

Metropolitan Parks and Open Space Commission

Meeting date: November 10, 2015

For the Community Development Committee meeting of November 16, 2015

For the Metropolitan Council meeting of December 9, 2015

<p>Subject: Land Exchange Agreement Amendment for Cottage Grove Ravine Regional Park, Washington County</p> <p>District(s), Member(s): MPOSC District F, Sarah Hietpas</p> <p>Policy/Legal Reference: System Protection Strategy 2, 2040 Regional Parks Policy Plan</p> <p>Staff Prepared/Presented: Jan Youngquist, AICP, Planning Analyst (651-602-1029)</p> <p>Division/Department: Community Development, Regional Parks and Natural Resources</p>

Proposed Action

That the Metropolitan Council approve an amendment to the Land Exchange Agreement between the Metropolitan Council and Washington County for Cottage Grove Ravine Regional Park dated February 2008, subject to the following conditions:

- Allow an acre for acre land replacement or an equally valuable facility exchange within Cottage Grove Regional Park that is acceptable to the Council to fulfill the remaining obligations of replacing 13.36 acres that were removed from the regional park.
- Provide a final extension of the expiration date to December 31, 2022, with consequences including, but not limited to, withholding regional parks funding to Washington County if the terms of the agreement are not met by the expiration date.

Background

Cottage Grove Ravine Regional Park is located north of Highway 61 and east of Keats Avenue in Cottage Grove and is owned and operated by Washington County. The regional park includes heavily wooded ravines and a small lake that provides for activities such as picnicking, hiking, fishing, and cross-country skiing.

Washington County has requested that the Council extend the expiration date of a Land Exchange Agreement between the Council and the County for Cottage Grove Ravine Regional Park to December 31, 2022.

In 2004, Washington County submitted a proposal to remove 38.5 acres of land on the west side of the regional park to be used for a joint public service center for the County and the City of Cottage Grove. The land proposed to be removed from the regional park was acquired with a grant from the Council in 1988 (SG82-97). Since Council park bonds were used for the acquisition, Washington County was required to record a restrictive covenant on the property that limits the use of the property to regional recreation open space purposes and requires Council approval for any exceptions to the use, or any conveyances or encumbrances related to the property.

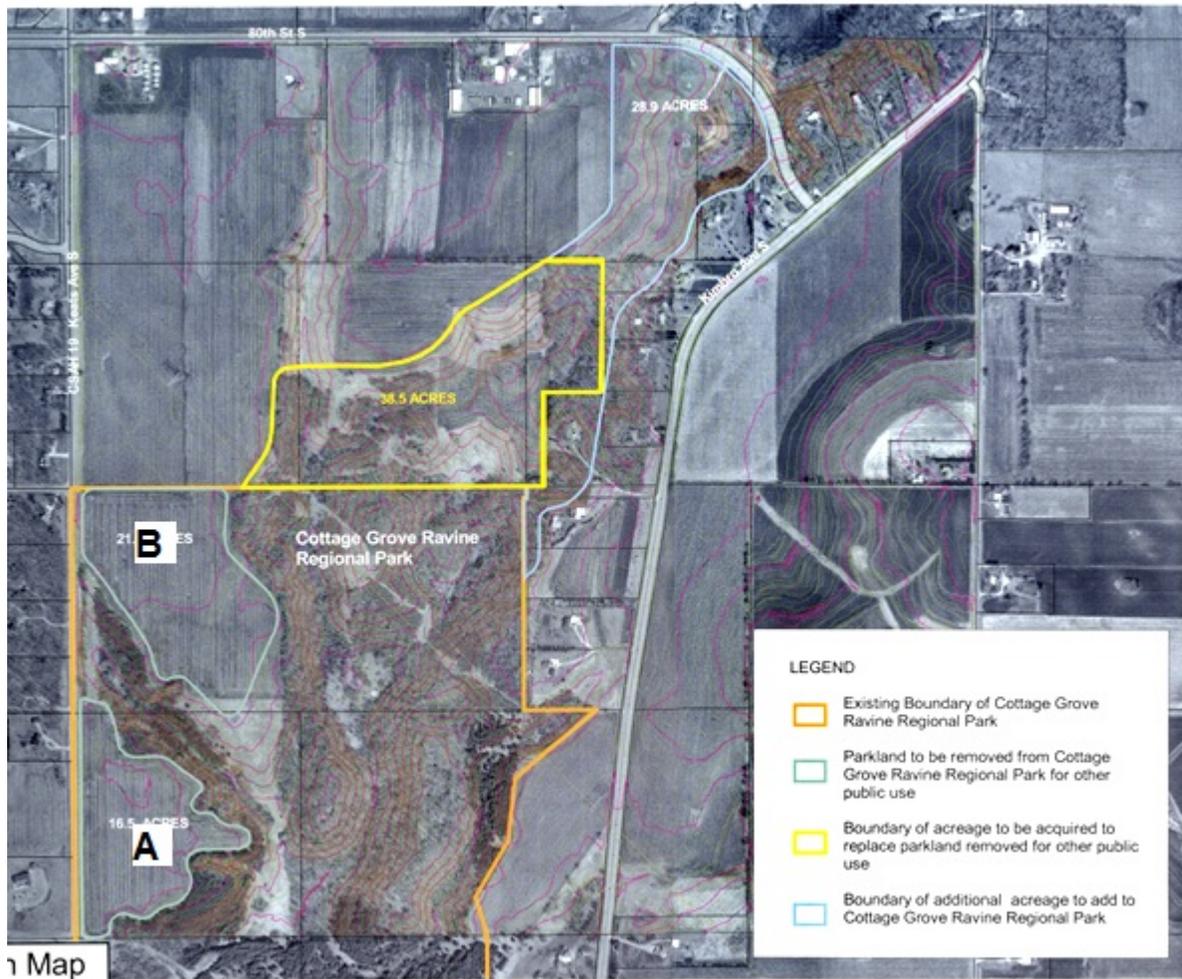
On December 15, 2004, (Business Item 2004-162) the Council took the following action:

