

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 99-2866
EXECUTIVE OFFICER TO PURCHASE)	
PROPERTY IN THE FOREST PARK)	Introduced by Mike Burton
TARGET AREA)	Executive Officer

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure (Bond Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements; and

WHEREAS, on February 15, 1996, via Resolution 96-2274A, the Metro Council adopted a refinement plan for the Forest Park Target Area which identified property owned by Agency Creek Management Company as a Tier 1 acquisition; and

WHEREAS, Agency Creek Management Company owns approximately 332 acres ("the Property") and Metro has an Option to Purchase the Property at a price that is above Metro's appraised value; and

WHEREAS, a significant portion of the value of the property is in the approximately 300 acres of trees designated for commercial forest uses; the value of the trees is dependent on growth and timber market conditions; and timber values are at a recession low point at this time; therefore the value of the property is likely to rise in the next 12 to 24 months; and

WHEREAS, acquisition of the Agency Creek property would fulfill the objective of the Forest Park refinement plan which states, "Protect additional lands along the corridor at the north end of the Park, including a buffer for the Ancient Forest, through acquisitions, easements and voluntary management agreements;" and

WHEREAS, acquisition of the Agency Creek property would facilitate and effect cost reductions to the implementation of the Ancient Forest Preserve Master Plan, adopted by the Metro Council via Resolution No. 96-2345; and

WHEREAS, acquisition of the Agency Creek property would prevent future commercial timber harvest which would negatively impact the regionally significant Burlington Bottom wetland area; and

WHEREAS, strong support for the acquisition of the Agency Creek property has been voiced by citizens and groups such as the Friends of Forest Park and The Nature Conservancy; and

WHEREAS, the Agency Creek property provides nesting and roosting habitat for numerous bird species such as neo-tropical song birds and birds of prey, including bald eagles; and

WHEREAS, a survey of the Property has disclosed some minor encroachments which may not be resolved until after the scheduled closing date, since resolution of these items may take longer than the contract period; and

WHEREAS, the minor encroachments disclosed by survey can most likely be resolved by quitclaim, easement, license, or otherwise after closing, which will not reduce the appraised value of the Property or its use as open space pursuant to the Bond Measure 26-26; and since these encroachment issues are a part of the transaction prior to closing, they should be resolved post-closing without requiring that they go through the "Easement Policy" Resolution No. 97-2539B, which generally applies to post-closing requests for easements on Metro park property; and

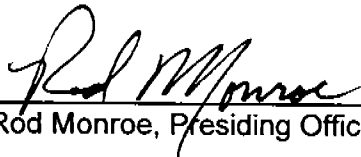
WHEREAS, pursuant to the Open Spaces Implementation Work Plan, paying above Metro's appraised value is an "unusual circumstance;" and

WHEREAS, the Open Spaces Implementation Work Plan requires Metro Council's specific approval for acquisitions which involve an "unusual circumstance;" now therefore


BE IT RESOLVED,

That the Metro Council authorizes the Metro Executive Officer to purchase those properties in the Forest Park Expansion target area, as identified in Exhibit A ("Property"), in accordance with the terms set forth in the Option Agreement and for the purchase price set forth in the Option Agreement; and also authorizes the Metro Executive Officer to resolve after closing, via quitclaim, easement, license, or otherwise, without going through the Easement Policy, those encroachments on the Property as disclosed by survey.

ADOPTED by the Metro Council this 2ND day of DECEMBER, 1999.


Rod Monroe, Presiding Officer

Approved as to Form:


Daniel B. Cooper, General Counsel

LEGAL DESCRIPTION

PARCEL 1: Lots 1 through 5, inclusive, and Lots 12 through 18, inclusive, Block 4; Lots 1 through 12, inclusive, and Lots 15 through 18, inclusive, Block 5; Lots 1, 2, Lots 6 through 19, inclusive, and Lots 25 and 26, Block 6; Lots 1 through 4, inclusive, Block 7; Lots 4 through 9, inclusive, Lots 10 through 14, inclusive and Lots 22 through 25, inclusive, Block 10; Lots 1 through 22, inclusive, Block 11; Lots 1 through 11, inclusive and Lots 13 through 25, inclusive, Block 12, Lots 1 through 3, inclusive, Lots 9 through 14, inclusive, and Lots 16, 24 and 25, Block 15; Lots 1 through 5, inclusive and Lots 14 through 18 inclusive, Block 16; Lots 3 through 12, inclusive, Block 17; Lots 1 through 7, inclusive, Block 18; Block 19; Block 20; Lots 1 through 16, inclusive, Block 21; Lots 1 through 10, inclusive, Block 22; Lots 1 through 5, inclusive, and Lots 7 through 13, Block 23; Lots 1, 2 and Lots 4 through 11, inclusive, Block 24; Lot 8 and Lots 10 through 19, Block 25, inclusive, Block 25; Block 26; Lots 1 and 2, Block 27; Lots 1 through 14, inclusive, Block 28; Lots 1 through 17, inclusive, Block 29, Lots 1 through 14, inclusive, Block 36; Lots 1 through 7, inclusive, Block 37; Lots 1 through 5, inclusive, Block 38; Lots 1 through 13, inclusive, Block 39; Lots 1 through 15, inclusive, and Lots 17 through 19, inclusive, Block 40; Lots 1 through 5, inclusive, Block 41; Lots 1, 2 and 3, Block 42; Lots 1 through 8, inclusive, Block 43; Lots 1 and 2, Block 44; Lots 1 through 16, inclusive, Block 45, except that portion of Lots 6 through 9 taken for the widening of McNamee Road; Lots 1 through 5, inclusive, Block 46; Lots 1 through 6, inclusive, Block 47; Lots 1 through 28, inclusive, Block 48; except that portion of Lots 1, 8 and 9 taken for the widening of McNamee Road. Lots 1 through 43, inclusive, Block 49; Lots 1 through 12, inclusive, Block 50; Lots 1 through 10, inclusive, and Lots 12 and 13, Block 51; Lots 1 through 7, inclusive, Block 52; Lots 1 through 7, inclusive, Block 53; all in BURLINGTON, in the County of Multnomah and State of Oregon;

