
**INTERGOVERNMENTAL
EXCHANGE AGREEMENT**

BETWEEN

THE PORT OF PORTLAND

AND

METRO

INTERGOVERNMENTAL EXCHANGE AGREEMENT

This Intergovernmental Exchange Agreement (the "Agreement"), dated as of this 22nd day of December, 2003 (the "Effective Date"), is entered into by and between THE PORT OF PORTLAND, a Port district of the State of Oregon (the "Port"), and METRO, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, by and through the METROPOLITAN EXPOSITION-RECREATION COMMISSION ("MERC") ("Metro").

RECITALS

A. The Port owns the following parcel of real property:

A parcel of land located in an area commonly known as Rivergate Industrial District, Multnomah County, Oregon, consisting of approximately 3.46 acres, described and shown on Port drawing RG 2001-17, attached hereto as Exhibit A (the "Triangle Parcel").

B. Metro owns the following parcels of real property:

A parcel of land consisting of approximately 6.09 acres located in Multnomah County, Oregon on the westerly boundary of Port-owned property commonly known as the "Vanport Wetlands" (formerly known as the Radio Tower Property), shown as "Parcel 1" on attached Exhibit B; and

A parcel of land consisting of approximately 0.76 acres, located in Multnomah County, Oregon, on the northerly boundary of the Vanport Wetlands, shown as "Parcel 2" on attached Exhibit B. Parcel 1 and Parcel 2 collectively shall be referred to herein as the "Metro Parcel."

The Triangle Parcel and the Metro Parcel collectively shall be referred to herein as the "Property."

C. The Port desires to convey the Triangle Parcel to Metro, in even exchange for which Metro desires to convey the Metro Parcel to the Port. In addition, the parties desire to exchange appurtenant easements with the Triangle Parcel and the Metro Parcel, as set forth below.

NOW, THEREFORE, the parties, intending to be legally bound by the terms of this Agreement, and for good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, agree as follows.

1. EXCHANGE

1.1 Mutual Agreement to Exchange

Metro agrees to convey the Metro Parcel, together with any and all improvements located thereon, in fee simple to the Port (subject to the condition subsequent described in Section 5.2), in exchange for which the Port agrees to convey the Triangle Parcel, together with any and all improvements located thereon, in fee simple to Metro (subject to the condition subsequent described in Section 5.1), upon the terms and conditions stated herein.

1.2 Even, Non-Cash Exchange

The parties acknowledge and agree that the conveyance by Metro of the Metro Parcel to the Port, and the conveyance by the Port of the Triangle Parcel to Metro, shall be an even, non-cash exchange, and that the consideration for the exchange shall be the mutual benefits derived by the Port from the Metro Parcel, and by Metro from the Triangle Parcel.

2. CLOSING AND ESCROW

2.1 Escrow Agent

Metro and the Port shall deliver a fully executed copy of this Agreement to Chicago Title Insurance Company of Oregon, downtown commercial escrow branch, 888 SW Fifth Avenue, Suite 930, Portland, Oregon 97204 (the "Escrow Agent") and both parties hereby authorize their respective representatives or attorneys to execute and deliver into escrow any additional or supplemental instructions as may be necessary or convenient to implement the terms of this Agreement or to Close (defined below) this transaction. In the event of any conflict between such additional or supplemental escrow instructions and the express terms of this Agreement, the terms of this Agreement shall control.

2.2 Closing

For purposes of this Agreement, "Close," "Closing," or "Closed" with respect to the Property shall mean the date on which all of the necessary documents have been deposited with the Escrow Agent and the Escrow Agent has (a) recorded on behalf of Metro the Triangle Parcel Deed referred to in Section 5.1 and the Triangle Easement referred to in Section 6.1; (b) recorded on behalf of the Port the Metro Parcel Deed referred to in Section 5.2 and the Metro Easement referred to in Section 6.2; (c) issued or authorized the issuance of the title insurance policies referred to in Sections 7.1 and 7.2; and (d) complied with all other escrow instructions of Metro and the Port imposed as a condition of Closing.

2.3 Closing Date; Costs; Escrow instructions

Closing shall occur no later than fifteen (15) days following the satisfaction or waiver of all conditions described in Section 4, but in no event shall Closing occur later than December 23, 2003 (the "Closing Date") unless extended by mutual written agreement of the parties. This

Agreement shall be Closed at the downtown commercial escrow offices of the Escrow Agent. Each party will pay one-half (1/2) of the escrow fee, one-half (1/2) of the recording fees, and one-half (1/2) of any other Closing costs not specifically mentioned in this Section 2.3. In addition, each party shall pay the cost of a standard owner's title insurance policy on the parcel such party is transferring under this Agreement, and, if desired, each party shall pay the cost of extended title insurance coverage on the parcel such party is receiving under this Agreement, as provided in Section 7.

3. PRELIMINARY TITLE REPORT

3.1 Triangle Parcel Title Report

The First Supplemental Preliminary Title Report, dated December 10, 2003 and effective as of November 28, 2003, Order No.221664, issued by the Escrow Agent, showing the condition of the title to the Triangle Parcel, is attached hereto as **Exhibit C** (the "Triangle Parcel Title Report"). By signature hereto, Metro acknowledges that it is accepting title to the Triangle Parcel subject to (i) all general and special exceptions shown in the Triangle Parcel Title Report; and (ii) all matters created or suffered by Metro (collectively, the "Triangle Parcel Permitted Encumbrances").

