

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 99-2816
THE EXECUTIVE OFFICER TO EXECUTE)
AN INTERGOVERNMENTAL AGREEMENT) Introduced by Mike Burton,
WITH THE CITY OF TIGARD TO MANAGE) Executive Officer
THE PROPERTY IN THE FANNO CREEK)
GREENWAY TARGET AREA)

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, at the election held on May 16, 1995, the Metro area voters approved the Opens Spaces, Parks and Streams Bond Measure (Measure 26-26) which authorizes Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, the Fanno Creek Greenway Target Area was designated as a regional trail and greenway in the Greenspaces Master Plan and identified as a regional target area in the Open Space, Parks and Streams Bond Measure; and

WHEREAS, on May 16, 1996, via Metro Council Resolution No. 96-2331, the Metro Council adopted a refinement plan for the Fanno Creek Greenway Target Area, including a confidential tax-lot-specific map identifying priority properties for acquisition; and

WHEREAS, on June 9, 1997, 6.8 acres of real property, located within the Fanno Creek Greenway, in the City of Tigard and owned by George and Helen Lowery, (hereinafter, the "Property") were purchased by Metro with Measure 26-26 bond funds; and

WHEREAS, Measure 26-26 provided that lands acquired by Metro pursuant to Measure 26-26 may be operated, managed and maintained by Metro or other cooperative arrangements may be made with other jurisdictions or park providers to operate and maintain these lands consistent with the Greenspaces Master Plan; and

WHEREAS, on March 2, 1999, the City of Tigard approved the Woodard Park Concept Plan, providing for incorporation of the Property into the City of Tigard's Woodard Park, including improvements to the Property designed to promote passive recreation and enhance wetland habitat; and

WHEREAS, the City of Tigard's Woodard Park Concept Plan excludes responsibility for the house and immediately surrounding yard, garage and access drive on the Property; and

WHEREAS, the City of Tigard and Metro desire that, with the exception of the house and immediately surrounding yard, garage, and access drive on the Property, which shall remain under Metro management, the City of Tigard should improve, operate, manage and

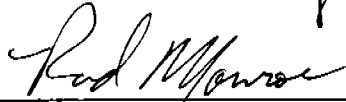
maintain the Property in accordance with the Woodard Park Concept Plan at the City of Tigard's sole expense; and

WHEREAS, the Intergovernmental Agreement attached to this resolution sets forth the management, maintenance and operation guidelines for the Property, requiring that the Property be managed by the City of Tigard for the protection of the Property's natural resources in accordance with the Metro Greenspaces Master Plan, the Open Spaces Bond Measure, and the Woodard Park Concept Plan; now, therefore,

BE IT RESOLVED:

That the Metro Council authorizes the Executive Officer to execute the Intergovernmental Agreement with the City of Tigard, attached hereto as Exhibit A, wherein the City of Tigard will implement the Woodard Park Concept Master Plan, improving, operating, managing and maintaining the Property in accordance with the Woodard Park Concept Master Plan, the Metro Greenspaces Master Plan, and the Open Spaces Bond Measure.

Adopted by Metro Council this 15th day of July, 1999.



Jon Kvistad, Presiding Officer

Rod Monroe

Approved as to Form:


Daniel B. Cooper, General Counsel

EXHIBIT "A"
to Resolution 99-2816

INTERGOVERNMENTAL AGREEMENT

Woodard Park/Lowery Property

This Intergovernmental Agreement ("Agreement") dated this ____ day of _____, 1999, is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the 1992 Metro Charter, located at 600 Northeast Grand Avenue, Portland, Oregon, 97232-2736 ("Metro"), and the City of Tigard, located at 13125 S.W. Hall Boulevard, Tigard, Oregon 97223 ("the City").

WITNESSETH:

WHEREAS, on May 16, 1995, voters approved Ballot Measure 26-26, Open Spaces, Parks, and Streams, authorizing Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, to issue up to \$135.6 million in general obligation bonds for the protection of open spaces, parks and streams ("Metro Open Spaces Bond Measure"); and

WHEREAS, the Fanno Creek Greenway was identified as a regionally significant open space in the Metro Greenspaces Master Plan, and the Fanno Creek Greenway Target Area was subsequently established pursuant to the Metro Open Spaces Bond Measure; and

WHEREAS, pursuant to the Metro Open Spaces Bond Measure, Metro acquired real property from the Lowery family, located within the Fanno Creek Greenway Target Area, along Fanno Creek at 10270 SW Katherine Street, commonly known as Tax Lot 00600, Township 2 South, Range 1 West, Section 2BB, in the City of Tigard, County of Washington, State of Oregon, and more particularly described in Exhibit A attached hereto and incorporated herein (the "Lowery Property"); and

WHEREAS, on June 9, 1997, Metro purchased the Lowery Property with proceeds from the Metro Open Spaces Bond Measure to preserve it as open space in accordance with the measure; and