Approve “the land exchange to convert no more than 38.5 acres of Cottage Grove Ravine Regional Park for a joint Cottage Grove/Washington County public service center in exchange for an equal amount of land northeast of the existing park boundary and release the restrictive covenant on those acres removed from Cottage Grove Ravine Regional Park subject to approval of the agreement between Washington County and the City of Cottage Grove.”

Typically a land exchange is required to be fulfilled at the time land is removed from a regional park. However, the Council approved an agreement between Washington County and the City of Cottage Grove that is referenced in the Council action above. The agreement essentially states that the land would be replaced on an acre per acre basis, the replacement land would be adjacent to the park, have natural characteristics similar to the park, and included a deadline for land replacement of December 31, 2015. The Land Transfer and Replacement Agreement between Washington County and the City of Cottage Grove is shown in **Attachment A**.

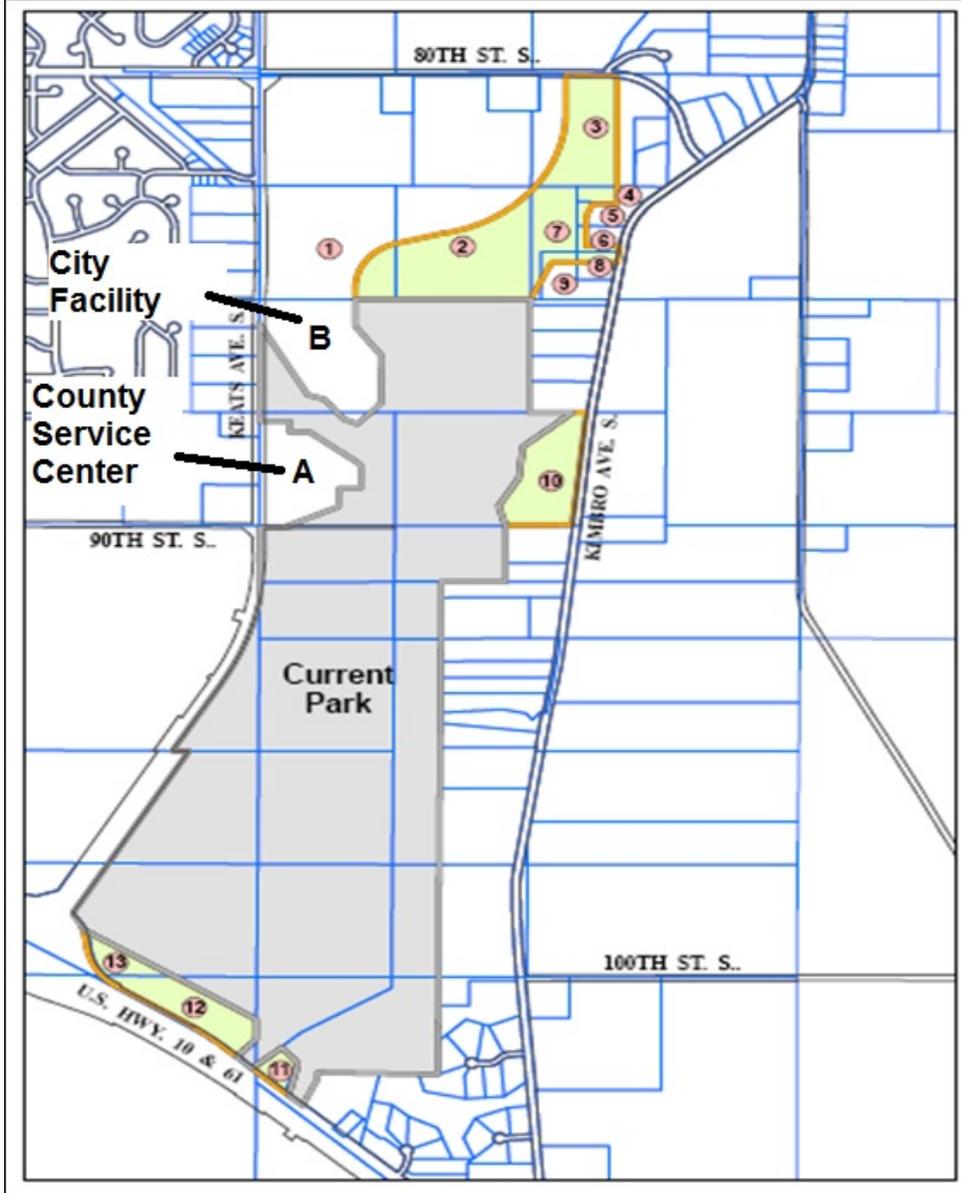
The 2004 Council action also included a map of potential land exchange replacement parcels, which is shown below in **Figure 1**. The properties labeled “A” and “B” and outlined in pale green generally depict the 38.5 acres of land that were to be removed from the park for County/City service center uses. The property outlined in yellow generally depicts the 38.5 acres that were to be acquired for the required land exchange.