3.2 Metro Parcel Title Report

The First Supplemental Preliminary Title Report, dated December 10, 2003 and effective November 28, 2003, Order No. 249039, issued by the Escrow Agent, showing the condition of the title to the Metro Parcel, is attached hereto as **Exhibit D** (the "Metro Parcel Title Report"). By signature hereto, the Port acknowledges that it is accepting title to the Metro Parcel subject to (i) all general and special exceptions shown in the Metro Parcel Title Report; and (ii) all matters created or suffered by the Port (collectively, the "Metro Parcel Permitted Encumbrances").

4. CONDITIONS PRECEDENT TO CLOSING

4.1 Conditions Precedent to Metro's Obligations

Metro's obligations with respect to this transaction are subject to satisfaction of the following conditions not later than the Closing Date or the date otherwise indicated:

4.1.1 No Material Change in Condition

As of the Closing Date, there shall have been no material adverse change related to the Triangle Property (defined in Section 11.1).

4.1.2 No Trespass by Railroad

It is a condition to Closing that Metro be satisfied that the Union Pacific Railroad and Burlington Northern-Santa Fe Railroad are not trespassing on the Triangle Parcel or interfering with Metro's future use of the Triangle Parcel.

4.1.3 Triangle Parcel Easement

The Triangle Easement described in Section 6.1 shall be granted simultaneously with the transfer of the Triangle Parcel to Metro.

4.1.4 Simultaneous Closing

Closing on the Metro Parcel shall have occurred or shall occur simultaneously with the Closing on the Triangle Parcel.

4.1.5 Metro Council Approval

This Agreement is expressly conditioned upon the formal approval by the Metro Council and the MERC Commission, in the form of a resolution by each governing body, of the terms and conditions set forth in this Agreement.

4.2 Conditions Precedent to the Port's Obligations

The Port's obligations with respect to this transaction are subject to satisfaction of the following conditions not later than the Closing Date or the date otherwise indicated:

4.2.1 No Material Change in Condition

As of the Closing Date, there shall have been no material adverse change related to the Metro Property (defined in Section 11.2).

4.2.2 Storm Water Management Plan

Prior to Closing, Metro shall provide to the Port Metro's storm water management and pollution control plan for the Expo Center, including the maintenance schedule and storm water sampling program for the Expo Center parking areas that discharge storm water onto the Metro Parcel. Prior to Closing, Metro shall also provide to the Port copies of all previous annual public reports available to Metro, up until Closing, of storm water system inspection and maintenance activities at the Expo Center.

4.2.3 Preliminary Approval of Plans

Metro wishes to take ownership of the Triangle Parcel in order to construct an educational and recreational facility (the "Facility") in connection with Metro's recreational facilities located on Smith and Bybee Lakes. The Facility will provide multiple recreational uses which will include biking, walking, hiking, wildlife viewing, canoeing and kayaking (non-gas powered boats only), fishing, and environmental education, a parking lot for public access, and a public boat launch with access to Smith and Bybee Lakes. Said uses shall be consistent with the

"Smith and Bybee Lakes Wildlife Area Recreation Facility Plan" as adopted by the Metro Council in December, 1999 or as amended by the Metro Council attached as **Exhibit E ("Lakes Facility Plan")** consistent with the February 1989 Rivergate Development Standards attached as **Exhibit F ("Standards")**. The Port has reviewed a conceptual plan of Metro's proposed facility, attached hereto as **Exhibit G**. Metro has also submitted to the Port Metro's 95% Construction Document Plans for the Facility dated February 28, 2003, attached hereto as **Exhibit H ("Preliminary Plans")**. Prior to Closing, Metro shall submit to the Port, for Port review and approval, any changes to the Preliminary Plans as permitted by this Agreement and the Triangle Easement. After Closing, Metro also shall submit to the Port final plans and "as built" for the Facility as provided in Section 10.1.1. The Port reserves the right to require Metro to make changes and additions to Metro's plans in order to satisfy, in the Port's reasonable judgment, the requirements of the Standards, and in order to accommodate the Port's access to, use of, and utility coordination within, the Triangle Property. The foregoing covenants in this Section 4.2.3 shall survive and be enforceable following Closing.

4.2.4 Metro Easement

The Metro Easement described in Section 6.2 shall be granted simultaneously with the transfer of the Metro Parcel to the Port.

4.2.5 Simultaneous Closing

Closing on the Triangle Parcel shall have occurred or shall occur simultaneously with the Closing on the Metro Parcel.

4.2.6 Commission Approval

This Agreement is expressly conditioned upon the formal approval by the Port of Portland Commission, in the form of a resolution, of the terms and conditions set forth in this Agreement.

4.2.7 Removal of Concrete; Revegetation

Prior to Closing, Metro shall demolish, remove, and dispose of the two (2) concrete covered areas ("Concrete Areas") located on the Metro Parcel, as indicated on Exhibit B, and shall remove all debris resulting from such demolition work. After the demolition, removal, and disposal work is complete, Metro shall remove any litter and shall hydroseed the Concrete Areas with a mixture of quick-germinating cover species grass seed and a native species grass seed, and cover the hydroseed with straw if necessary, such that the Metro Parcel shall be free from litter and in a naturally vegetated condition at the time of Closing. All the work required under this Section 4.2.7 shall be performed in a manner reasonably acceptable to the Port. Metro shall provide evidence of the proposed types of seeding to the Port for prior approval. Provided that the Port approves the seeding mixture and Metro otherwise meets its obligations under this Section 4.2.7, Metro shall not be required to maintain the seeding.

