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 PIERCE COUNTY, WASHINGTON

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 City of Tacoma  
 City Clerk's Office  
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**ORIGINAL**

<b>DOCUMENT TITLE</b>  Interlocal Agreement
<b>Grantor</b> City of Tacoma
<b>Grantee</b> Metropolitan Park District of Tacoma
<b>Description</b>  Interlocal Agreement with the Metro Parks to operate and maintain certain parks and facilities owned by the City.
<b>Reference Number</b>
<b>Assessor's Parcel Number</b>

**THE METROPOLITAN PARK DISTRICT OF TACOMA  
AND  
THE CITY OF TACOMA  
INTERLOCAL AGREEMENT**

THIS INTERLOCAL AGREEMENT, entered into this 6<sup>th</sup> day of Nov. 2008, under the authority of the Interlocal Cooperation Act, chapter 39.34 RCW, between the Metropolitan Park District of Tacoma, a municipal corporation ("Metro Parks") and the City of Tacoma, a political subdivision of the State of Washington ("City"), by which Metro Parks agrees to operate and maintain certain parks and facilities owned by the City.

**RECITALS**

WHEREAS, pursuant to chapter 39.34 RCW (Interlocal Cooperation Act), two or more public entities may contract with one another to perform government services, which each is by law authorized to perform, and

WHEREAS Metro Parks and the City find it mutually beneficial and in the public interest for the City to contract with Metro Parks for the provision of parks and parks facility operations and maintenance in certain City-owned parks and facilities, and

WHEREAS, Metro Parks has the necessary personnel, programs, and equipment and is willing to do undertake the obligations described in this Agreement, and

WHEREAS the parties wish to transfer or develop transition plans allowing for transfer of some City-owned properties to Metro Parks and to develop a sustainable plan for the funding of parks operations and maintenance;

Now, Therefore, in consideration of the mutual covenants and agreements herein, the adequacy of which is acknowledged by the parties, Metro Parks and the City agree as follows:

**AGREEMENT**

**SECTION 1. PURPOSE.**

Metro Parks and the City each own parks and facilities and offer recreation programs for the benefit of its constituents. Historically, Metro Parks has managed and maintained some City-owned parks and facilities and the City has provided funding for that work, pursuant to a 2004 Agreement, which Agreement expires December 31, 2008. The parties agree that it is to their mutual benefit and the

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benefit of the citizens of the City to centralize all park facilities, operation, and maintenance, with Metro Parks as the primary provider, whenever possible. This will allow the parties to gain efficiencies by reducing overhead and eliminating the duplication of efforts. The parties also wish to develop sustainable funding sources and strategies that will allow Metro Parks to manage all parks and facilities without the necessity of any City funding, with the goal of transferring ownership of some City-owned parks to Metro Parks before or throughout the term of this Agreement.

## **SECTION 2. DURATION OF AGREEMENT; TERMINATION**

The term of this Agreement shall begin on January 1, 2009, and shall expire on December 31, 2018; PROVIDED, that any party herein shall have the right to terminate this Agreement at the end of any calendar year, for any reason whatsoever, upon giving the other party a minimum of three hundred and sixty (360) days written notice in advance of the date of termination.

## **SECTION 3. TRANSITION PLAN AND CONVEYANCE OF PROPERTY.**

The parties agree to transfer ownership of the parks and facilities listed in Exhibit "A" hereto, from the City to Metro Parks, by appropriate conveyance on or about January 1, 2009. All capital improvements for these properties and facilities will be developed and funded by Metro Parks.

Ownership of the parks and facilities identified in Exhibit "B" shall remain with the City until such time as the parties, through good faith efforts, jointly develop and fund a capital improvement plan for the listed properties and facilities and develop and enter into a transition plan including resolution of any Charter considerations, as well as containing the elements discussed below. The capital improvement plan for the properties and facilities listed in Exhibit "B" shall be jointly developed by the City and Metro Parks and shall be completed in 2009.

The parties agree to include the above conditions in a transition plan for the properties, which must also include the following and is to be completed in 2009:

- A. Strategies and action plan that identify and put in place a sustainable revenue stream, including consideration for inflationary impacts in support of parks and recreation services;
- B. Definitions of and alignment of Metro Parks and City core responsibilities, including, but not limited to, utility management, paving, parking management, storm water management, open space, and large-scale special events.

The parks and facilities listed on Exhibit "D" are City-owned properties or jointly owned properties currently maintained and funded by Metro Parks. These properties were inadvertently omitted from the parties' 2004 Agreement. Operating

costs associated therewith have been accounted for in the beginning baseline figure as "Inventory Update" in Exhibit "E." Properties listed in Exhibit "D" will be conveyed to Metro Parks by January 1, 2009, with the exception of Ferry Park and the Proctor Community Garden.