WHEREAS, the City wishes to operate, manage, and maintain a portion of the Lowery Property, as described in Exhibit A-1 attached and incorporated herein (hereinafter, the "Property"), which excludes the Lowery house, garage, and access drive, which shall remain Metro's responsibility; and

WHEREAS, on March 2, 1999, the City passed Resolution 99-13 adopting the Woodard Park Concept Plan, attached hereto as Exhibit B and incorporated herein;

WHEREAS, Metro and the City wish to preserve the Property as open space, provide for passive recreation, and provide for improved wetland habitat, in accordance with the Woodard

Park Concept Plan, the Metro Open Spaces Bond Measure, and the Metro Greenspaces Master Plan;

WHEREAS, the Oregon Department of Transportation (“ODOT”) by letter, dated April 21, 1999, proposed to implement a wetlands mitigation plan on the Property, to improve Fanno Creek’s wetland vegetation and riparian habitat;

WHEREAS, on _____, 1999, the City Council authorized the City to enter into this Agreement and to manage, operate and maintain the Property in accordance with the terms set forth in this Agreement;

WHEREAS, on _____, 1999, the Metro Council authorized Metro to enter into this Agreement to provide for transfer of management responsibility for the Property in accordance with the terms set forth in this Agreement; and

WHEREAS, Metro and the City wish to enter into this Agreement to provide for the responsibilities and obligations of the parties with respect to the acquisition, allowable uses, maintenance and operation of the Property;

NOW, THEREFORE, the parties agree as follows:

A. Management, Maintenance, and Operation

1. The City shall be responsible for the ongoing management, maintenance, and operation of the Property in accordance with the terms of this Agreement.
2. The Property shall be managed, maintained and operated in accordance and in a manner consistent with this Agreement, Metro’s Greenspaces Master Plan, the Metro Open Spaces Bond Measure, the Woodard Park Concept Plan, and ODOT’s Conceptual Wetlands Mitigation Plan (collectively, “the Plans”). These Plans shall constitute the Resource Protection Plans for the Property, as described in the Metro Greenspaces Master Plan. In case of conflict among Plans, the Plan affording the highest level of resource protection shall govern.
3. If Metro executes an agreement to purchase additional property within the Fanno Creek Greenway Target Area which Metro would like the City to manage under the terms of this Agreement, Metro shall notify the City in writing in the form attached hereto as Exhibit C (“Notice of Acquisition”). The City shall notify Metro if the City does not wish to accept management responsibilities for that additional property in accordance with this Agreement, using the City’s best efforts to make this notification prior to the closing date for the acquisition. If the City has not so notified Metro within thirty (30) days of receiving Metro’s Notice of Acquisition, then the City shall be deemed to have accepted the additional property for management, maintenance and operation responsibilities in accordance with the terms and conditions of this Agreement.

4. Metro grants to the City, its agents and contractors, the right to enter the Property for the purpose of performing all activities reasonably necessary for the management, maintenance and operation of the Property under the Plans.
5. The term of the City's management, maintenance, and operation responsibilities for the Property shall be twenty (20) years from the date of this Agreement. This Agreement shall renew automatically for an additional ten-year term, unless earlier terminated under Section E (4-5), or unless either party provides notice of intent not to renew prior to the expiration of the current term.

C. Limitations on Use

1. The Property shall be managed, maintained and operated in accordance with its intended use as natural area open space, with the primary goal being protection of the Property's natural resources, enhancement and protection of wildlife habitat, and public recreation consistent with the foregoing.
2. The Property may be used by the public, in the City's discretion, for preservation, restoration and enhancement of riparian vegetation and wildlife habitat, passive recreation, pedestrian activity, and non-motorized bicycle use. The City shall give Metro ninety (90) days' advance written notice of its intent to construct any improvements, trails, or alteration of water or timber resources on the Property. Such notice shall demonstrate, to Metro's sole satisfaction, consistency with Metro's Greenspaces Master Plan and the City's Woodard Park Concept Plan. Metro shall have the right to approve of the items contained in the notice, which approval shall not be unreasonably withheld. In any event, no improvements or trails shall be constructed on the Property and no alteration of water or timber resources shall occur that are inconsistent with this Agreement or with the Plans.

The City's Woodard Park Concept Plan provides for a proposed ODOT wetlands mitigation project, further described in ODOT's Conceptual Wetlands Mitigation Plan, attached hereto and incorporated herein as Exhibit D. In exchange for ODOT wetlands enhancement performed pursuant to the Conceptual Mitigation Plan, ODOT requires a perpetual wetlands mitigation easement over that portion of the Property enhanced for mitigation. The terms of the wetlands mitigation shall be subject to Metro approval.