4.3 Conditions Precedent to Metro's and Port's Obligations

Metro's and the Port's obligations with respect to this transaction are subject to satisfaction of the following conditions not later than the Closing Date or the date otherwise indicated:

4.3.1 Lot Line Adjustment

The Port shall conduct and pay for all costs of a boundary survey of the Metro Parcel, and obtain approval from the City of Portland for a lot line adjustment to create separate legal lot parcels consisting of Parcels 1 and 2 ("Lot Line Adjustment"). The acreage, as determined by the boundary survey, shall be deemed conclusive and binding by both parties to this Agreement. The Port will be responsible for all applications and fees associated with the Lot Line Adjustment, provided that Metro agrees to cooperate with the Port to execute any required documentation for, and to work diligently and use best efforts to obtain City approval of, the Lot Line Adjustment and any other petitions or applications reasonably required by the Port in connection with its attempts to obtain the Lot Line Adjustment. The parties acknowledge and agree that as a result of the Lot Line Adjustment, a portion of the Port's existing chain link fence along the northwesterly boundary of Parcel 2 will be located within the area covered by the Metro Easement ("Metro Easement Area"). At the time Metro develops the Metro Easement Area in order to meet the requirements of the Master Plan, Metro shall relocate this portion of the Port's fence, at Metro's cost, to the area within the adjacent northern boundary of the Metro Parcel. Metro further acknowledges and agrees that after Closing Metro shall meet all requirements under the Master Plan within the Expo Center property, with no further impact to the Metro Parcel. The covenants under this Section 4.3.1 shall survive Closing.

4.4 Waiver/Satisfaction of Conditions

The conditions set forth in Section 4.1 may be waived only by Metro. The conditions set forth in Section 4.2 may be waived only by the Port. The conditions set forth in Section 4.3 may

not be waived by either party. Unless all conditions in Section 4 are satisfied or waived by expiration of the time limits as set forth above, this Agreement shall terminate without further liability to either party, except any liabilities which are specifically stated to survive termination.

5. FORM OF DEEDS

5.1 Triangle Parcel Deed

At Closing, the Port shall execute and deliver to Metro a Bargain and Sale Deed (the "Triangle Parcel Deed") in substantially the form set forth in **Exhibit I** conveying the Triangle Parcel to Metro. The consideration stated on the Triangle Parcel Deed shall be "other value given." The Triangle Parcel Deed will contain certain restrictive covenants to run with the land, including a right of repurchase in the event that the Facility is not constructed within the time period provided in the Triangle Parcel Deed, and a right of reentry in the event that the Triangle Parcel is not used for the purposes stated in the Triangle Parcel Deed.

5.2 Metro Parcel Deed

At Closing, Metro shall execute and deliver to the Port a Bargain and Sale Deed (the "Metro Parcel Deed") in substantially the form set forth in **Exhibit J** conveying the Metro Parcel to the Port, as delineated pursuant to the lot line adjustment described in Section 4.3.1. (The Triangle Parcel Deed and the Metro Parcel Deed collectively shall be referred to herein as the "Deeds.") The consideration stated on the Metro Parcel Deed shall be "other value given." The Metro Parcel Deed will contain certain restrictive covenants to run with the land, including a right of reentry in the event the Metro Parcel is not used for the purposes stated in the Metro Parcel Deed. The parties shall revise the Metro Parcel Deed to conform to the requirements of the Lot Line Adjustment. The final Metro Parcel Deed and legal descriptions shall be in forms acceptable to both parties. The Port shall bear all expenses associated with creating the legal descriptions of the Metro Parcel and remainder of the Expo property, as required by the Lot Line Adjustment process and by statute.

6. ACCESS EASEMENTS

6.1 Triangle Easement

At Closing, the Port shall grant to Metro an easement in the form attached hereto as **Exhibit K** ("Triangle Easement") to be recorded at Closing, granting Metro pedestrian, vehicular, and boat access over, upon, and across certain Port-owned property located adjacent to the Triangle Parcel, as further described in the Triangle Easement. The Triangle Easement shall grant Metro an easement for the purposes of installing, operating, maintaining and replacing a public trail, road, conservation activities, and associated recreational activities for the benefit and use of the public, subject to the terms and conditions provided in the Triangle Easement. Certain uses will be confined to designated areas within the Triangle Easement Area as further provided in

the Triangle Easement. The Triangle Easement shall be exclusive, with the exception of the use by the Port and certain other users as specified in the Triangle Easement.

6.1.1 Triangle Easement Area; Survey

If Metro obtains a Vacation of Old Marine Drive after Closing as provided in Section 10.1.2, then the Triangle Easement shall be amended to include the area of Old Marine Drive from Metro's new Main Entry to the eastern end of the Triangle Parcel (shown on attached Exhibit A). The areas within the Triangle Easement, both with and without the addition of Old Marine Drive, are labeled as such on attached Exhibit A. Metro shall survey, at Metro's sole cost, the area of the Triangle Easement to create a legal description for the Triangle Easement Area.