All property conveyances shall be in accordance with applicable law and mutually acceptable restrictions, if any, on title to the properties.

#### **SECTION 4. RECREATION SERVICES.**

Citywide recreation services, as identified in but not limited to those listed in Exhibit "C," will be considered for funding by the City through its competitive grant or budget processes. Recreational services shall not be included in the baseline operating costs of this Agreement. See Exhibit "E."

#### **SECTION 5. RESPONSIBILITIES/SCOPE OF SERVICE/SERVICE LEVELS.**

Metro Parks shall provide park facility operations and maintenance services for each City-owned park or facility currently operated or maintained by Metro Parks, at the levels of service currently being provided, until conveyance of ownership pursuant to this Agreement for each such park or facility is complete.

Metro Parks service levels for City-owned properties and facilities for the Agreement period are defined in Appendix "F."

All new parks and recreation services will be considered, developed, and managed by Metro Parks. Potential City partnership in providing such services may include in-kind or future funding.

On an annual basis, Metro Parks shall provide to the City a report detailing the work and services provided and results of customer satisfaction surveys and interviews together with such performance measurement results as agreed to by the City Manager for the City and the Executive Director for Metro Parks. The performance measures shall be designed to capture information to aid in the evaluation of service delivery, costs of service delivery, and outcomes resulting from the programs and services provided.

#### **SECTION 6. BUDGET DEVELOPMENT AND PAYMENT TO METRO PARKS.**

The City will pay to Metro Parks, in equal monthly installments, \$3,086,936, for the period of January 1, 2009, through December 31, 2010, said sum being derived as set forth in Exhibit "F." Beginning January 1, 2010, this amount shall be reduced by \$100,000 per calendar year and shall not be adjusted for inflation. The monthly payment will be made not later than the tenth (10th) day of each month.

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## **SECTION 7. DEVELOPMENT OF ALTERNATE FUNDING.**

The City and Metro Parks agree to work cooperatively toward developing and proposing alternate, sustainable funding sources for park operations, management, and maintenance both during and after expiration of this Agreement.

The parties agree that should the alternate funding strategy require a legislative change, they will jointly lobby the appropriate legislative body for passage of such legislation. In addition, should the proposed alternate funding strategy require legislative action by either the City Council or the Board of Park Commissioners, the City Manager and the Executive Director agree to advance the proposal to their respective Council or Board. The parties agree that they will use best efforts to enable the alternate funding option to be developed and approved prior to termination or expiration of this Agreement.

Metro Parks shall remain eligible to apply for capital and operation grant funding from the City in accordance with the requirements of any grant that may be available.

## **SECTION 8. DISPUTE RESOLUTION.**

In the event of a dispute between Metro Parks and the City arising out of or relating to this Agreement, the Metro Parks Executive Director and the City Manager, or their designated representatives, shall review such dispute and options for resolution. If the dispute cannot be resolved by Metro Parks Executive Director and the City Manager, the dispute may be submitted to mediation, and if still not resolved, shall be submitted to binding arbitration in accordance with the rules and procedures set forth in chapter 7.04 RCW, and the judgment or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

## **SECTION 9. HOLD HARMLESS/INDEMNIFICATION.**

Metro Parks agrees to indemnify, defend, save, and hold harmless the City, its officials, employees, volunteers, and agents from any and all liability, demands, claims, causes of action, suits, or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance by Metro Parks of this Agreement, except for those damages caused by or arising out of the negligence, wrongful, or willful misconduct of the City, its elected and appointed officials, officers, employees, or agents.

The City agrees to indemnify, defend, save and hold harmless Metro Parks, its officials, employees, volunteers, and agents from any and all liability, demands, claims, causes of action, suits, or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out

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of, or in connection with, or incident to, the performance by the City of this Agreement, except for those damages caused by or arising out of the negligence, wrongful, or willful misconduct of Metro Parks, its elected and appointed officials, officers, employees, or agents.

In the event of liability for damages of any nature whatsoever arising out of the performance of this Agreement by Metro Parks and the City, including claims by Metro Parks or the City's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of Metro Parks and the City, their officers, officials, employees, and volunteers, each party's liability hereunder shall only be to the extent of that party's negligence.