3. Metro shall have the right to review and comment on any changes in the Plans relating to the management, maintenance, or operation of the Property. Any changes in the Plans made or proposed by the City that relate to management, maintenance, or operation of the Property shall not conflict with the guidelines set forth in this Agreement, in Metro's Greenspaces Master Plan, or with the uses and restrictions described in the Metro Open Spaces Bond Measure. The City shall give Metro written notice as soon as possible, but in no event less than 90 days, in advance of a proposal to amend the City's Plans, where such amendment would alter the City's management, maintenance or operation of the Property.
4. The Property shall not be subdivided or partitioned, nor shall any development rights, timber rights, mineral rights, or other rights related to the Property be sold or otherwise granted, nor

shall there be any alteration of any water or timber resource, except as necessary for construction of trail or other improvements, for the purpose of enhancing wetlands and improving resource values, or as necessary to protect public safety.

5. Metro has implemented the following stabilization and security measures prior to executing this Agreement. On the date of this Agreement, the City shall assume all continuing maintenance obligations for these measures:
 - Mowing the upland portion of the Property;
 - Controlling access to the Property through gates and fencing, to prevent unauthorized use and illegal dumping; and
 - Managing “danger trees,” to prevent damage to surrounding property.
6. The City shall maintain security of the Property, and shall provide additional fencing, gates, signage, and other measures as the City may deem necessary to increase safety on the Property, and to preserve and protect the Property’s natural resources.

D. Permits, Easements, Assessments, Coordination with Other Public Agencies

1. As stated in Metro’s Greenspaces Master Plan, by accepting management responsibility for the Property, the City agrees to be responsible for funding the operation and maintenance of the Property with the City’s own resources. The City’s management responsibility shall include responsibility for all taxes or assessments for the Property.
2. The City shall be responsible for obtaining any permits necessary for management, maintenance or operation of the Property.
3. Any permits granted by the City to users of the Property shall comply with the terms and limitations set forth in this Agreement and in the Plans.
4. The City shall be responsible for contacting and coordinating with other local or state agencies regarding any management, maintenance or operation issues that may arise with respect to the Property.
5. All future requests for easements, rights of way, and leases on or affecting the Property shall be submitted to Metro in accordance with the Metro Easement Policy, Resolution No. 97-2539B, passed by the Metro Council on November 6, 1997, attached hereto as Exhibit E.

E. General Provisions

1. **Indemnification.** The City, to the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30, shall defend, indemnify and save harmless Metro, its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort,

contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, relating to or resulting from the management, maintenance or operation of the Property, including but not limited to construction of trails or in relation to any other improvement on the Property.

2. Oregon Constitution and Tax Exempt Bond Covenants. The source of funds for the acquisition of the Property is from the sale of voter-approved general obligation bonds that are to be paid from *ad valorem* property taxes exempt from the limitations of Article XI, section 11(b), 11(c), 11(d) and 11(e) of the Oregon Constitution, and the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The City covenants that it will take no actions that would cause Metro to be unable to maintain the current status of the real property taxes as exempt from Oregon's constitutional limitations or the income tax exempt status of the bond interest. In the event the City breaches this covenant, Metro shall be entitled to whatever remedies are available to either cure the default or to compensate Metro for any loss it may suffer as a result thereof.
3. Funding Declaration and Signs. The City may provide on-site signs informing the public that the City is managing the site. Metro will provide on-site signs which shall be installed by the City, stating that funding for the acquisition came from Metro's Open Spaces Bond Measure proceeds. The City shall also document in any publication, media presentation or other presentations, that funding for the acquisition came from Metro's Open Spaces Bond Measure proceeds. All signs will be consistent with Metro guidelines for Open Spaces Projects.
4. Joint Termination for Convenience. Metro and the City may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective upon ten (10) days written notice of termination issued by Metro, subject to the mutual written agreement of the parties.
5. Termination for Cause. Either party may terminate this Agreement in full, or in part, at any time before the date of completion, whenever that party determines, in its sole discretion, that the party has failed to comply with the conditions of this Agreement and is therefore in default. The terminating party shall promptly notify the other party in writing of that determination and document such default as outlined herein. The other party shall have thirty (30) days to cure the problem. Notwithstanding any termination for cause, both parties shall be entitled to receive payments for any work completed or for which that party is contractually obligated for, which completion or contractual obligation occurred prior to the effective date of the termination, provided that no party shall be obligated to make any payment except for work specifically provided for in this Agreement.
6. Law of Oregon. This Agreement shall be governed by the laws of the state of Oregon, and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement, including but not limited to ORS 279.015 to 279.320.

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

To Metro: Metro
Charles Ciecko
Director, Metro Regional Parks and Greenspaces
600 N.E. Grand Avenue
Portland, OR 97232-2736

To City: City of Tigard
Jim Hendryx
Community Development Director
13125 S.W. Hall Boulevard
Tigard, OR 97204

8. **Assignment.** The parties may not assign any of its rights or responsibilities under this Agreement without prior written consent from the other party, except the parties may delegate or subcontract for performance of any of its responsibilities under this Agreement.
9. **Severability.** If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.
10. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or representations relating to the Property. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

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

CITY OF TIGARD

METRO

By: _____
Title: _____

By: _____
Mike Burton, Executive Officer

Exhibits:

- Exhibit A - Legal Description
- Exhibit B - Woodard Park Concept Plan
- Exhibit C - Form of Notice of Acquisition
- Exhibit D - ODOT Wetland Mitigation Project Plans and Easement
- Exhibit E - Metro Easement Policy and Metro Resolution No. 97-2539B

EXHIBIT A**“Lowery Property” Legal Description**

PARCEL 1: Lot 17, GREENBURG HEIGHTS ADDITION, in the City of Tigard, County of Washington and State of Oregon. EXCEPT portion taken for street purposes.

