

RECORDING REQUESTED BY:
Fidelity National Title Company of Oregon

GRANTOR'S NAME:
Fenton Estate, LLC., an Oregon limited liability company

GRANTEE'S NAME:
The City of Portland, a municipal corporation

SEND TAX STATEMENTS TO:
The City of Portland, Bureau of Parks and Recreation
1120 SW Fifth Avenue, Suite 1302
Portland, OR 97204

AFTER RECORDING RETURN TO:
The City of Portland, Bureau of Parks and Recreation
1120 SW Fifth Avenue, Suite 1302
Portland, OR 97204

Escrow No: 20080011612-FTPOR01

Multnomah County Official Records
C Swick, Deputy Clerk

2008-161217



00415664200801612170030038

\$31.00

1R-W DEED
\$15.00 \$11.00 \$5.00

11/26/2008 10:41:00 AM
Cnt=1 Stn=25 ATLJH

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Fenton Estate, LLC., an Oregon limited liability company, Grantor, conveys and warrants to

The City of Portland, a municipal corporation, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Multnomah, State of Oregon:

Lots 19 and 20, Block 48, WEST PORTLAND PARK, in the City of Portland, Multnomah County, Oregon. *151E32BA 12100*

Subject to and excepting:

See Exhibit "A" Attached Hereto

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (BALLOT MEASURE 49 (2007)). THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (BALLOT MEASURE 49 (2007)).

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS \$8,000.00. (See ORS 93.030)

DATED: November 12, 2008

Fenton Estate, LLC., an Oregon limited liability company

BY: *[Signature]*
M. Robert F. Smith, Manager

3

FIDELITY NATIONAL TITLE CO. 01-2008-11612 1-5-15

Exhibit "A" to Statutory Warranty Deed

Conditions and Restrictions as established by the City of Portland

For:	Land Use
File No.:	LUR 96-00970 EN
Recorded:	April 20, 1998, Recorder's Fee No. 98065437

ORDINANCE No. 181710

Authorize a purchasing process for parcels acquired with 2006 Metro Open Spaces Bond Measure 26-80 funds. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On March 1, 2006, Council approved Resolution No. 36382, supporting Metro's intent to take an Open Spaces bond measure (the Measure) before the voters, specifying the Local Share project priorities of the City and resolving to provide maintenance funding for acquisitions and capital improvements funded by the Measure within the City of Portland. Voters passed the Measure in November 2006.
2. Council accepted the Recreational Trails Strategy in June 2006 and the Natural Area Acquisition Strategy in November 2006, guiding acquisition priorities in the city
3. In May 2007 the City and Metro, as authorized by City Ordinance No. 180883, entered into an Intergovernmental Agreement (the Metro IGA), which, among other things, required that the City comply with certain Metro requirements when using Local Share funds for land acquisition.
4. Portland Parks and Recreation intends to achieve its Local Share acquisition objectives using acquisition policies and procedures (the Local Share Acquisition Procedures) which are substantially the same as those used by Metro staff for Regional Share acquisitions. Under the proposed Local Share Acquisition Procedures, City Council will delegate certain land acquisition authorities to the Commissioner in charge of Parks, thereby enabling Parks to complete Local Share acquisitions in a timely and cost effective manner, while at the same time ensuring full compliance with the City Code, the Metro/City IGA, the adopted Natural Area Acquisition Strategy and the adopted Recreational Trails Strategy. The Local Share Acquisition Procedures are attached as Exhibit A.
5. A Local Share Refinement Plan will be prepared in cooperation with other City bureaus including Environmental Services, Bureau of Planning, and Bureau of Development Services, which describes acquisition priorities in each target area. The final plan, which will be posted on the web, will be used to guide all Local Share acquisitions. Ongoing coordination among City bureaus will be maintained through periodic updates and discussions through the City's Natural Resource Team (NRT).
6. Portland Parks has estimated the expenditure of approximately \$12 million of Local Share funds for land acquisition during the next five years, with all acquisitions to be made from willing sellers. Operation and maintenance (O&M) costs for the acquired properties will range from \$1,500 to \$4,000 per acre, with all costs to be approved through the City's budgeting process. It is anticipated that through FY 08-09, acquisitions will total 27 acres of natural area for an annual O&M total of \$47,250 and 4 acres of local access park land for an annual O&M total of \$16,200.