6.1.2 Port Access

The Port will abandon the Port's old entrance to the Port Road (shown on attached Exhibit A), and will access the Triangle Easement Area by Metro's Main Entry. Metro shall provide the Port and the other users specified in the Triangle Easement with a means of continued access through the locked gate to the Main Entry. The foregoing covenants under this Section 6.1.2 shall survive and be enforceable after Closing.

6.2 Metro Easement

At Closing, Metro will grant to the Port a nonexclusive easement in the form attached hereto as Exhibit L ("Metro Easement") to be recorded at Closing, granting the Port vehicular and pedestrian access over and across the private road extending along the southern boundary of the Expo Center parking lot ("Metro Access Road"), pedestrian access over and across the area between the Metro Access Road and the Metro Parcel, and vehicular and pedestrian access over and across the existing gravel driveway between the Metro Access Road and the Metro Parcel. The Port shall survey, at the Port's sole cost, the area of the Metro Easement to create a legal description for the Metro Easement Area. Upon completing the Metro Access Road Extension (defined in Section 10.2.1), Metro shall record an amendment to the Metro Easement to include within the Metro Easement Area the new extension or realignment of the Metro Access Road together with the adjacent real property between the extended or realigned Metro Access Road and the Metro Parcel, which covenant shall survive Closing.

7. TITLE INSURANCE

7.1 Port Policy

At Closing, Metro shall authorize the Escrow Agent to issue the Port a standard owner's policy of title insurance, insuring the vesting of fee title to the Metro Parcel in the Port, as separate parcels as delineated pursuant to the lot line adjustment described in Section 4.3.1, in the amount of Four Hundred and Twenty Thousand Dollars (\$420,000.00), subject only to the Metro Parcel Permitted Encumbrances.

7.2 Metro Policy

At Closing, the Port shall authorize the Escrow Agent to issue Metro a standard owner's policy of title insurance, insuring the vesting of fee title to the Triangle Parcel in Metro in the amount of Four Hundred and Sixty Thousand Dollars (\$460,000.00), subject only to the Triangle Parcel Permitted Encumbrances.

8. TAXES

8.1 Tax Exemption

The parties acknowledge that both the Triangle Parcel and the Metro Parcel are presently exempt from payment of real property taxes under Oregon law, and that since both the Port and Metro are tax exempt, no real property taxes should accrue on either the Triangle Parcel or the Metro Parcel.

8.2 Triangle Parcel Taxes

From and after Closing, in the event that the Triangle Parcel loses its tax-exempt status, Metro shall have full responsibility for payment of all applicable real property taxes relating to Metro's ownership of the Triangle Parcel unless the loss of such exemption has been caused by the sole actions of the Port. All taxes assessed before or after Closing relating to the Port's ownership or activities on the Triangle Parcel shall be paid by the Port.

8.3 Metro Parcel Taxes

From and after Closing, in the event that the Metro Parcel loses its tax-exempt status, the Port shall have full responsibility for payment of all applicable real property taxes relating to the Port's ownership of the Metro Parcel unless the loss of such exemption has been caused by the sole actions of Metro. All taxes assessed before or after Closing relating to Metro's ownership or activities on the Metro Parcel shall be paid by Metro.

9. POSSESSION

Metro shall be entitled to possession of the Triangle Parcel, and the Port shall be entitled to possession of the Metro Parcel, immediately upon Closing.

10. POST-CLOSING COVENANTS

The following covenants of Metro and the Port, respectively, under this Section 10 shall survive and be enforceable following Closing:

10.1 Metro Covenants

10.1.1 Plans and Permits

Metro shall obtain all necessary permits and approvals from the City of Portland and other appropriate agencies for the Facility and, to the extent such permits and approvals relate to the Port's access to, use of, and utility coordination within the Triangle Property, Metro shall provide copies of such permits and approvals to the Port. Metro shall submit to the Port final plans and "as built" drawings within ninety (90) days of completing construction of the Facility.

10.1.2 Revocable Permit; Vacation

As part of obtaining the necessary permits and approvals for the Facility as provided in Section 10.1.1, Metro shall obtain from the Portland Department of Transportation ("PDOT") a Revocable Permit to Use Dedicated Street Areas ("**Revocable Permit**") to use the portion of Old Marine Drive between Metro's Main Entry into the Facility and the eastern end of the Triangle Parcel for the same purposes as provided in the Triangle Easement. In addition to or in the alternative to seeking the Revocable Permit, Metro may, at Metro's discretion, apply to PDOT for the vacation of Old Marine Drive, with reversion to the Port of the fee title to Old Marine Drive ("**Vacation**"). In the event that Metro obtains the Vacation, the Port shall grant an easement to Metro within thirty (30) days of the Vacation granting Metro an easement in the vacated property in the same form as the Triangle Easement. Metro shall prepare, coordinate, and pay all costs associated with the Vacation and/or Revocable Permit applications and recordations. The Port will cooperate reasonably with Metro in obtaining the Revocable Permit and/or the Vacation, as applicable. Such Port cooperation will include but not be limited to (i) issuing a "letter of agreement with the Project" or such similar letter(s) or other documents, in form mutually acceptable to the parties, as may be required by PDOT in conjunction with the application for and the issuance of the Revocable Permit; and, if Metro seeks to obtain the Vacation, (ii) executing any necessary documents for the Vacation application. In the event that Metro does not obtain the Vacation, the Revocable Permit shall be sufficient to satisfy the condition under this Section 10.1.2.

