



Metro Contract No.

INTERGOVERNMENTAL AGREEMENT
Metro – City of Tualatin

This Intergovernmental Agreement (this "Agreement"), dated effective as of the last day of signature set forth below (the "Effective Date"), is entered into under the provisions of ORS Chapter 190 by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter ("Metro"), and the City of Tualatin ("City").

BACKGROUND

A. The electors of Metro approved Ballot Measure 26-203 on November 5, 2019 (the "Measure") authorizing Metro to issue \$475 million in general obligation bonds to preserve natural areas, clean water, and protect fish and wildlife. The Measure allocates up to \$155 million to use for the protection and connection of river and stream banks, headwaters, floodplains, wetlands, oak and prairie habitat, and forests and culturally significant sites, and up to \$40 million to use for secure land to build new trails.

B. On April 14, 2022, the Metro Council adopted Resolution No.22-5250 "For the Purpose of Approving Acquisition Target Area Refinement Plans for the 2019 Parks and Nature Bond Measure" (the "Refinement Plan"). The Refinement Plan identifies Tualatin River Greenway as one of fifty-seven regional trail corridors eligible for bond funding.

C. Nearly five miles of the Tualatin River Greenway are within City's jurisdictional boundaries, with approximately 4.6 miles of trail already constructed. The trail is a highly utilized recreation and transportation corridor for City residents and visitors. Continued development and maintenance of the trail is supported by the City of Tualatin Parks and Recreation Master Plan.

D. City has an opportunity to acquire certain 2.58-acre property located on a planned portion of the Tualatin River Greenway from a willing-seller owner (the "Property"). Acquisition of the Property would allow City to construct and manage approximately 425 additional feet of the Tualatin

River Greenway, completing a critical gap in the trail and providing for a safe crossing below Boones Ferry Rd, along the banks of the Tualatin River. In addition, this property will allow for a connection from the Tualatin River Greenway to downtown Tualatin, including the library and other important community hubs.

E. Metro desires to provide City with acquisition funding, as Metro has visited the Property and determined that the public acquisition of the Property meets the criteria outlined in the Measure and the goals outlined in the Refinement Plan.

F. The parties desire to enter into this Agreement to set forth the conditions under which Metro will provide Measure funds to City to assist with the acquisition of the Property, to ensure that City can purchase approximately 2.58 acres and construct 425 feet of trail, closing a critical gap in the Tualatin River Greenway.

AGREEMENT

1. Identified Acquisition; Funding Commitment.

a. City intends to purchase fee title to the Property, which Property is more specifically described on Exhibit A. Subject to the terms and conditions set forth in this Agreement, and in exchange for the City's commitment to permanently protect the Property for construction and operation of the Tualatin River Greenway Trail, Metro will provide acquisition funding to City in the amount of \$400,000 (the "Metro Contribution").

b. Metro will be obligated to pay the Metro Contribution to City only upon City's compliance with all applicable terms and conditions of this Agreement. Metro's obligation to provide funding for the acquisition of the Property terminates two (2) years after the Effective Date of this Agreement. If the Metro Contribution has not been provided to City within two (2) years of the Effective Date, this Agreement automatically expires, and neither party will have any remaining rights or obligations.

2. Conditions to Metro Funding. Metro will provide the Metro Contribution to City for the sole purpose of funding City's acquisition of the Property upon the following conditions: (a) fee title to the Property will be acquired from a willing seller(s); (b) City will not have exercised any powers of eminent domain; (c) title to the Property will be held in City's name; (d) City performs commercially reasonable due diligence prior to acquisition and confirms there are no encumbrances, conditions or other issues that would materially restrict City's ability to use and manage the Property as a trail in accordance

with Section 5 below; and (e) the Metro Contribution does not exceed the Property's market value, as such value is reasonably determined by Metro.

3. Funding Request Procedure. City will provide Metro with (a) a copy of the Purchase and Sale Agreement for the Property, fully executed by City and the willing-seller, identifying the agreed-upon purchase price, (b) a copy of City's appraisal of the Property, and (c) a completed Funding Request Form, which among other things documents the estimated closing date for the transaction and wiring instructions for transmittal of the Metro Contribution to City's account. The Funding Request Form is attached hereto as Exhibit B. Within 45 business days of receipt of all necessary documents, and after a determination that the conditions to funding set forth in Section 2 have been satisfied, Metro will transfer to City the Metro Contribution. If City for any reason does not close on the acquisition of the Property within 150 days after receiving the Metro Contribution, City will immediately return the Metro Contribution to Metro.

4. Post-Closing Documentation. Within thirty (30) days of closing on the acquisition of the Property, City will provide Metro with a copy of the final settlement statement.

5. Funding Limitations. The Metro Contribution being provided to City constitutes proceeds from tax-exempt general obligation bonds issued by Metro for the purposes described in the Measure. To comply with the Oregon Constitution and other applicable state and federal laws, City agrees that the Metro Contribution will only be used to pay for (a) the purchase the Property and (b) certain associated real estate due diligence and closing costs that are defined as "capital costs" under City's own financial and accounting policies. City will value the Property as a capital asset in an amount no less than the acquisition amount provided to City and record the capital asset in City's audited financial statement, consistent with Generally Accepted Accounting Principles and with City's financial bookkeeping of other similar assets.