Figure 1: Land Exchange Map Related to 2004 Council Action (Business Item 2004-162)



In December 2007, the Council approved an amendment to the Cottage Grove Ravine Regional Park Master Plan to add approximately 100 acres of inholding properties to the boundary of the park (Business Item 2007-222) and an amendment to the land exchange approval to allow all of the inholdings to be potential land exchange replacement properties (Business Item 2007-374). The properties labeled “A” and “B” in **Figure 2** depict the Washington County Service Center site and the Cottage Grove City facility sites, respectively. The parcels highlighted in yellow represent the potential land exchange replacement properties.

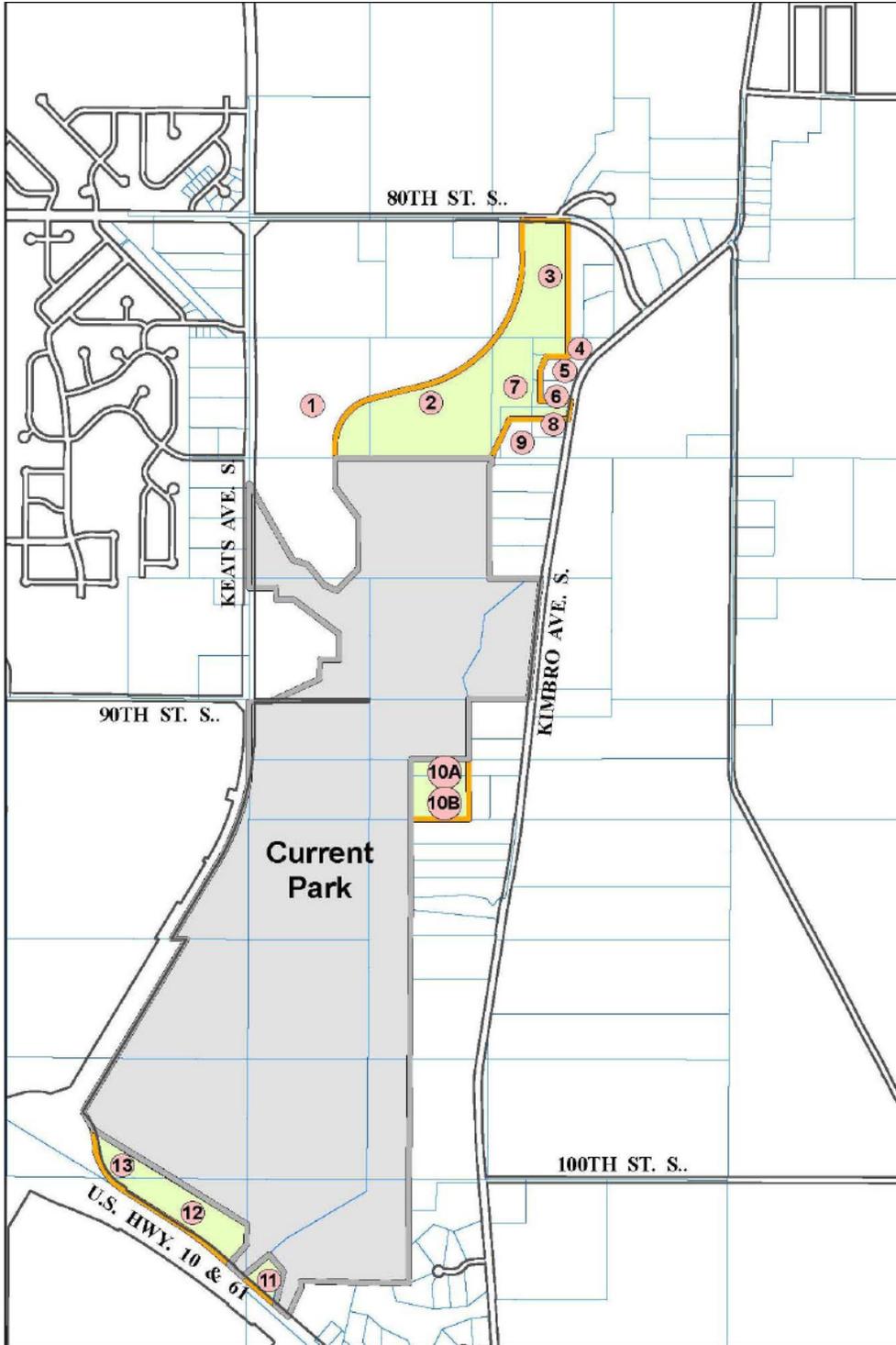
Figure 2: Land Exchange Map Related to 2007 Council Action (Business Item 2007-374)