Now, Therefore, the Council directs:

- a. The Commissioner in charge of Portland Parks & Recreation, and his/her designee, is authorized to negotiate and close Local Share real estate transactions in accordance with the Local Share Acquisition Procedures.
- b. Notification will be sent to Council after each property closing with a full report forwarded annually. The Council recognizes that acquisition of new properties will necessitate appropriation of additional monies for operation and maintenance. Portland Parks and Recreation will seek Council appropriation, through the Fall BuMP process, of operation and maintenance costs associated with properties acquired under the authority of this Ordinance during the year.

Passed by the Council: April 02, 2008
Commissioner Saltzman
Prepared by: Deborah Lev:kmg
March 6, 2008

GARY BLACKMER
Auditor of the City of Portland
By /s/ Susan Parsons
Deputy

BACKING SHEET INFORMATION

AGENDA NO. 391, 428-2008

ACTION TAKEN:

MARCH 26 2008 PASSED TO SECOND READING APRIL 02 2008 9:30 AM

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 181710

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
ADAMS	X	
LEONARD	X	
SALTZMAN	X	
STEN	X	
POTTER	X	

Exhibit A

PORTLAND PARKS AND RECREATION LOCAL SHARE ACQUISITION PROCEDURES METRO NATURAL AREA BOND MEASURE March 2008

Broad Policy: Portland Parks and Recreation (PPR) acquisition efforts under the Local Share component of the 2006 Metro Natural Areas Bond Measure will be completed in accordance with the intergovernmental agreement between the City of Portland and Metro, dated May 8, 2007, and with applicable City policies and procedures. Given the dynamic nature of the area's real estate market, it is imperative that PPR acquisition procedures are responsive to market realities and opportunities. To achieve this outcome City Council delegated certain negotiation and closing authorities to Commissioner in charge of PPR, with the understanding that the delegated authorities would be used for routine real estate transactions using Local Share funds. Specific procedures under this delegated authority are as follows:

Acquisition Policies and Procedures:

In accordance with City Council Ordinance No. _____ the Bureau Commissioner and his/her designees are authorized to negotiate and close real estate transactions related to the 2006 Natural Areas Bond Measure provided all of the following criteria/conditions are met:

1. The landowner is a willing seller.
2. The property to be acquired (the Property) is identified as important to achieving the goals of the PPR and the acquisition will be consistent with the intent of the Metro Natural Areas Bond Measure, including Attachment A to the Agreement which identified projects where Local Share funds could be expended.
3. A due diligence review of the Property's circumstances has been completed by PPR staff and its contractors in accordance with PPR's Due Diligence Guidelines attached as Appendix A to these procedures. The primary purpose of the review will be to (i) identify matters to be resolved by the owner prior to closing and (ii) identify actions that need to be taken by PPR after closing to comply with PPR policy and the intent of the Natural Areas Bond Measure (e.g., install fencing, demolish buildings, etc.).
4. The negotiated purchase price for the property is either:
 - A. Equal to or less than the fair market value as established by the appraisal described below (note that the City will actively solicit donations and bargain sales); or
 - B. Not more than 10% or \$100,000, whichever is less, above such fair market value and the Bureau Commissioner has authorized acquisition of the property at such price after finding that acquisition of the property at the negotiated purchase price is in the public interest. In order to conclude that a purchase is in the public interest the Bureau Commissioner must conclude that the failure to acquire the property will significantly compromise the City's ability to achieve the natural area acquisition program objectives; and the amount of funds available to purchase the property are available. In addition, the Bureau Commissioner shall consider the following factors before concluding that such a purchase is in the public interest:
 1. Whether there are immediate and known competing offers or other market pressures that put the city at risk of permanently losing the opportunity to purchase and preserve the property unless the city agrees to pay the negotiated purchase price; and
 2. Whether any other parties are making financial contributions toward the purchase price.