6. Ongoing Management Responsibilities. As consideration for the Metro Contribution, City agrees to operate and maintain the Property consistent with the Measure's purpose of securing properties to close gaps in the Tualatin River Greenway from Tualatin Community Park to River Run Park. City agrees to maintain the Property to protect water quality and wildlife habitat for generations to come, support climate resiliency, or increase people's experience of nature at the community scale.

7. Prohibited Transfers. To ensure compliance the Oregon Constitution and other applicable state and federal laws with respect to the permitted expenditure of tax-exempt general obligation bond proceeds, City recognizes that any sale or transfer of the Property prior to 2054 (the final maturity of the bonds from the Measure) will require the repayment of Metro Contribution to Metro. City will therefore not transfer, sell or otherwise authorize the use of the Property by a non-public entity for any purpose inconsistent with Section 5 above unless first approved in writing by Metro. Notwithstanding the limitations set forth herein, the parties acknowledge that a de minimis portion of the Property may be transferred or put to another use, which may include, but is not limited to, a road dedication, utility requirements or other requirements necessary to comply with any land use review proceeding initiated to use the overall Property consistent with this Agreement.

8. Oregon Constitution and Tax-Exempt Bond Covenants. City acknowledges that Metro's source of funds for this Agreement is from the sale of voter-approved general obligation bonds that are to be repaid using ad valorem property taxes exempt from the limitations of Article XI, Sections 11 and 11b, of the Oregon Constitution, and that certain interest paid by Metro to bond holders is currently exempt from federal and Oregon personal income taxes. City covenants and agrees that in addition to complying with Sections 4, 5 and 6 above, (a) it will take no actions that would jeopardize Metro's general obligation bond levy as exempt from Oregon's constitutional property tax limitations or the income tax exempt status of the bond interest under IRS rules, and (b) it will only use all funds disbursed pursuant to this Agreement to pay for or reimburse costs that are of a type that are properly chargeable to a capital cost (or would be so chargeable with a proper election) to comply with the Oregon Constitution and other applicable laws with respect to the permitted expenditure of general obligation bond proceeds. If City breaches these covenants, City will undertake whatever remedies are necessary to cure the default and to compensate Metro for any loss it may suffer as a result thereof.

9. Funding Recognition. City will recognize Metro and the source of funding from the Measure in any publications, media presentations, or other presentations relating to or describing the Property or the completion of the Tualatin River Greenway trail gap segment where the Property is located. City may include recognition of Metro and the Measure on on-site documentation, for example signs, and in any published final products and visual presentations, web site information, collateral materials, newsletters, and news releases.

10. Records, Audits and Inspections. City will maintain records and documentation relating to its acquisition of the Property. City will maintain such records for the longer period of either (a) 3 years after 2054 (the final maturity of the bonds from the Measure); or (b) until the conclusion of any audit, controversy, or litigation that arises out of or is related to this Agreement and that starts within 6 years from the date of termination of this Agreement. City must make records available to Metro and its authorized representatives, including but not limited to the staff of any department, at reasonable times and places regardless of whether litigation has been filed on any claims.

11. Indemnification. Subject to the limitations and conditions of the Oregon Constitution and the Oregon Tort Claims Act, City will indemnify, defend, and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with City's acquisition of the Property or City's performance of this Agreement.

12. Notices. Any notices permitted or required by this Agreement must be in writing to the addresses set forth below and will be deemed given upon (a) personal service, (b) deposit in the United States Mail, postage prepaid, (c) deposit with a nationally recognized overnight courier service or (d) by email delivery, if sent on a business day between the hours of 7:00am and 6:00pm Pacific Time, or on the next business day if the email is sent outside of these hours. All such notices will be deemed received as follows: (i) upon personal service, (ii) three (3) days after deposit in the US Mail, postage prepaid, (iii) one (1) day after deposit with a nationally recognized overnight courier service or (iv) on the date of delivery of the email, provided that the email is sent on a business day during the hours stated above, or on the next business day if the email is sent outside of the hours stated above.

City's Designated Representatives:

Parks and Recreation Director
City of Tualatin
18880 SW Martinazzi Ave.
Tualatin, OR 97062
Email: _____
Phone: 503-692-2000

Metro's Designated Representatives:

Conservation Program Manager
Metro
600 NE Grand Ave.
Portland, OR 97232
Phone: 503-797-1819

The parties may change the addresses by written notice, given in the same manner. Notice given in any manner other than the manners set forth above will be effective when received by the party for whom it is intended. Telephone numbers are for information only.

13. Dispute Resolution. The Parties will negotiate in good faith to resolve any dispute arising out of this Agreement. If the Parties are unable to resolve any dispute within 14 calendar days, the Parties will attempt to settle any dispute through mediation. The Parties will attempt to agree on a single mediator. The parties will share the cost of mediation equally.