PARCEL 2: Lot 14, GREENBURG HEIGHTS ADDITION, in the City of Tigard, County of Washington and State of Oregon, EXCEPTING that portion lying within the boundaries of that certain tract conveyed to Otto Blum, et ux, by deed recorded June 9, 1954 in Deed Book 357, Page 19, Deed Records and EXCEPT portion taken for street purposes.

PARCEL 3: Portion of Lot 15, GREENBURG HEIGHTS ADDITION, in the City of Tigard, County of Washington and State of Oregon, described as:

Beginning at the most Northerly corner common to Lots 14 and 15 of GREENBURG HEIGHTS ADDITION (a duly recorded plat) and running thence North 89° 23' East 73.44 feet along the Northerly boundary line of Lot 15 of said plat, to a point on the West line of that certain tract conveyed to Weslie H. Flye, et ux, by deed recorded March 1, 1941 in Book 196, Page 543; thence South 0° 45' East along the West line of said Flye Tract 235.0 feet to an iron rod, said iron rod marking THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; thence continuing South 0° 45' East along the West line of said Flye Tract 184.20 feet to an iron rod set in the Southerly boundary line of said Lot 15; thence South 89° 38' West 73.44 feet along the Southerly boundary line of Lot 15 to the Southwest corner thereof; thence North along the West line of said Lot 15, North 0° 45' West 183.7 feet, more or less, to a point on the South line of the Otto Blum Tract as described in deed recorded in Book 357, Page 19, Deed Records, Washington County, Oregon; thence North 89° 23' East 73.44 feet to the true point of beginning.

EXHIBIT A-1

“Property” Legal Description

PARCEL 1: Lot 17, GREENBURG HEIGHTS ADDITION, in the City of Tigard, County of Washington and State of Oregon. EXCEPT portion taken for street purposes.

PARCEL 2: Lot 14, GREENBURG HEIGHTS ADDITION, in the City of Tigard, County of Washington and State of Oregon, EXCEPTING that portion lying within the boundaries of that certain tract conveyed to Otto Blum, et ux, by deed recorded June 9, 1954 in Deed Book 357, Page 19, Deed Records and EXCEPT portion taken for street purposes, *and EXCEPTING therefrom the easterly 20 feet of Lot 14, GREENBURG HEIGHTS ADDITION.*

PARCEL 3: The Southerly 50 feet of the following described parcel of land: a portion of Lot 15, GREENBURG HEIGHTS ADDITION, in the City of Tigard, County of Washington and State of Oregon, described as:

Beginning at the most Northerly corner common to Lots 14 and 15 of GREENBURG HEIGHTS ADDITION (a duly recorded plat) and running thence North 89° 23' East 73.44 feet along the Northerly boundary line of Lot 15 of said plat, to a point on the West line of that certain tract conveyed to Weslie H. Flye, et ux, by deed recorded March 1, 1941 in Book 196, Page 543; thence South 0° 45' East along the West line of said Flye Tract 235.0 feet to an iron rod, said iron rod marking THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; thence continuing South 0° 45' East along the West line of said Flye Tract 184.20 feet to an iron rod set in the Southerly boundary line of said Lot 15; thence South 89° 38' West 73.44 feet along the Southerly boundary line of Lot 15 to the Southwest corner thereof; thence North along the West line of said Lot 15, North 0° 45' West 183.7 feet, more or less, to a point on the South line of the Otto Blum Tract as described in deed recorded in Book 357, Page 19, Deed Records, Washington County, Oregon; thence North 89° 23' East 73.44 feet to the true point of beginning.

EXHIBIT B
(Woodard Park Concept Plan)

CITY OF TIGARD, OREGON

RESOLUTION NO. 99- 13

A RESOLUTION OF THE TIGARD CITY COUNCIL ADOPTING A CONCEPT PLAN FOR THE DEVELOPMENT AND EXPANSION OF WOODARD PARK

WHEREAS, the City Council in February 1997 appropriated funds for the preparation of a master plan for Woodard Park and an abutting seven-acre area;

WHEREAS, a consultant was hired in October 1997 to work with neighborhood residents, the Planning Commission, and a citizen task force on the development of the plan; and

WHEREAS, the master plan process has insured the opportunity for all citizens and other interested parties to be involved in all phases of the development of the Woodard Park concept plan; and

WHEREAS, the Tigard Planning Commission, following a public hearing held on February 1, 1999, endorsed the Woodard Park Concept Plan with two revisions; and

WHEREAS, the seven acres within the area prosed for the expansion of Woodard Park were purchased by the Metropolitan Service District using regional Greenspaces funds; and

WHEREAS, Metro will allow the City to operate and manage the seven acres as part of the city park system, subject to the approval of a master plan for the site.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that: (enter info here)

SECTION 1: The Tigard City Council adopts the Woodard Park Concept Plan as modified by the Tigard Planning Commission and directs City staff to forward the plan for Metro Council review and approval.

