

MEMORANDUM OF UNDERSTANDING (*MOU*)
BETWEEN
THE NORTH COUNTY FOOD BANK (NCFB)
AND
THE NEHALEM BAY HEALTH DISTRICT (NBHD)

September 27, 2018

1. Whereas:

1.1. The NBHD and the NCFB (hereafter “the Parties”) share a mission to improve the health and well being of the citizens of North Tillamook County.

1.2. The NCFB has been improving the health of these citizens by supplying emergency food aid to citizens experiencing food deficiencies for the past 25 years.

1.3. The NBHD has been supporting the NCFB in this endeavor by providing an inexpensive space to house the NCFB for the past 25 years, located at 278 Rowe St, Wheeler, OR.

1.4. The NBHD building currently housing the NCFB has very little useful life left, is a financial drain on the NBHD, and will likely need to be demolished in the near future. Furthermore, the NCFB will be better able to serve its clients by securing a new home designed to support the various aspects of its operations.

1.5 There is a positive, mutually beneficial, and well-established relationship between the NCFB, the NBHD, and the other tenants of the NBHD.

1.6 The Parties would like to continue their mutually beneficial relationship by continuing have the NCFB offer its services to the community from the campus of the NBHD.

2. Therefor:

2.1. The Parties agree in principle that in order for the NCFB to be able to continue to offer its services to the community in the future it is the intention of both Parties that NBHD will lease bare ground (a Ground Lease Agreement) on the NBHD campus to the NCFB for the purpose of constructing a new building to house the NCFB. Although NCFB would lease a portion of the NBHD property, the new building would be constructed and owned by the NCFB.

2.2.1 The Parties will enter into timely negotiations to determine the details of such a Ground Lease Agreement subject to:

2.2.2 The NBHD is in the process of developing a Strategic Plan for its future business operations. As part of this effort it will be exploring options for new or expanded uses for its

campus and may consider options for the area described in 2.3.1 below. These options may include additional uses or ownership scenarios that could modify any Ground Lease Agreement with the NCFB.

2.2.3 In order that there will be no interruption in the NCFB's provision of services to its clients at the NBHD campus, the Parties agree that the NBHD will continue to lease the space that the NCFB currently occupies, under substantially the same terms as are presently in place, to the NCFB, until there is an Agreement by the Parties on a practical and actionable plan for the construction of a new building to house the NCFB. Furthermore, the Parties agree that once there is such an Agreement on a plan, the NBHD will continue to lease said space to the NCFB for approximately two additional years, such time to be used by the NCFB, and/or any partners in the proposed new building, to fundraise for, design, construct and equip the new building. If the NBHD building should become legally uninhabitable during the time period contemplated by this Section 2.2.3 then the NBHD shall have no further obligations to the NCFB. The NBHD will use good faith efforts to maintain the building and keep the systems operational during this time.

2.2.4 The NBHD intends that the Strategic Planning process will conclude on or about February 15, 2019. It is the intention of the Parties that an Agreement on a practical and actionable plan for the construction of a new building to house the NCFB can be promptly concluded at that time.

2.3 The broad outline of the proposed Ground Lease Agreement, subject to definition and refinement, or to modification pursuant to 2.2.2, is as follows:

2.3.1 The Land to be leased:

The land to be leased is approximately 12000 square feet, shall be known as the "Building Site" and is described as: (see attached drawing)

2.3.2 Building Costs:

The NCFB will pay for the design, permits, construction and maintenance of the new Food Bank Building, and will own the building.

2.3.3 Lease Amount:

The Parties will negotiate a lease amount (monthly or annual "rent") that will be established recognizing industry standards, that is fair and equitable to both parties, and that is designed to promote the health of both organizations and best insure that both organizations are able to thrive, endure and carry on their respective missions.

2.3.4 Parking:

2.3.4.1 The NBHD will designate, in a form satisfactory to the City of Wheeler, approximately 12 parking spaces (the exact number will be dictated by the requirements of the City of Wheeler Zoning Code) for the use of the NCFB. These parking spaces presently exist but are not within the boundaries of the leased parcel defined in 2.3.1 above. The NCFB will pay the NBHD for the maintenance of these spaces, and the driveways and maneuvering space necessary for their use, a Parking Maintenance Fee, which shall be an amount above and beyond the basic lease price of the Building Site (as defined in 2.3.1).

2.3.4.2 The amount of the Parking Maintenance Fee shall be a fraction of the NBHD's cost to maintain all of their parking spaces, driveways and vehicle maneuvering space on the NBHD campus. The fraction shall be determined by dividing the number of parking spaces designated for the use of the NCFB by the total number of spaces maintained by the NBHD on their campus. This Maintenance Fee is intended to reflect the actual cost of maintaining the parking and may be adjusted over time.

2.3.5 Landscaping:

2.3.5.1 NCFB will supply and install acceptable landscaping plants and materials on the leased Building Site.

2.3.5.2 Landscape maintenance will be provided by the NBHD by the employees or contractors who maintain the landscaping on the rest of NBHD campus. NCFB will pay a Landscape Maintenance Fee to the NBHD. This Landscape Maintenance Fee is intended to reflect the actual cost of maintaining the landscaping on the Building Site and may be adjusted over time.

2.3.6 Duration of the Lease:

The duration of the Ground Lease shall be for 99 years, or as amended per the terms of the ground lease.

2.3.7 Succession:

2.3.7.1 In the event of liquidation, dissolution or other termination of the NCFB:

2.3.7.1.1 NCFB's Articles of Incorporation and Bylaws require that its assets and other property, shall be used for the benefit or distributed to any nonprofit corporation, which, in the opinion of the Directors then in office most clearly represents the values and mission of the North County Food Bank.

2.3.7.1.2 In such an event, the NBHD shall have first right of refusal to purchase the Food Bank Building.

2.3.7.1.3 If the Food Bank Building and Ground Lease are to be transferred to a third party, the NBHD shall have the right to veto such a transfer if the NBHD Board determines that the use of the property would not be compatible with the stated mission of the NBHD.

2.3.7.1.4 In the event that the NCFB can find no suitable non-profit organization to whom to transfer the Food Bank Building and the Ground Lease, then the NCFB shall transfer ownership to the NBHD.

2.3.7.2 In the event of liquidation, dissolution or other termination of the NBHD:

2.3.7.2.1 There shall be wording in the Lease that would insure that, as far legally possible, the NCFB could survive and continue to fulfill its mission, and to preserve the NCFB's interest in the building.

2.3.7.2.2 The rights granted to the NCFB under the Ground Lease and Parking Agreement shall, so far as legally possible, be protected from liens that may exist now, or be created in the future, for the benefit of other entities on the NBHD campus.

2.3.8 Before construction of the Food Bank Building begins the NCFB will provide assurances acceptable to the NBHD that the NCFB has, or will have, adequate funding to complete the construction in a timely manner.

This Memorandum of Understanding entered into on this ___ day of _____, 2018 by the North County Food Bank and the Nehalem Bay Health District.

President, NCFB Board of Directors

Chair, NBHD Board of Directors

Secretary, NCFB Board of Directors

CEO, NBHD

Cc: file