10.1.3 Triangle Slope Easement

Metro acknowledges that 0.78 acres of the Triangle Parcel are subject to a slope easement to the City of Portland, included within the Triangle Parcel Permitted Encumbrances, and as shown and described on **Exhibit A** (the "**Triangle Slope Easement Area**"). From and after Closing, Metro shall be responsible for the ongoing landscaping and maintenance of the Triangle Slope Easement Area, to the extent such landscaping and/or maintenance are required by that certain Deed of Right of Way recorded November 2, 1998, Recorder's_Fee No. 98-198434. The obligations under this Section 10.1.3 shall be restrictive covenants running with the land under the Triangle Parcel Deed described in Section 5.1.

10.1.4 Metro Slope Area

Within one (1) year after Closing, Metro shall remove all existing vegetation from the sloped area located on the gravel parking lot within the Expo Center to the north and west of the Metro Parcel, as indicated on attached **Exhibit B ("Metro Slope Area")**. After removal of the existing vegetation from the Metro Slope Area, Metro shall hydroseed the Metro Slope Area with a mixture of quick-germinating cover species grass seed and a native species grass seed. Metro shall provide evidence of the types of seeding to the Port for approval. Provided that the Port approves the seeding mixture and Metro otherwise meets its obligations under this Section 10.1.4, Metro shall not be required to maintain the seeding. Metro shall be responsible for any erosion control required for the Metro Slope Area as the result of Metro's future development of or any changed use within the Expo Center, including without limitation Metro's construction of the Metro Access Road Extension. All obligations of Metro described in this Section 10.1.4 shall be performed to the reasonable satisfaction of the Port and in accordance with the "Exposition Master Plan" approved by the City of Portland and included within the Metro Parcel Permitted Encumbrances.

10.1.5 Storm Water Reports

Metro will provide to the Port, promptly as received, copies of all annual public reports of storm water system inspection and maintenance activities at the Expo Center.

10.1.6 Old Entry to Port Road

After the Port has removed the asphalt and concrete pad and the gate at the Port's separate entry to Old Marine Drive as provided in Section 10.2.2, Metro shall plant screening vegetation and other improvements at such entry consistent with the Lakes Facility Plan.

10.1.7 Future Development

Metro shall keep the Port informed of all plans for future development at the Expo Center which may impact upon the Metro Parcel, and shall locate any new stormwater outfalls so that they drain to Metro's storm sewer system and not to the Metro Parcel. In addition, Metro's construction of the Metro Access Road Extension shall be performed so as to prevent drainage onto the Metro Parcel.

10.2 Port Covenants

10.2.1 Port Fence

Metro anticipates constructing an extension or realignment of the Metro Access Road westerly to North Force Avenue along the northern boundary of Parcel 1 as shown on attached **Exhibit B ("Metro Access Road Extension")**. By the later of Metro's completion of the Metro Access Road Extension or one (1) year following Closing, the Port will build a chain link fence along the southern boundary of the Metro Access Road Extension, to limit access between the Metro Parcel and the Expo Center.

10.2.2 Old Entry to Port Road

After Metro constructs its new entry gate to the Triangle Parcel, the Port will remove the asphalt and concrete pad and the gate at the Port's separate entry to Old Marine Drive.

10.2.3 \$10,000 Contribution

Pursuant to that certain First Amendment to Intergovernmental Agreement between the Port and Metro dated effective September 30, 2001, the Port shall contribute the sum of Ten Thousand Dollars (\$10,000.00) to Metro's Recreation Facilities and Public Art Design Project, to be used by Metro for the design and installation of public facilities including public art at the Smith and Bybee Lakes Wildlife Area. At least fifty percent (50%) of the Port's contribution shall be used by Metro for physical improvements and/or public art at the Triangle Property. The Port shall make such contribution within thirty (30) days of receipt of an invoice from Metro accompanied by supporting documentation for Metro's actual out-of-pocket expenses in connection with the above-described design and installation efforts.

10.2.4 Revocable Permit; Vacation

As part of obtaining the necessary permits and approvals for the Facility as provided in Section 10.1.1, Metro shall obtain from the Portland Department of Transportation ("PDOT") a Revocable Permit to Use Dedicated Street Areas ("Revocable Permit") to use the portion of Old Marine Drive between Metro's Main Entry into the Facility and the eastern end of the Triangle Parcel for the same purposes as provided in the Triangle Easement. In addition to or in the alternative to seeking the Revocable Permit, Metro may, at Metro's discretion, apply to PDOT for the vacation of Old Marine Drive, with reversion to the Port of the fee title to Old Marine Drive ("Vacation"). In the event that Metro obtains the Vacation, the Port shall grant an easement to Metro within thirty (30) days of the Vacation granting Metro an easement in the vacated property in the same form as the Triangle Easement. Metro shall prepare, coordinate, and pay all costs associated with the Vacation and/or Revocable Permit applications and recordations. The Port will cooperate reasonably with Metro in obtaining the Revocable Permit and/or the Vacation, as applicable. Such Port cooperation will include but not be limited to (i) issuing a "letter of agreement with the Project" or such similar letter(s) or other documents, in form mutually acceptable to the parties, as may be required by PDOT in conjunction with the application for and the issuance of the Revocable Permit; and, if Metro seeks to obtain the Vacation, (ii) executing any necessary documents for the Vacation application. In the event that Metro does not obtain the Vacation, the Revocable Permit shall be sufficient to satisfy the condition under this Section 10.2.4.