If a particular work plan, service level, or service delivery method requested by the City creates additional liability beyond the types of liability Metro Parks assumed through its parks and recreation programs prior to consolidation, Metro Parks shall determine the value of such exposure within its current insurance policies and additional assumption of liability. That additional amount shall be included in the indirect costs paid to Metro Parks by the City. Metro Parks shall notify the City of such additional amounts, and the City shall have the option of withdrawing or modifying said proposal.

In the event of litigation between the parties to enforce rights under this section, reasonable attorney's fees and costs shall be allowed to the prevailing party.

#### **SECTION 10. NO THIRD PARTY BENEFICIARY.**

Metro Parks does not intend by this Agreement to assume any contractual obligations to anyone other than the City. The City does not intend by the Agreement to assume any contractual obligations to anyone other than Metro Parks. Metro Parks and the City do not intend for there to be any third-party beneficiary to this Agreement.

#### **SECTION 11. DISPOSITION OF EQUIPMENT UPON TERMINATION OF CONTRACT.**

In the event of a termination of this Agreement, any equipment or personal property used to effectuate this Agreement shall become the sole property of the party originally providing the equipment or personal property, unless it has been disposed of or is otherwise no longer available.

#### **SECTION 12. NOTICES.**

All notices, demands, or requests which may or are required to be given by one party to the other under this Lease shall be given in writing and hand delivered, or sent by United States registered or certified mail, postage prepaid, return receipt requested, and addressed to the Landlord's address or Tenant's address below, as

the case may be. Notices shall be deemed to have been given upon receipt or attempted delivery when delivery is not accepted. Either party may change its address upon notice given to the other.

**Metro Parks:**

Metropolitan Park District of Tacoma  
Attn: Executive Director  
4702 South 19<sup>th</sup> Street  
Tacoma, WA 98405

**City:**

City of Tacoma  
Attn: City Manager  
747 Market Street, Rm. 1200  
Tacoma, WA 98402

**SECTION 13. ENFORCEMENT, INTERPRETATION, AND VENUE.**

The laws of the State of Washington shall govern the validity, performance, interpretation, and enforcement of this Agreement. Should either party institute arbitration for enforcement or interpretation of any provision contained herein, the venue of such arbitration shall be in Pierce County, Washington.

The prevailing party in any arbitration or litigation arising out of this Agreement shall be entitled to reasonable attorney's fees, costs and expert witness fees.

The Parties agree that each of them were adequately represented by independent Council, and that both Parties shared equally in the drafting of this Agreement. Therefore, this Agreement shall not be construed either for or against the City or Metro Parks as drafter, but this Agreement shall be interpreted in accordance with the general tenor of the language in an effort to reach an equitable result.

**SECTION 14. INTEGRATION AND AMENDMENT.**

There are no oral agreements between the parties affecting the meaning, content, purpose, or effect of this Agreement. The provisions of this Agreement may be amended with the mutual consent of the parties. No additions to, or alterations of the terms of this Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of both parties.

This Agreement supersedes and replaces the agreement between the City of Tacoma and the Metropolitan Park District of Tacoma, dated July 22, 2004.

**SECTION 15. INVALID PROVISIONS.**

If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby, if such remainder would then continue to serve the purposes and objectives of the parties.

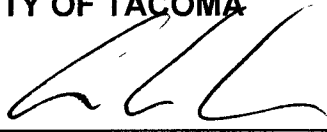
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**SECTION 16. FILING.**

A copy of this Interlocal Agreement shall be filed with the Pierce County Auditor, pursuant to chapter 39.34 RCW. A copy of this Interlocal Agreement will also be listed by subject on the City's and Metro Parks Web site or other electronically retrievable public source.

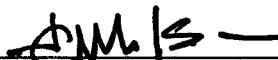
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**CITY OF TACOMA**



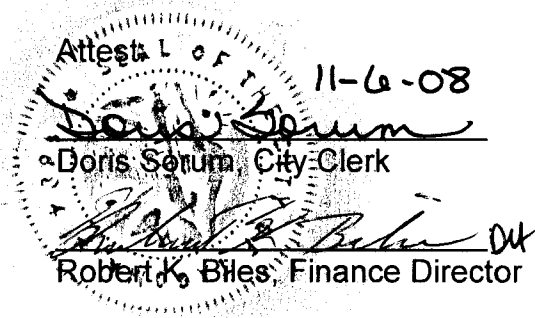


Eric A. Anderson, City Manager

**METROPOLITAN PARK DISTRICT OF TACOMA**

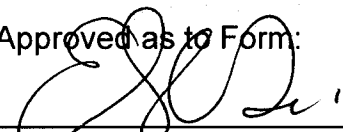
By:   
Its: EXECUTIVE DIRECTOR

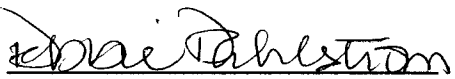
Attest:

  
Secretary of the Board of Park Commissioners

Attest:  11-6-08  
  
Doris Sorum, City Clerk  
  
Robert K. Biles, Finance Director

Approved as to Form:

  
City Attorney

  
Debbie Dahlstrom, Risk Manager

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**EXHIBIT "A"**

**Properties to be Transferred to Metro Parks**

Alderwood Park

Alling Park

Baltimore Park

Celebration Park

Cloverdale Park

Fern Hill Park

Lincoln/Eldridge Park

Lots for Tots

Neighbors Park

North Slope Historical Park

People's Park

Sawyer Tot Lot

Sheridan Park

Ursich Park

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Various small parcels within existing parks within the system

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Centre at Norpoint

Garfield Park

Peck Field

Snake Lake

Swan Creek

McKinley Park

China Lake

Old Town Park

Eastside Neighborhood Pool –Separate Operating Agreement Only

Wapato Hills Playfield – Separate Operating agreement only

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**EXHIBIT "B"**

**Additional Properties to be Transferred to Metro Parks**

Point Defiance Park

Ruston Way Parks and Facilities

Peoples Community Center

South End Neighborhood Center

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**EXHIBIT "C"**

**Citywide Recreation Services**

SPARX

Specialized Recreation

Outdoor Adventures

Summer Programs

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**EXHIBIT "D"**

**Inventory Update**

**City of Tacoma properties maintained by Metro Parks previously not included  
in the 2004 Maintenance and Service Agreement**

China Lake – Joint City/Metro Parks ownership

Garfield Park – Joint City/Metro Parks ownership

McKinley Park – Joint City/Metro Parks ownership

Ferry Park – City ownership confirmed

Proctor Community Garden – City ownership confirmed

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**EXHIBIT "E"**

**Beginning Baseline Operating Costs  
(Excludes Capital Improvement Costs)**

• Funding for the management, operation, programming of COT facilities and provision of Citywide recreation services	<b><u>\$3,700,000</u></b>
• Removing existing Citywide recreation services per contract from base (Exhibit "C")	<b><u>\$(579,585)</u></b>
• Inventory Update (Exhibit "D")	<b><u>\$66,521</u></b>
• Reduce by \$100,000	<b><u>\$(100,000)</u></b>
<b>2009 Base</b>	<b><u>\$3,086,936</u></b>

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**APPENDIX "F"**

**Park and Facility Maintenance Level of Service**

<b>Activity</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	<b>Level 4</b>
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**TURF:**

<b>Mowing</b>	Every 3-7 Days	Every 7 Days	Every 7-14 Days	2-3 Per Year
<b>Trim Out</b>	Every 7 Days	Every 7-14 Days	Every 14-30 Days	None
<b>Turf Fertilization</b>	4-6 lbs N per 1,000 Sq Ft – Annually	2-4 lbs N per 1,000 Sq Ft – Annually	0-2 lbs N per 1,000 Sq Ft – Annually	None

**LANDSCAPES:**

<b>Landscape Bed Maintenance</b>	6-10 x Annual	1x Every 1-3 Years	1x Every 4-8 Years	None
<b>Annual Bed Prep and Planting</b>	2 x Per Year	When Applicable	None	None
<b>Annual Bed Maintenance</b>	1 x Per Month	When Applicable	None	None

**TREES:**

<b>Tree Planting</b>	Per Schedule	Per Schedule	None	None
<b>Tree Maintenance</b>	1 x Every 4 Years	As Needed for Safety and Tree Health	As Needed for Safety and Tree Health	As Needed for Safety and Tree Health

**OTHER/INFRASTRUCTURE:**

<b>Litter</b>	5-7 x Per Week - Peak Season	5 x Per Week - Peak Season	2-3 x Per Week - Peak Season	None
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<b>Preventative Maintenance (roof cleaning, HVAC, boilers, pest control, fire systems, etc.)</b>	2-12 x Year	2 x Year	Safety / Preservation Only	Safety / Preservation Only
<b>Building Custodial</b>	Daily / Per Schedule	Daily / Per Schedule	When Scheduled	None
<b>Restrooms</b>	Daily / Peak Season – Some Year Round	Daily / Peak Season	When Scheduled	None
<b>Calendar O&amp;M (gutters, roofs, painting, windows, exterior building, etc.)</b>	2-12 x Year	2 x Year	None	None

**NOTE:** Further detail is provided in the Maintenance Management Plans as adopted by Metro Parks

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