The Council action to amend the land exchange approval (Business Item 2007-374) was also subject to the execution of an agreement between the Council and Washington County specifying the terms and conditions of the land exchange. The Land Exchange Agreement between the Metropolitan Council and Washington County is shown in **Attachment B**.

In May 2011, the Council approved an amendment to the Cottage Grove Ravine Regional Park Master Plan to add 9.34 acres of inholding properties to the boundary of the park. The Council also approved adding these parcels to the map of eligible land exchange replacement properties (Business Item 2011-138). The 9.34 acres that were added to the regional park boundary are shown as Parcel 10A and 10B on **Figure 3**.

Figure 3: Land Exchange Map Related to 2011 Council Action (Business Item 2011-138)



The Council released the restrictive covenant on 17.7 acres of land for development of the Washington County Service Center in September 2005 and on 20.8 acres of land for the City of Cottage Grove facility in December 2011, for a total of 38.5 acres. Both facilities are now constructed and open to the public.

Current status of land replacement: As of November 2015, Washington County has purchased 17.7 acres of land to replace the land removed from Cottage Grove Ravine Regional Park for the County Service Center. Additionally, 7.44 acres of the 20.8 acres removed from the regional park for the City of Cottage Grove facility have been replaced, resulting in a net total of 13.36 acres that are required to be replaced.

On September 1, 2015, Washington County and the City of Cottage Grove executed a first amendment to their land transfer and replacement agreement extending the timeframe to December 31, 2022, which is shown in **Attachment C**. Washington County subsequently requested that the Metropolitan Council also amend the land exchange agreement between the County and the Council to accommodate this extended timeframe.

Analysis of request: The proposed timeframe extension to December 31, 2022 will provide an additional 7 years to replace the 13.36 acres of land for the city facility. However, land acquisition depends upon the willingness of property owners to sell. There is no guarantee that 13.36 acres of inholding parcels within the boundaries of Cottage Grove Ravine Regional Park will become available for acquisition by December 31, 2022.

System Protection Strategy 2 of the *2040 Regional Parks Policy Plan* relates to the conversion of Regional Parks System lands to other uses and states:

Lands in the Regional Parks System will only be converted to other uses if approved by the Metropolitan Council through an equally valuable land or facility exchange as defined below:

“Equally valuable land” is defined as land that:

- *is contiguous to the Regional Parks System unit containing the land proposed to be exchanged (within the same park/trail unit)*
- *has comparable or better natural resource characteristics, and*
- *could provide comparable or better recreation opportunities than the land being released*

“Equally valuable facility” is defined as an exchange of land for facilities when recreational benefits and/or natural resource benefits are increased as a result of the exchange.

In order to ensure that the removal and replacement of 13.36 acres from Cottage Grove Ravine Regional Park meets the requirements of the *2040 Regional Parks Policy Plan*, Council staff recommends that the land exchange agreement between Washington County and the Council be amended to allow for an acre for acre land replacement or an equally valuable facility exchange within Cottage Grove Ravine Regional Park that is acceptable to the Council to be an option to fulfill the remaining obligations of replacing 13.36 acres that were removed from the regional park. Council staff also recommends a final extension of the timeframe to December 31, 2022 with consequences including, but not limited to, withholding regional parks funding from Washington County if the terms of the agreement are not met.