SECTION 2: Any future improvements or modification to the old and new portions of Woodard Park shall conform to the concepts contained in the the Woodard Park Concept Plan plus any modifacitions or refinements adopted by the Metro Council.

PASSED: This 2nd day of March 1999.



Mayor - City of Tigard

ATTEST:

RESOLUTION NO. 99-13

Catherine Wheatley
City Recorder - City of Tigard

i:\citywide\resolut.dot



City of Tigard
PARK SYSTEM MASTER PLAN

Woodard Park Concept Plan
January 1999

Prepared by:

MIG, Inc.
199 East 5th Avenue, Suite 33
Eugene, Oregon 97401
(541) 683-3193

INTRODUCTION

Woodard Park is a three-acre neighborhood park on Fanno Creek near Fowler Middle School. It currently contains two play structures, picnic tables, and an asphalt trail from Johnson Street to Karol Court. Fanno Creek forms the boundaries on the south and east sides and floods the park almost annually. On the north, the park is bordered by residences and by seven acres recently acquired by Metro through the Greenspaces Program. According to the Fanno Creek Trail Master Plan, a segment of the trail will eventually go through both Woodard Park and the Metro property.

As part of the Park System Master Plan process for the City of Tigard, MIG, Inc. was asked to develop a concept plan for Woodard Park and the adjacent Metro property.

PUBLIC INVOLVEMENT

A community workshop was held in March 1998, to gather input from neighbors and other interested community members about the future of this neighborhood park and the adjoining acreage. MIG, Inc., led a site tour and, following the tour, facilitated a design workshop at Fowler Junior High School. Participants shared comments and observations, which were recorded on a large wallgraphic. They also submitted written comments. In general, the direction from the community was to go gently, make only minimal changes, keep the natural character, and provide picnic tables, benches, children's play areas, and a place for horseback riding. (For a complete summary, see Woodard Park Workshop Report, March 7, 1998.)

A second workshop was held in May in conjunction with the Citizens Involvement Team meeting. The purpose was to present two concepts in response to needs and concerns expressed during the first workshop. One concept showed recreational facilities on the existing Woodard Park site, and trails on the north acreage. The second concept was designed with minimal recreational facilities on the Metro property to the north, and floodplain and riparian restoration on the south. Both concepts included a proposed wetland mitigation area on Metro property that had been requested for use by Oregon Department of Transportation. Participants expressed a preference for the alternative showing recreational facilities on the north out of the floodplain, with the lower south side designated for floodplain and riparian restoration.

COORDINATION WITH METRO

Subsequent communications with Metro staff resulted in

- the removal of basketball/wall ball court to reduce the amount of impervious surface;
- the removal of soft-surface trail where it was redundant or where it might result in stream or wetland degradation; and
- the removal of a wetland overlook.

CONCEPTUAL PLAN

The resulting plan responds to the needs expressed by the community and the concerns articulated by Metro staff.

The main entrance to the park has been relocated to the north. A paved entrance and turnaround off of Katherine Street provide convenient access to children's play areas, a covered picnic area, restrooms, and Fanno Creek Trail. An open field for informal play lies to the south of Fanno Creek Trail. A soft surface trail allows park users to walk along the edge of the enhanced wetland. The existing barn is proposed for renovation as a park shelter.