14. Assignment; Entire Agreement; Merger; Waiver. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by City without Metro's written consent, which may be withheld in Metro's sole discretion. This Agreement and attachments are the entire agreement between the parties. The failure to enforce any provision of this Agreement does not constitute a waiver by either party of that or any other provision. Any waiver of any breach is not a waiver of any succeeding breach or a waiver of any provision.

15. No Third-Party Beneficiaries; Relationship of Parties. City and Metro are the only parties to this Agreement and are the only parties entitled to enforce its terms and the sole beneficiaries. Nothing in this Agreement gives, is intended to give, or will be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons any greater than the right and benefits enjoyed by the general public. Nothing in this Agreement nor any acts of the parties hereunder will be deemed or construed by the parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture or any association between any City and Metro.

16. Further Assurances. Each of the parties will execute and deliver any and all additional papers, documents, and other assurances, and will do any and all acts and things reasonably necessary in connection with the performance of their obligations under this Agreement and to carry out the intent and agreements of the parties.

17. Severability; Counterparts; Electronic Execution. If any term or provision of this Agreement is held invalid or unenforceable by a court order or judgment, the validity of the remaining provisions is not

affected. This Agreement may be executed in counterparts, each of which, when taken together, constitute fully executed originals. Electronic signatures, including email or other digital signatures, operate as original signatures with respect to this Agreement.

The parties have executed this Agreement as of the Effective Date.

Metro

City of Tualatin

By:

By:

Name: _____
Marissa Madrigal

Name: _____

Title: _____
Chief Operating Officer

Title: _____

Date: _____

Date: _____

EXHIBIT A

Legal Description of Property

For APN/Parcel ID(s): R533186

For Tax Map ID(s): 2S124B001300

Beginning at the stone set on the side of the Boones Ferry Road, which stone is the Southwest corner of that certain tract of land in Section 24, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon, conveyed to William Greenwood by deed recorded in Deed Book D page 191, and which stone is said to be 16.07 chains West and 27.34 chains South of the quarter corner on the North line of said Section 24, and running thence North 59° 28' East 65.0 feet to a point; thence North 19° 53' East 276.7 feet to an iron rod set North 70° 07' West 30.0 feet from the center of the South end of the State Highway Bridge across the Tualatin River; thence continuing North 19° 53' East 205 feet, more or less, to the North line of the land claim of William J. Barr and Mary Jane Barr as the same is described in Deed book M page 122; thence on said North line, and in the Tualatin River, West 453 feet, more or less, to the Northerly extension of the East line of that certain tract conveyed to Martin H. and Elsie V. Kuper as described in Deed book 188 page 361; thence South 0° 49' West 77 feet, more or less, to the Northeast corner of said Kuper tract in the Tualatin River; thence continuing South 0° 49' West on the East line of the Kuper tract, 60 feet, more or less, to iron pipe on the Southerly bank of the river; thence continuing South 0° 49' West 170.5 feet to an iron pipe at the Northeast corner of tract conveyed to the said Martin H. and Elsie V. Kuper by deed recorded in Deed Book 144 page 598; thence on the East line of said Kuper tract as the same is fenced and occupied South 0° 49' West 230.4 feet to an iron rod set on the monumented North line of the Boones Ferry Road; thence North 78° 08' East 245.8 feet to the place of beginning.

EXCEPTING THEREFROM that portion conveyed to State of Oregon, by and through its State Highway Commission in Warranty Deed, recorded September 28, 1966 in Book 616, Page 459.

FURTHER EXCEPTING THEREFROM that portion conveyed to State of Oregon, by and through its State Highway Commission in Easement for Channel Change, recorded September 28, 1966 in Book 616, Page 465, Washington County Deed Records.

Funding Request Form



2019 Parks and Nature Bond Measure (Acquisition Programs)
City of Tualatin
Robb Property
Date:

EXHIBIT B

Funding Request Form

Metro and City entered into an Intergovernmental Agreement dated _____, 2024 (the "IGA"). Pursuant to the IGA, Metro has agreed to provide City with acquisition funding to support City's purchase of certain property referred to as the Robb Property, which is more particularly described in the IGA.

By signing this Funding Request Form, City of Tualatin represents and warrants that:

- All the representations made by City in the IGA remains true and correct in all material respects.
- City has provided to Metro with all the documents and information required in Section 3 of the IGA.
- City has performed commercially reasonable due diligence and discovered no encumbrances, conditions or other issues that would materially restrict City's ability to use the Property for its intended purpose as a [natural area OR trail].
- City has an estimated Closing Date of _____, and is requesting Metro transfer to City the Metro Contribution in the amount of \$ _____ no later than _____, 2024.
- City's wire instruction information is attached to this Funding Request Form.

Signature

I declare that the above certifications and information contained herein is, to the best of my knowledge, true, correct and complete as of the date hereof.

Signature:

Name, Title:

Date:

[Public Entity]