Rationale

The proposed amendment to the land exchange agreement requiring an acre for acre land replacement or facility exchange fulfills the intent of System Protection Strategy 2 in the *2040 Regional Parks Policy Plan*. This approach allows for a final extension to the deadline for replacement and includes consequence if the terms of the agreement are not met.

Funding

No regional parks system funding is involved in this request. The requirement to provide acre for acre land replacement or an equally valuable facility in exchange for the land removed the regional park is the obligation of Washington County and the City of Cottage Grove and associated costs are not eligible for regional parks funding.

Known Support / Opposition

Washington County and the City of Cottage Grove amended their land exchange agreement to extend the expiration date to December 31, 2022. There is no known opposition.

Attachment A: Land Transfer and Replacement Agreement between Washington County and the City of Cottage Grove

ADMINISTRATION
ORIGINAL

Washington County
Cottage Grove Ravine Regional Park
Land Transfer and Replacement Agreement
With
City of Cottage Grove

WASHINGTON COUNTY
Contract # <u>3029</u>
Dept. <u>Trans. & Phys. Dev.</u>
Div. <u>Parks</u>
Date <u>12/14/05</u>

THIS AGREEMENT, by and between the City of Cottage Grove, a municipal corporation, hereinafter referred to as the "City" and Washington County, a political subdivision of the State of Minnesota, hereinafter referred to as the "County".

WITNESSETH:

WHEREAS, the City and County desire to build future City and County facilities in close proximity to each other; and

WHEREAS, the City's concept land use plan (Exhibit A) for the East Ravine area has identified approximately 40 acres of land that is currently part of the northwest corner of the Cottage Grove Ravine Regional Park as a location for public service facilities; and

WHEREAS, both the City and the County have analyzed and prepared preliminary site investigations and designs for this approximately forty (40) acre site (Exhibit B), and;

WHEREAS, this property, most of which is now in agricultural use, is well suited for a County south service center, a main north entrance to the Cottage Grove Ravine Regional Park, City offices, community center, and related uses; and

WHEREAS, the City has done a feasibility study which analyzed the need for utilities and streets to serve this property, and found the location feasible; and

WHEREAS, the County wishes to request the Metropolitan Council to allow the County to take this 40 acres out of the Regional Park and put it to use as a location for City and County Public services facilities; and

WHEREAS, the Metropolitan Council must review and approve any plan that places City and County public institutional facilities on Regional Park land; and

WHEREAS, the Metropolitan Council requires a formal agreement between the County and City setting forth the parameters and timeframe for park land replacement; and

WHEREAS, a condition of Metropolitan Council approval will include a requirement that converted park lands be replaced acre for acre by adjacent land over a set time period; and

WHEREAS, the City and County have a common interest in preserving additional land that will protect and preserve the drainage alignment from Cottage Grove Ravine Regional Park to 80th Street; and

WHEREAS, the plans and conditions for park land replacement must be set forth in an agreement between the County and the City and forwarded to the Metropolitan Council.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Washington County and the City of Cottage Grove will work jointly to replace acre for acre the land removed from Cottage Grove Ravine Regional Park, which the City and County propose to use to build their public service facilities. The timeframe for replacement will be January 1, 2006 to December 31, 2015. The replacement land shall be adjacent to the Cottage Grove Ravine Park and have natural characteristics similar to the park.
2. Acquisition of the replacement lands will be by direct purchase, eminent domain, or park dedication.
 - a. If direct purchase or eminent domain is used to acquire the land, the County and the City will pay a pro-rata share of the acquisition costs based on percentage of the parkland acres used for the respective public institutional facilities.
 - b. If the land is obtained by the City through a land dedication to satisfy park dedication requirements for the subdivision of adjacent property, the County will reimburse the City for the loss of park dedication fees which would be paid to the City's Park Trust Fund if a land dedication were not accepted. The amount of this reimbursement will be based on a pro-rata share, based on the percentage of parkland areas used by the County, of the fees which would be collected at the time of the land dedication.
3. As a condition subsequent to this Agreement, an agreement which defines the terms and conditions of the planned County and City development of the parkland will be executed upon approval of the Metropolitan Council allowing for the conversion of Cottage Grove Ravine Regional Park to public institutional use. This agreement shall include specific terms including but not limited to ownership, financing, utilities, site development, architectural standards, and financing.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