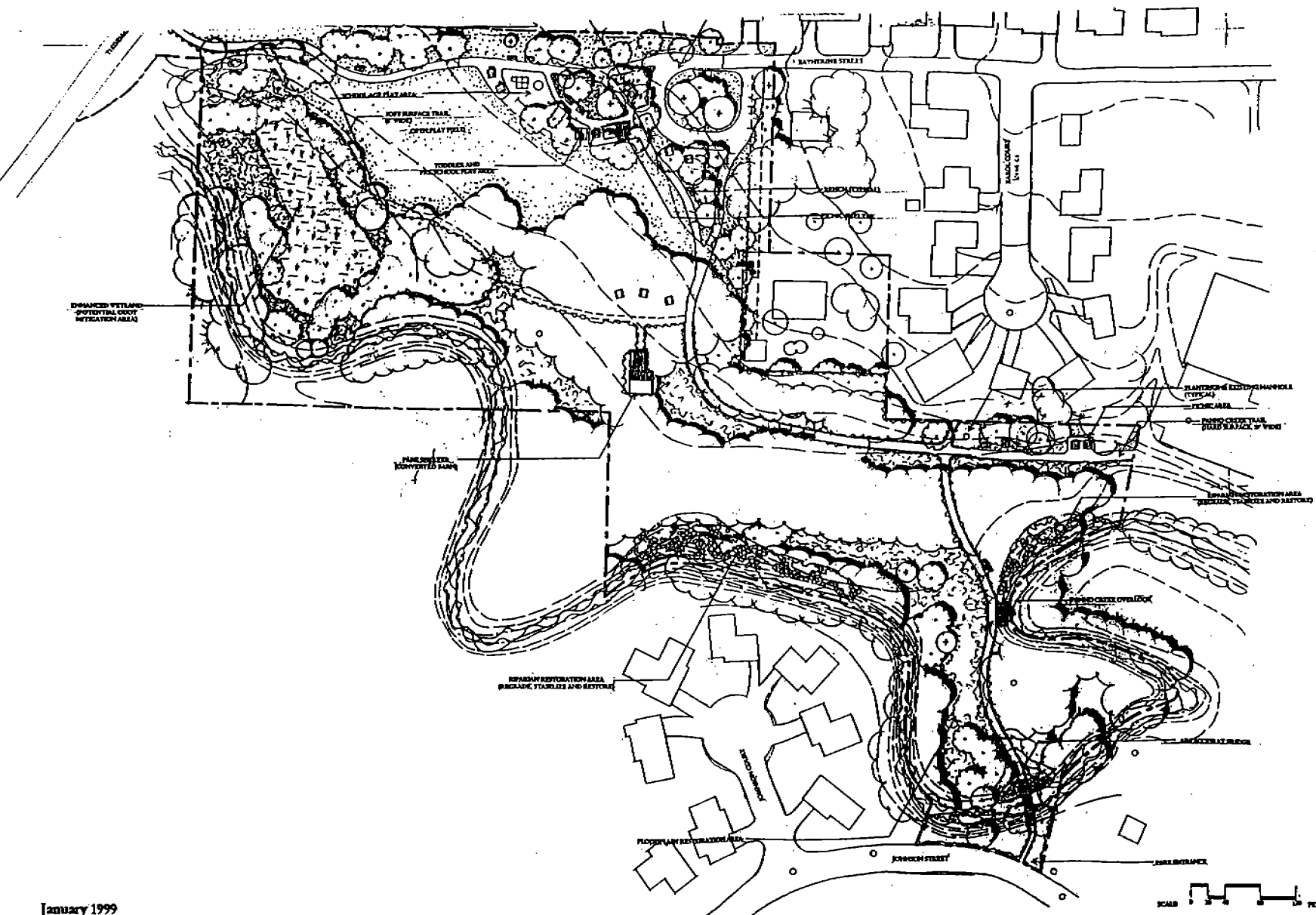
The southern portion of the park is devoted primarily to floodplain and riparian restoration. An all-weather trail leads to a creek overlook, and provides a connection to Fanno Creek Trail and to additional recreational facilities on the north.

Fanno Creek Trail enters the park at the eastern boundary, skirts the perimeter, and exits at Tiedeman Street. Picnic tables and benches are scattered along its length.

All four park entrances will be ADA accessible.

COST ESTIMATE

A preliminary cost for renovation and expansion of Woodard Park is included on the draft Ten-Year Capital Improvement Plan included in the draft Park System Master Plan.



January 1999

MIG

WOODARD PARK CONCEPTUAL PLAN



City of Tigard
13125 SW Hall Blvd

EXHIBIT C**Notice of Acquisition**

_____, 199__

City of
Parks and Recreation Department

, OR

Re: Acquisition of Property along [target area]

Dear _____:

Pursuant to the Metro Open Spaces Bond Measure 26-26, and the Intergovernmental Agreement between Metro and _____ dated _____, 1999, attached hereto ("Intergovernmental Agreement"), this shall serve as notice of acquisition of the following property along the [target area]:

[Property Address], in the City of _____, County of _____ and State of Oregon, being more particularly described in Exhibit I attached hereto ("the Property").

Pursuant to the Intergovernmental Agreement, Metro requests that the City manage this Property pursuant to the terms of the Intergovernmental Agreement. Please notify Metro in writing if the City does not wish to accept management responsibility for this Property. As set forth in the Intergovernmental Agreement, if the City does not so notify Metro within thirty (30) days of receipt of this letter, the City shall be deemed to have accepted the additional property for management, maintenance, and operation in accordance with the terms and conditions of the Intergovernmental Agreement.

If you have any questions, please do not hesitate to contact me at 797-1914.

Sincerely,

Jim Desmond, Manager
Metro Open Spaces Acquisition Division

cc: Charles Ciecko, Director, Metro Regional Parks and Greenspaces

EXHIBIT D
(ODOT Wetland Mitigation Project Plans)

EXHIBIT E

**Metro Easement Policy and
Metro Resolution No. 97-2539B**

BEFORE THE METRO COUNCIL

I HEREBY CERTIFY THAT THE FOREGOING IS A COMPLETE AND EXACT COPY OF THE ORIGINAL THEREOF.