11. PROPERTY CONDITION

11.1 Triangle Parcel

Metro acknowledges that Metro has had an opportunity to inspect the Triangle Parcel and the Triangle Easement Area (collectively, the "Triangle Property") prior to Closing, and to conduct or obtain and to review all surveys, tests, audits and studies as Metro deems necessary to enable Metro to approve all aspects of the Triangle Property, including without limitation the environmental conditions of the Triangle Property, the suitability of the Triangle Property for Metro's intended use, soils and ground water conditions in and about the Triangle Property, and verification by Metro of the types, location, size, capacity and other specifications for existing utilities available to the Triangle Property and the adequacy of such utilities for Metro's intended use of the Triangle Property. Metro agrees to accept the Triangle Parcel in its "AS-IS" condition as of the date of the Closing, with no representations or warranties regarding the condition of the Triangle Parcel by the Port. Metro acknowledges that Metro has ascertained for itself the value and condition of the Triangle Parcel, and has not relied upon any implied or express warranties of the Port or the Port's employees or agents in connection with the Triangle Parcel, the purchase thereof, or the availability of Metro's or the Triangle Parcel's qualification for any local, state, or federal incentive, benefit, or grant program. The Port hereby specifically disclaims any warranty, guarantee, or representation, oral or written, either past, present, or future, of, as to, or concerning

(i) the nature and/or condition of the Triangle Parcel, including, without limitation, the environmental condition, soil and geology of the Triangle Parcel; (ii) existing or proposed governmental laws or regulations applicable to the Triangle Parcel, including without limitation land use or zoning of the Triangle Parcel; and (iii) the suitability of the Triangle Parcel for any structure that Metro may construct thereon, and the condition, suitability, or fitness for a particular purpose (whether or not known to the Port) of any improvement located on the Triangle Parcel, or the Triangle Parcel itself, for Metro's intended use. It is agreed that the Port will not be responsible for, and Metro hereby releases the Port from, any loss, damage, or costs that may be incurred by Metro by reason of any condition of the Triangle Parcel. This Section shall survive and be enforceable following Closing.

11.1.1 Triangle Property Environmental Reports

Metro has provided to the Port, at no cost to the Port, copies of all reports resulting from any soils and/or environmental studies conducted by Metro in connection with its due diligence of the Triangle Property, subject to Section 4.2.2. The Port shall have the right to reproduce and use these and any other reports provided by Metro to the Port in connection with the Triangle Property.

11.2 Metro Parcel

The Port acknowledges that the Port has had an opportunity to inspect the Metro Parcel and the Metro Easement Area (collectively, the "Metro Property") prior to Closing, and to conduct or obtain and to review all surveys, tests, audits and studies as the Port deems necessary to enable the Port to approve all aspects of the Metro Property, including without limitation the environmental conditions of the Metro Property, the suitability of the Metro Property for the Port's intended use, soils and ground water conditions in and about the Metro Property, and verification by the Port of the types, location, size, capacity and other specifications for existing utilities available to the Metro Property and the adequacy of such utilities for the Port's intended use of the Metro Property. The Port agrees to accept the Metro Parcel in its "AS-IS" condition as of the date of the Closing, with no representations or warranties regarding the condition of the Metro Parcel by Metro. The Port acknowledges that the Port has ascertained for itself the value and condition of the Metro Parcel, and has not relied upon any implied or express warranties of Metro or Metro's employees or agents in connection with the Metro Parcel, the purchase thereof, or the availability of the Port's or the Metro Parcel's qualification for any local, state, or federal incentive, benefit, or grant program. Metro hereby specifically disclaims any warranty, guarantee, or representation, oral or written, either past, present, or future, of, as to, or concerning (i) the nature and/or condition of the Metro Parcel, including, without limitation, the environmental condition, soil and geology of the Metro Parcel; (ii) existing or proposed governmental laws or regulations applicable to the Metro Parcel, including without limitation land use or zoning of the Metro Parcel; and (iii) the suitability of the Metro Parcel for any structure that the Port may construct thereon, and the condition, suitability, or fitness for a

particular purpose (whether or not known to Metro) of any improvement located on the Metro Parcel, or the Metro Parcel itself, for the Port's intended use. It is agreed that Metro will not be responsible for, and the Port hereby releases Metro from, any loss, damage, or costs that may be incurred by the Port by reason of any condition of the Metro Parcel. This Section shall survive and be enforceable following Closing.

11.2.1 Metro Property Environmental Reports

The Port has provided to Metro, at no cost to Metro, copies of all reports resulting from any soils and/or environmental studies conducted by Metro in connection with its due diligence of the Metro Property. Metro shall have the right to reproduce and use these and any other reports provided by the Port to Metro in connection with the Metro Property. The Port agrees that the previous removal by Metro of soil at the stormwater outfall area identified in the Phase II Environmental Site Assessment for the Metro Parcel, as documented in the "Report on Petroleum Contaminated Soil (PCS) Removal, Portland Expo Center," prepared by RMCAT Environmental Services, dated December 31, 2001, is complete. Notwithstanding the foregoing, any additional environmental actions required by a regulatory agency for this outfall area are to be completed by Metro, at Metro's cost, with the Port's cooperation.