WASHINGTON COUNTY

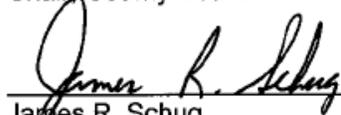
CITY OF COTTAGE GROVE



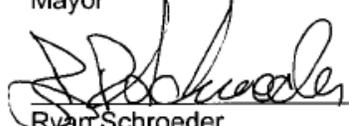
Myra Peterson Date 1/18/05
Chair, County Board



Sandy Shiely Date 1/7/05
Mayor

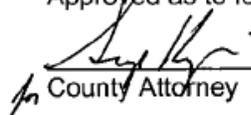


James R. Schug Date 1/12/05
County Administrator



Ryan Schroeder Date 1/2/05
City Administrator

Approved as to form:



County Attorney Date 1/12/05

**LAND EXCHANGE AGREEMENT
BETWEEN THE METROPOLITAN COUNCIL
AND WASHINGTON COUNTY**

THIS LAND EXCHANGE AGREEMENT is made and entered into by and between the Metropolitan Council (“the Council”) and Washington County (“the County”).

RECITALS:

1. Washington County desires to amend the terms of the Metropolitan Council’s approval of a land exchange for the Cottage Grove Ravine Regional Park so that the “replacement” property may include all of the inholding properties, parcels 1-13.
2. On December 12, 2007 the Council approved the Cottage Grove Ravine Regional Park Master Plan, which expanded the park boundary to include inholding Parcels 1-10 and approved amending the land exchange approval to make all inholding parcels eligible to be used for land exchange replacement property.
3. The Council is willing to amend the terms of the land exchange subject to the terms of this Agreement.

NOW THEREFORE, the COUNCIL and the COUNTY agree as follows:

1. BACKGROUND

In May 2004, the County submitted a proposal to remove 38.5 acres of land in the northwest portion of Cottage Grove Ravine Regional Park for use as a joint public service center for the County and the City of Cottage Grove. In December 2004, the Council approved the land exchange subject to the County replacing the property on an equal amount of land northeast of the existing park boundary. The land was to be replaced on an acre per acre basis, and the replacement land would be adjacent to the park and have natural characteristics similar to the park. The timeframe for the replacement was January 1, 2006 to December 31, 2015.

Exhibit A shows the land exchange parcels. The properties labeled “A” and “B” depict the 38.5 acres of land to be removed from the park for County/City service center use. The property outlined in yellow depicts the 38.5 acres to be acquired and added to the park for the required land exchange. The 38.5 acres subject to removal from the park boundary was purchased with a Council grant (SG-82-97) in 1988. The grant required the County to place a restrictive covenant on the land, which stipulated that the property would not be used for any purpose except regional recreation open space for public use, unless written approval of the Council was filed and recorded.

Attachment B: *continued*

In September 2005, the Council released the restrictive covenant on 17.7 acres of land (Parcel A) for development of the County Service Center, which is now open to the public. The acreage for the City facility (Parcel B) is still undeveloped and within the boundary of the park.

The County has updated its master plan for Cottage Grove Ravine Regional Park. The master plan update proposes to expand the boundary at the northern and eastern edge of the park. See **Exhibit B**. (Parcels 1-10). Previous master plans identified three inholding parcels for acquisition, located at the southern boundary of the park (Parcels 11, 12 and 13). The County anticipates acquiring only a portion of Parcels 1-9 and 13; Parcels 10-12 are slated for full acquisition. The master plan update proposes to add approximately 100 acres to the park (Parcels 1-13).

The County desires to amend the land exchange approval to permit the land exchange “replacement” property to include all of the inholding properties—Parcels 1-13. Current the approved land exchange replacement property is limited to portions of Parcels 1, 2 and 7, shown in **Exhibit B**.

2. AGREEMENT

The Council authorizes the land exchange replacement property to include all of the inholdings properties, Parcels 1-13, subject to the County filing a restrictive covenant against the property used as replacement property. The County and the Council agree that each will execute, and the County agrees that it will cause to be recorded at its own expense within one (1) year of execution, an agreement and restrictive covenant, substantially in the form attached to this agreement as **Exhibit C**, for each parcel acquired and for each parcel in which an interest is acquired in whole or in part. The County agrees to subsequently send a photocopy of the recorded restrictive covenant to the Council’s Parks staff. It is the purpose of such agreement and restrictive covenant to limit the right of the County to convey or encumber land or interests in land acquired without the consent of the Council and to ensure that the lands and interests in the lands be devoted exclusively to the purposes for which they were acquired, *i.e.*, regional recreation open space for public use. It is also the purpose of this agreement and restrictive covenant to lower the cost of regional services by allowing the Council, with the County’s input, to place regional sewer interceptor facilities on the property if the need arises.