Rebecca V. Shoemaker, Clerk
Clerk of the Metro Council

FOR THE PURPOSE OF APPROVING GENERAL)
POLICIES RELATED TO THE REVIEW OF)
EASEMENTS, RIGHT OF WAYS, AND LEASES)
FOR NON-PARK USES THROUGH PROPERTIES)
MANAGED BY THE REGIONAL PARKS AND)
GREENSPACES DEPARTMENT.)

RESOLUTION NO. 97-2539B

Introduced by
Mike Burton, Executive Officer

WHEREAS, Metro currently owns and manages more than 6,000 acres of regional parks, open spaces, natural areas, and recreational facilities; and

WHEREAS, additional lands are being acquired through the Open Space, Parks, and Streams Bond Measure, approved by voters in May of 1995; and

WHEREAS, the primary management objectives for these properties are to provide opportunities for natural resource dependent recreation, protection of fish, wildlife, and native plant habitat and maintenance and/or enhancement of water quality; and

WHEREAS, Metro will be approached with proposals to utilize regional parks, open spaces, natural areas, and recreational facilities property for utility, transportation, and other non-park purposes; and

WHEREAS, Metro seeks to insure that these uses have no negative impact upon the primary management objectives of Metro Regional Parks and Greenspaces properties; and

WHEREAS, it would be in Metro's best interest to provide for the orderly evaluation and consideration of proposals to utilize portions of Metro Regional Parks and Greenspaces properties for utility, transportation and other non-park uses; NOW THEREFORE,

BE IT RESOLVED, that the Metro Council hereby adopts the policy attached as Exhibit "A" for any and all requests related to formal proposals for the use of Metro Regional Parks and Greenspaces properties for the purposes noted therein.

ADOPTED by the Metro Council this 6th day of November, 1997.

Jon Kvistad
Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Cheryl By
Recording Secretary

Daniel B. Cooper
Daniel B. Cooper, General Counsel

Exhibit "A"

METRO POLICY RELATED TO THE REVIEW OF EASEMENTS, RIGHT OF WAYS, AND LEASES FOR NON-PARK USES

Metro owns and manages, either on its own or in partnership with other government and private entities, several thousand acres of regional parks, open spaces, natural areas and recreational facilities. These facilities are maintained to promote and preserve natural resources and recreational opportunities for the public consistent with the Greenspaces Master Plan adopted by the Metro Council in 1992, the Open Spaces Bond Measure approved by the voters in 1995 and other restrictions limiting the uses of specific properties in existence at the time of its acquisition by the public. Nothing in this policy shall be construed to allow these facilities to be used in any manner which detracts from this primary purpose. This policy is written from the perspective of Metro as the property owner, however, in those cases in which Metro co-owns a property with other entities, all decisions concerning the use of the property in question will be fully coordinated with the other owners. In addition, all new development and all proposed work within Water Quality Resource Areas or other environmentally sensitive work will be conducted in accordance with Metro or local government policies, to include where appropriate, application for permits and completion of environmental reviews. In event that local government policies are less restrictive than the Metro Model ordinances, Metro will apply the more restrictive Metro policies.

Regarding requests for easements, right of ways, and leases for non-park uses in Metro owned or managed regional parks, natural areas or recreational facilities, it is Metro's policy to:

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.
- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.
- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.
- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

- 5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.
- 6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.
- 7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.
- 8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.
- 9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.
- 10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.
- 11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.
- 12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.
- 13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:
 - a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.

b) Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.

c) Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.

d) If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

e) Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.

f) Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.

g.) Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state or local jurisdiction requirements.

REGIONAL PARKS AND GREENSPACES STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 97-2539A FOR THE PURPOSE OF APPROVING GENERAL POLICIES RELATED TO GRANTING OF EASEMENTS, RIGHT OF WAYS, LEASES AND LICENSES FOR NON-PARK USES THROUGH PROPERTIES MANAGED BY THE REGIONAL PARKS AND GREENSPACES DEPARTMENT.

Date: July 29, 1997

Presented by:
Charles Ciecko, Director
Regional Parks and Greenspaces

FACTUAL BACKGROUND AND ANALYSIS:

Metro through its Regional Parks and Greenspaces Department, currently owns and manages over 6,000 acres of regional parks, open spaces, natural areas, and recreational facilities. The primary management objectives for these lands is the provision of natural resource dependent recreation opportunities; protection of fish, wildlife and native plant habitat and the maintenance and/or enhancement of water quality.

From time to time, the Regional Parks and Greenspaces Department is approached with proposals to utilize portions of properties for non-park purposes, such as utilities, transportation components, cell phone towers etc. Currently, there is no policy to guide the review, analysis or authorization of uses which are unrelated to the primary management objectives.

The purpose of the proposed resolution is to create policy which will guide staff in responding to proposals for non-park uses.