12. REPRESENTATIONS AND WARRANTIES OF METRO

In addition to any other covenants, representations, or warranties of Metro contained in this Agreement, the following constitute representations and warranties of Metro to the Port:

12.1 Legal Authority

Metro represents and warrants to the Port that, upon approval by the Metro Council, Metro has the legal power, right, and authority to enter into this Agreement, and any document referenced herein, under the terms stated herein, and the persons executing this Agreement and the instruments referred to in this Agreement on behalf of Metro have the legal power, right and actual authority, including any and all required approvals or consents from Metropolitan Exposition-Recreation Commission, to bind Metro to the terms and conditions of this Agreement.

12.2 Binding Obligations

This Agreement and all documents required by it to be executed by Metro are and shall be valid and legally binding obligations of Metro, shall be enforceable against Metro, its successors, and assigns, in accordance with the terms of the Agreement and all such documents, and shall inure to the benefit of the Port and its heirs, personal representatives, successors, and assigns, but the Port shall not assign or otherwise transfer any interest in this Agreement or such documents without the prior written consent of Metro.

12.3 No Conflict

Neither the execution and delivery of this Agreement and documents referred to herein, nor the incurring of the obligations set forth in this Agreement, nor the consummation of the transactions contemplated, nor compliance with the terms of this Agreement and the documents referred to herein conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which Metro is a party.

12.4 Condition of the Metro Parcel

Metro represents and warrants that, as of Closing and to Metro's knowledge, Metro has disclosed to the Port the results of all reports, investigations, surveys, and other documentation in Metro's control and possession concerning environmental or other conditions relating to the Metro Parcel.

13. REPRESENTATIONS AND WARRANTIES OF THE PORT

In addition to any other covenants, representations, or warranties of the Port contained in this Agreement, the following constitute representations and warranties of the Port to Metro:

13.1 Legal Authority

The Port represents and warrants to Metro that, upon approval by the Port of Portland Commission, the Port has the legal power, right, and authority to enter into this Agreement, and any document referenced herein, under the terms stated herein, and the persons executing this Agreement and the instruments referred to in this Agreement on behalf of the Port have the legal power, right and actual authority to bind the Port to the terms and conditions of this Agreement.

13.2 Binding Obligations

This Agreement and all documents required by it to be executed by the Port are and shall be valid and legally binding obligations of the Port, shall be enforceable against the Port, its successors, and assigns in accordance with the terms of the Agreement and such documents, and shall inure to the benefit of Metro and its heirs, personal representatives, successors, and assigns, but Metro shall not assign or otherwise transfer any interest in this Agreement or such documents without the prior written consent of the Port.

13.3 No Conflict

Neither the execution and delivery of this Agreement and documents referred to herein, nor the incurring of the obligations set forth in this Agreement, nor the consummation of the transactions contemplated, nor compliance with the terms of this Agreement and the documents referred to herein conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under, any bond, note, or other evidence of indebtedness or

any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which the Port is a party.

13.4 Condition of the Triangle Parcel

The Port represents and warrants that, as of Closing and to the Port's knowledge, the Port has disclosed to Metro the results of all reports, investigations, surveys, and other documentation in the Port's control and possession concerning environmental or other conditions relating to the Triangle Parcel.

14. DEFAULT/FAILURE TO CLOSE

14.1 Failure to Close

If Closing does not occur as contemplated by this Agreement due to a default by either party, the remedies of the parties shall be as follows:

14.1.1 Default by the Port

In the event the exchange contemplated by this Agreement does not Close by the Closing Date as a result of any default of this Agreement by the Port, Metro shall be entitled to Metro's actual out of pocket expenses from the Port's breach, but no consequential or punitive damages, and the Port shall pay all escrow fees.

14.1.2 Default by Metro

In the event the exchange contemplated by this Agreement does not Close by the Closing Date by reason of any default of this Agreement by Metro, the Port shall also be entitled to the Port's actual out of pocket expenses from Metro's breach, but no consequential or punitive damages, and Metro shall pay all escrow fees.

14.2 Default After Closing

Should a default of this Agreement occur after Closing as to those matters that survive Closing, then the non-defaulting party shall have available to it, and shall be entitled to pursue against the defaulting party, all available remedies, either at law or in equity.

15. NO THIRD-PARTY BENEFIT

Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise, to any third parties.

16. ATTORNEY FEES

If a suit, action, or other proceeding of any nature whatsoever (including without limitation any administrative proceeding and any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any

rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or any petition for review, in addition to all other amounts provided by law.