The replacement must be on an acre per acre basis. The Council agrees that the County may acquire Parcel 10 and use that parcel as replacement for 15.8 acres. Since 17.7 acres has been removed from the park, the County proposes to replace the remaining 1.9 acres through the acquisition of next inholding parcel to become available. All replacement property must be acquired by December 31, 2015.

No more than 20.8 acres of land within the regional park may be converted in the future for the City facility. The replacement of this land must be on an acre per acre basis, and all replacement property must be acquired by December 31, 2015.

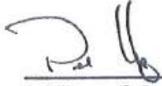
The County agrees to develop, operate, and maintain the Park in a manner consistent with the Regional Park Policy Plan and the unit’s Approved Master Plan, including allowing use of the Park by all persons in the region. The County further agrees that it will not adopt any rules

Attachment B: *continued*

or restrictions hindering or affecting regional use of the Park without the express written consent of the Council.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives. The agreement is effective upon final execution by both parties.

Approved as to form



Office of General Counsel

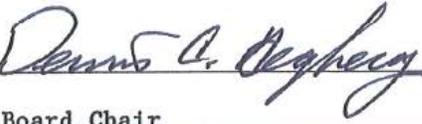
METROPOLITAN COUNCIL

By 

Regional Administrator

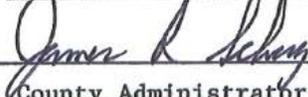
Date 2-1-08

WASHINGTON COUNTY

By 

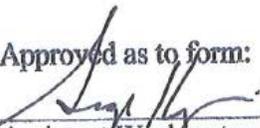
Its: Board Chair

Date 1-15-08

By 

Its: County Administrator

Date 1/15/08

Approved as to form:


Assistant Washington County Attorney

Exhibit A: Location map of Cottage Grove Ravine Regional Park land exchange

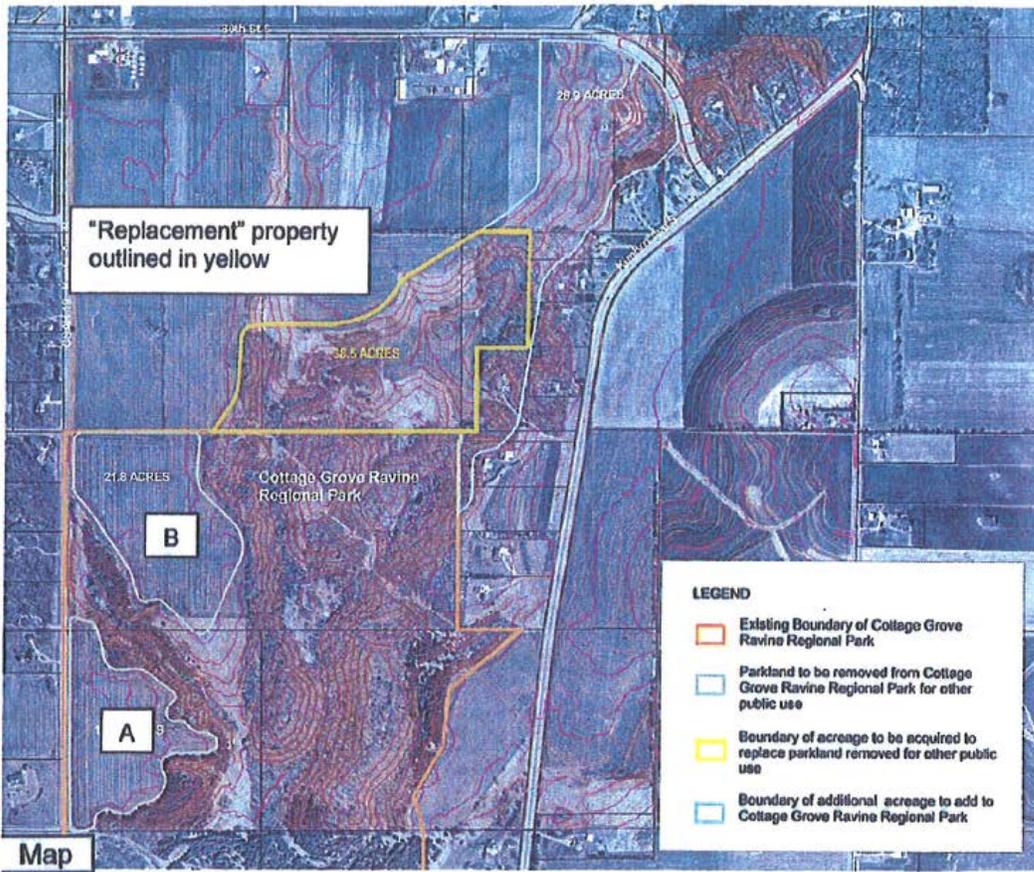
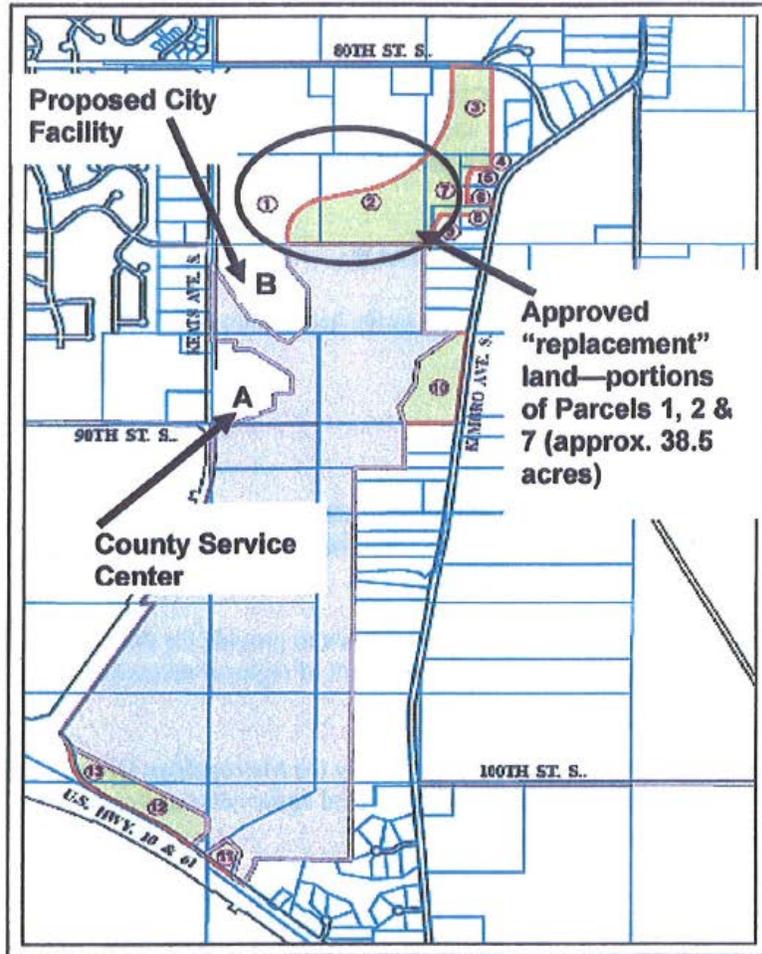