Highlights of the proposed policy include:

- Formal review and approval of proposals by the Regional Parks and Greenspaces Advisory Committee, Regional Facilities Committee and full Council.
- Requires development of non-park uses outside of Regional Parks and Greenspace properties whenever feasible except when determined that the proposal use can be accommodated without significant impact.
- Requires full mitigation of all unavoidable impacts.
- Requires reimbursement of all costs associated with review, analyses and authorization for use.
- Requires receipt of not less than fair market value for all non-park uses.
- Requires full indemnification for Metro and insurance, if appropriate.
- Establishes limitations on exceptions.
- Establishes process for timely review, analysis and resolution of all proposals.

The Regional Parks and Greenspaces Advisory Committee considered this issue at their July 1, 1997 meeting and recommends its adoption.

BUDGET IMPACT:

The proposed policy requires receipt of not less than fair market value for non-park uses and reimbursement of all costs incurred by Metro thereby eliminating the potential of subsidizing uses which are inconsistent with the primary management objectives of Regional Parks and Greenspaces properties.

A Regional Parks and Greenspaces staff member will be present to answer any questions by Council regarding this policy.

EXECUTIVE OFFICER'S RECOMMENDATION:

The Executive Officer recommends adoption of Ordinance No. 97-2539A.

METRO OPERATIONS COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 99-2816, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF TIGARD TO MANAGER THE PROPERTY IN THE FANNO CREEK GREENWAY TARGET AREA.

Date: July 15, 1999

Presented by: Councilor Kvistad

Committee Action: At its July 7, 1999 meeting, the Metro Operations Committee voted 3-0 to recommend Council adoption of Resolution No. 99-2816. Voting in favor: Councilors Atherton, Kvistad and Washington.

Council Issues/Discussion: Resolution 99-2816 authorizes a 20-year management agreement with the City of Tigard, for land purchased by Metro under the Open Spaces, Parks and Streams bond measure. Heather Nelson Kent, Senior Manager with the Parks and Greenspaces department, made the staff presentation. This 6.8 acre purchase, also known as the "Lowery Property," is adjacent to an existing Tigard park; Woodard Park. Tigard has approved a master plan for the combined park area that will ensure that the Lowery Property is operated consistent with the Open Spaces bond measure.

A $\frac{3}{4}$ acre portion of the property, including a house, is excluded from the Woodard Park Concept Plan. Tigard is not interested in this portion of the property. The committee discussed the options for the house and $\frac{3}{4}$ acre parcel with Jim Desmond, Open Spaces Manager. It is not clear at this point whether the parcel should be put up for sale, and if so, the exact limitations for which the proceeds could be put to use. Staff will continue to track this issue with the committee, including the development of new policy, if needed.

REGIONAL PARKS AND GREENSPACES STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2816 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF TIGARD TO MANAGE THE PROPERTY IN THE FANNO CREEK GREENWAY TARGET AREA

Date: June 16, 1999

Presented by: Heather Nelson Kent

Proposed Action

Resolution No. 99-2816 requests authorization for the Executive Officer to execute an intergovernmental agreement (IGA) with the City of Tigard for management, maintenance and operations responsibilities for the Lowery property.

Background and Analysis

In 1995 voters approved the Open Spaces, Parks and Streams bond measure, authorizing Metro to purchase property in the Fanno Creek Greenway. On June 9, 1997, Metro purchased property from the Lowery family, located in the Fanno Creek Greenway. Adjacent to the property, the City of Tigard owns and operates an existing park, Woodard Park. The City of Tigard initiated a master planning process to determine appropriate future use of the existing Woodard Park including Metro's adjacent acquisition. The City did not include the home located on the Lowery property as part of the planning area.

After input from area residents, the Tigard City Council approved the Woodard Park Concept Plan on March 2, 1999. Under the proposed IGA, the City of Tigard commits that the Lowery property be integrated with the rest of Woodard Park and that the entire park be managed consistent with the adopted Woodard Park Concept Plan, the Metro Open Spaces Bond Measure and the Metro Greenspaces Master Plan. The home, access drive and area immediately around the home would remain the responsibility of Metro (see legal description for details). In addition, the Woodard Park Concept Plan provides for the potential creation of improved wetland habitat through an agreement with ODOT for a wetland mitigation project on the Lowery property. The ODOT wetland mitigation project will require a perpetual easement encumbering that portion of the Property enhanced by ODOT. The terms of the easement will be subject to Metro's approval.

The Open Spaces, Parks and Streams bond measure encourages cooperative arrangements with other park providers, and does not provide any funds for operating expenses of open space property. The proximity of the Property to other City of Tigard park property makes management of the site more efficient, and therefore appropriate,

for the City of Tigard, rather than Metro. Under this agreement, the Lowery property is more likely to become available for public use and benefit at an earlier date than if Metro retains all operations and management responsibilities and the property is landbanked for an indefinite period of time. The Intergovernmental Agreement will relieve Metro of management costs, other than management and maintenance of the house, while fulfilling acquisition objectives related to the protection of regionally significant open spaces.

Budget Impact

The City of Tigard would become responsible for the management, maintenance and operation of the Property. This would reduce Metro's land-banking costs and future operation and maintenance expenses.

Executive Officer's Recommendation

The Executive Officer recommends passage of Resolution No. 99-2816.