this agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid, illegal or unenforceable, the remainder of this agreement, or the application of such provision, to persons or circumstances other than those as to

whom or which it is held invalid, illegal or unenforceable, shall not be affected thereby, and each provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.

(h) This agreement contains the entire understanding between the parties relating to the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are superseded and shall be of no further force or effect.

(i) This agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Telecopied documents shall be considered originals, provided that the original documents are subsequently mailed or delivered, as appropriate.

(j) Time is of the essence of this agreement and of each and every provision hereof in which time is an element.

(k) Each individual executing this agreement on behalf of Metro and Camp Fire represents and warrants that he or she is duly authorized to execute and deliver this agreement on behalf of such party.

(l) This agreement shall be binding upon and shall inure to the benefit of Metro and Camp Fire and their respective heirs, personal representatives, successors and permitted assigns. No third party benefit is intended by any provision of this agreement nor may a third party act in reliance upon any provision hereof.

(m) Whenever under the terms of this agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday, or legal holiday, such time for performance shall be extended to the next business day. Except as otherwise provided herein, all references herein to "days" shall mean calendar days.

(n) This agreement shall not be effective until fully executed (whether by counterpart or otherwise) by all of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed
this agreement as of the date set forth above.

METRO

By _____

Title _____

PORTLAND AREA COUNCIL OF CAMP FIRE, INC.

By Wagner Stone

Title Executive Director