Exhibit B: Park Boundary and Inholding Parcels



Attachment C: First Amendment to Washington County Cottage Grove Ravine Regional Park Land Transfer and Replacement Agreement with Cottage Grove

AMENDMENT NO. 1

**WASHINGTON COUNTY
COTTAGE GROVE RAVINE REGIONAL PARK**

**LAND TRANSFER AND REPLACEMENT AGREEMENT WITH
CITY OF COTTAGE GROVE**

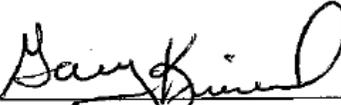
This Amendment Number 1 is entered into by and between Washington County and the **City of Cottage Grove** in order to amend Agreement #3029 dated January 18, 2005 thereto as follows:

1. Item 1. Timeframe for Replacement is amended and extended to December 31, 2022.

All other terms and conditions of Agreement #3029 thereto not expressly amended herein remain in full force and effect.

WASHINGTON COUNTY

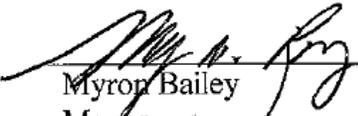
CITY OF COTTAGE GROVE



Gary Kriesel
County Board Chair

9-1-15

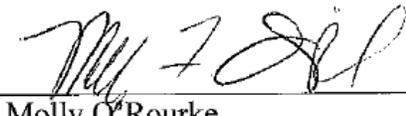
Date



Myron Bailey
Mayor

8/12/15

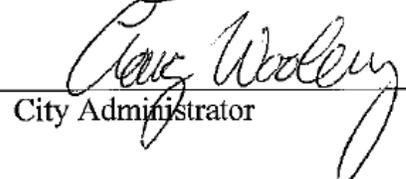
Date



Molly O'Rourke
County Administrator

9-1-15

Date

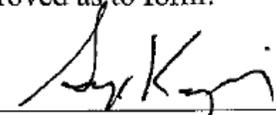


Craig Woolley
City Administrator

8-12-15

Date

Approved as to form:



Assistant County Attorney

8/24/15

Date