5. An independent certified appraiser has completed an appraisal of the Property that states a conclusion of the fair market value of the Property or, if appropriate, a range of value. The appraisal may be in summary report format. The appraiser shall state in the appraisal any assumptions that he/she relied upon to determine the Property's fair market value, including those related to Due Diligence review outcomes. Unless the PPR Director determines that it would be unreasonable not to do so, the appraiser will not use "extraordinary assumptions" as that term is defined in the Uniform Standards of Professional Appraisal Practice (USPAP).
 - A. A City appraisal may be deemed unnecessary if:
 1. An appraisal has been provided by the owner or another party and deemed satisfactory by PPR; or
 2. The agreed purchase price is \$250,000.00 or less and is supported by the current assessed value of the Property or recent sale of comparable property in the area; or
 3. The Property is substantially similar to other properties appraised by the City within the last twelve months; and
 4. The Bureau Commissioner approves a PPR decision to waive the need for a City appraisal.
 - B. A certified appraiser will review all appraisals when the appraised value is greater than \$500,000 or when the Bureau Commissioner determines that such a review is appropriate due to the circumstances associated with the proposed purchase. Reviews will be completed in strict accordance with USPAP.
 - C. If appraisal deficiencies cannot be corrected to the full satisfaction of the PPR a new appraisal will be completed.
6. City Council will be promptly notified after each closing and will be provided an annual report as to all acquisitions under the Local Share acquisition program.
7. In the event that PPR cannot fully comply with the Local Share Acquisition Procedures, the acquisition will be referred to City Council for approval.
8. Documents related to all acquisitions under the Local Share acquisition program shall be managed in accordance with applicable City procedures.

APPENDIX A
DUE DILIGENCE GUIDELINES

1. **Definition:** "Due Diligence" is the systematic inspection of the legal title and physical condition of real property before that property is purchased to assure protection of public investment in natural areas, local access parks, and trail properties. Due Diligence will be conducted in advance of closing so that resolvable problems can be adequately addressed prior to closing.
2. **Due Diligence Team:** At a minimum, the PPR Due Diligence Team will be comprised of the Real Estate Negotiator, the Natural Areas Program Manager, the PPR Property Manager and appropriate attorneys in the City Attorney's Office.
3. **Due Diligence Approval:** Final due diligence reports are to be approved by the PPR Director and City Attorney.
4. **Contents:** Specific items to be addressed in a Due Diligence review are provided for on the PPR Due Diligence check list, which may be amended from time to time for the purpose of remaining current.
5. **Key Due Diligence Items:** At a minimum, the due diligence review must address and/or include the following items:
 - A. **Valuation:** Confirm that the purchase price was arrived at in accordance with the Local Share Acquisition Procedures.
 - B. **Title:** Verify that title matters are acceptable to the City Attorney's Office. Of particular concern to the City will be valid existing rights of others that affect the Property.
 - C. **Survey:** Verify that either a survey is unnecessary or, if necessary, the survey accurately identifies boundary and encroachment issues.
 - D. **Access:** Confirm that legal and physical access is sufficient for the purposes for which the Property is being acquired.
 - E. **Site Inspection:** Document the physical inspection conducted by PPR and its contractors, identify significant matters to be resolved by owner prior to closing or PPR after closing (e.g. stabilization and security).
 - F. **Environmental Review:** Clearly describe the level of environmental review completed on the Property. In the event that environmental risk is identified, the Report will include a statement that the City Attorney's Office has reviewed the environmental circumstances and finds them acceptable.
 - G. **Unusual Circumstances:** Identify unusual circumstances, if any, which the Bureau Commissioner will consider for the purpose of determining whether or not the proposed purchase should be referred to City Council for approval.
6. **Due Diligence Report.** A short due diligence report will be prepared, summarizing key findings of the due diligence review and recommending PPR follow-up actions (e.g. purchase as is, purchase subject to satisfactory environmental remediation by owner, etc.).