17. NOTICES

All notices required under this Agreement shall be deemed properly served if hand delivered (including by reputable overnight courier) or sent by certified mail, return receipt requested, to the last address previously furnished by the parties hereto. Until hereafter changed by the parties by notice in writing, notices shall be sent to the parties at the addresses set forth below:

If by mail to the Port:

The Port of Portland
Property & Development Services
P.O. Box 3529
Portland, OR 97208
Attention: Manager

With a copy to:

The Port of Portland
P.O. Box 3529
Portland, OR 97208-3529
Attention: Legal Department

If by hand delivery to the Port:

The Port of Portland
Property & Development Services
121 N.W. Everett
Portland, OR 97209
Attention: Manager

With a copy to:

The Port of Portland
121 N.W. Everett
Portland, OR 97209
Attention: Legal Department

To Metro at:

Metro
Metro Regional Parks and Greenspaces
600 N.E. Grand Avenue
Portland, OR 97232-2736
Attention: Jim Desmond, Director

Copies to:

Metropolitan Exposition-Recreation Commission
P.O. Box 2746
Portland, OR 97208
Attention: Mark B. Williams, General Manager

Metro
Office of Metro Attorney
600 N.E. Grand Avenue
Portland, OR 97232-2736

If mailed, the notice shall be deemed received five (5) days after the date such notice is deposited in a post office of the United States Postal Service, postage prepaid, return receipt requested, certified mail. If delivered by hand, the notice shall be deemed received as of the date of delivery or refusal of delivery.

18. **BROKERS**

Metro and the Port each represent to one another that they have not dealt with any real estate agent or broker in connection with this Agreement and each (for purposes of this Section only, the "Indemnitor"), to the extent permitted by applicable law, agrees to indemnify and hold harmless the other from and against all damages, costs, and expenses, including attorney, accountant and paralegal fees, arising in connection with any claim of an agent or broker alleging to have been retained by the Indemnitor in connection with this Agreement. This obligation shall survive and be enforceable following the Closing or termination of this Agreement.

19. PERFORMANCE AND NON-WAIVER; MODIFICATION

Time is of the essence in the performance of the obligations set forth herein. Failure to enforce any provision of this Agreement shall not constitute a waiver of that provision or the future prompt enforcement of that provision. This Agreement may not be modified or amended, except by a written agreement executed by both parties.

20. GOVERNING LAW

This Agreement shall be governed, construed and enforced under the laws of the State of Oregon.

21. NO MERGER

The waivers, covenants, indemnities, representations, obligations, and warranties contained in this Agreement shall all survive the Closing and shall not merge into the Deeds and the recordation of the Deeds in the official records.

22. SEVERABILITY

If any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid 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.

23. HEADINGS AND TABLE OF CONTENTS

Section headings and the table of contents contained in this Agreement are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

24. EXHIBITS INCORPORATED BY REFERENCE

All Exhibits attached to this Agreement are incorporated by reference into this Agreement for all purposes.

25. DEFINED TERMS

Capitalized terms shall have the meaning given them in the text of this Agreement.

26. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the Port and Metro relating to the exchange contemplated herein, and supersedes and replaces the Outline of Proposed Terms for an Exchange of Properties Between Metro and the Port of Portland dated May 19, 2003.

27. NO REPRESENTATIONS

It is understood and agreed by the parties that neither party nor such party's agents or employees have made any representations or promises with respect to this Agreement or the making or entry into this Agreement, except as expressly set forth in this Agreement. No claim for liability shall be asserted based on any claimed breach of any representations or promises not expressly set forth in this Agreement. All oral agreements, if any, are void and expressly waived by the parties. This Agreement has been thoroughly negotiated between the parties; therefore, in the event of ambiguity, there shall be no presumption that such ambiguity should be construed against the drafter.

28. LAND USE

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 MAY LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES 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.

29. NO OFFER; COMMISSION APPROVAL

This Agreement shall not constitute an offer, either by the Port to Metro or Metro to the Port, for the exchange of the Property and shall not be binding on either party until (a) this transaction has been approved, respectively, by the Port's Commission, Metro's Council, and the Metropolitan Exposition-Recreation Commission; and (b) this Agreement has been executed by both the Port's and Metro's authorized designees.

IN WITNESS WHEREOF, the parties hereto have subscribed their names as of the date first above written.

METRO

By: *Michael Gorch*
Title: *Chief Operating Officer*

APPROVED AS TO LEGAL SUFFICIENCY

THE PORT OF PORTLAND

By: *Bill Wyatt*
Bill Wyatt, Executive Director

APPROVED AS TO LEGAL SUFFICIENCY
FOR THE PORT OF PORTLAND

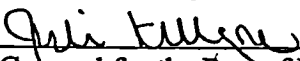
By: 
Counsel for Metro

APPROVED BY METRO COUNCIL ON:

November 20, 2003

APPROVED BY METROPOLITAN-
EXPOSITION-RECREATION COMMISSION
ON:

November 19, 2003

By: 
Counsel for the Port of Portland

APPROVED BY PORT OF PORTLAND
COMMISSION ON:

December 10, 2003

List of

~~PROVIDE PAGES FOR VARIOUS EXHIBITS~~

- A Triangle Parcel map with easement areas, parking area, vacation area, old port entrance, and launch
- B Metro Parcel map with concrete area, vegetated slope area,
- C Triangle Parcel preliminary title report #221664 ^{1st} ~~sixth~~ supplemental dated ^{effective} 11-28-03
- D Metro Parcel preliminary title report #249039 ^{1st} ~~second~~ supplemental dated ^{effective} 11-28-03
- E Smith & Bybee Lakes Wildlife Area Recreational Facility Plan
- F Rivergate Development Standards
- G conceptual plan facility at Triangle Parcel
- H 95% Construction Document Plans for facility at Triangle Parcel
- I BS Deed Triangle Parcel
- J BS Deed Metro Parcel
- K Triangle Easement
- L Metro Easement