EXCEPT those portions described in deeds to The State of Oregon, by and through its State Highway Commission, recorded August 23, 1932 in Book 183, page 502 and recorded January 6, 1967 in book 542, page 188.

PARCEL 2: A tract of land in the Northeast one-quarter of Section 19, Township 2 North, Range 1 West, described as follows:

Beginning at the one-quarter corner between Sections 19 and 20, Township 2 North, Range 1 West Willamette Meridian; running thence South 89° 23' West 1233.7 feet to the Southwest corner of Southeast one-quarter of Northeast one-quarter of Section 19; thence North 0° 36' East 1300.2 feet to the Northwest corner of Southeast one-quarter of Northeast one-quarter of Section 19; thence South 89° 20' West on the South line of the Northwest one-quarter of the Northeast one-quarter of Section 19, 538.79 feet to the Southeasterly line of the United Railway Company's right of way; thence following the Southeasterly and Southerly line of said right of way on a curve to the right of 1287.3 foot radius, 1908.3 feet to the line between Sections 19 and 20; thence South 1° 47' West on said line between Section 19 and 20, 1700.06 feet to the place of beginning.

PARCEL 3: A tract of land described as follows: Beginning at the section corner of 19, 20, 29, 30 in Township 2 North, Range 1 West, this being the Southwest corner of Section 20; thence North 1642.0 feet; to the South line of the John G. Tomlinson Donation Land Claim which is also the South line of Burlington, thence East along South line of said claim, 1,213.04 feet to the East line of Lanoche Drive as platted in plat of Burlington, thence Northeasterly along Easterly line of Lanoche

Drive, 1,744.0 feet to the United Railway Company's right of way Westerly boundary thence Southeasterly along said right of way to point where right of way boundary intersects the South line of Section 20, thence West 4501.95 feet to the Southwest corner of Section 20 to place of beginning;

EXCEPT that portion described in deed to The Friends of Forest Park, an Oregon nonprofit Corporation recorded July 7, 1993 in Book 2719, page 1631, more particularly described as follows:

Beginning at the Southwest corner of said Section 20; thence South $88^{\circ} 43' 46''$ East along the South line of said Section 20, 1,455.40 feet to an iron rod; thence North $0^{\circ} 50' 41''$ East 308.33 feet to an iron rod; thence North $18^{\circ} 31' 04''$ West 954.64 feet to an iron rod; thence North $89^{\circ} 38' 15''$ West 1,226.02 feet to an iron rod on the West line of said Section 20; thence South $3^{\circ} 21' 00''$ East along said West line 1191.03 feet to the point of beginning.

Staff Report

CONSIDERATION OF RESOLUTION NO. 99-2866 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE PROPERTY IN THE FOREST PARK TARGET AREA

Date: December 1, 1999

Presented by: Charles Ciecko
Jim Desmond

Proposed Action

Resolution No. 99-2866 requests authorization for the Executive Officer to purchase properties in the Forest Park Target Area.

BACKGROUND AND ANALYSIS

In May 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure that authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements. On February 9, 1996, via Resolution 96-2274A, the Metro Council adopted a refinement plan that outlined a land protection strategy for the Forest Park regional target area.

One of the objectives of the refinement plan is to:

“Protect additional lands along the corridor at the north end of the Park, including a buffer for the Ancient Forest, through acquisitions, easements and voluntary management agreements.”

After nearly three years of negotiations, Metro has acquired an option from the Agency Creek Management Company to purchase its 332-acre property, located west of St. Helen's Highway in the Linnton and Burlington areas (See attached map). The property was identified as a Tier 1 site in the refinement plan. During the due diligence process, an appraisal issue emerged which constitutes “unusual circumstances,” as defined in the Open Space Implementation Work Plan, and which require Metro Council approval before Metro can exercise its option to purchase. There are also minor encroachments on the property, which are not “unusual circumstances” as they do not materially affect value or impair the property's use as open space, but which may need to be resolved after closing, and which therefore should be exempted from the “Easement Policy,” Resolution No. 97-2539B.

Valuation

The Agency Creek property is suitable for two to three homesites, and zoned for Commercial Forestry uses. The site borders the Ancient Forest Preserve, owned by the Friends of Forest Park, on two sides. Ancient Forest Preserve capital improvements were identified by Multnomah County as a “local share” project site in the Open Spaces, Parks and Streams bond measure. The subject property contains approximately 250 acres of ten-year-old trees (future merchantable timber) and approximately 65 acres of merchantable timber remain. Approximately 44 acres of the merchantable timber contains scattered old growth trees that are in excess of 100 years old. Due primarily to changes in the zoning laws of Multnomah County since Metro and the landowner entered into negotiations, and the current recession in timber prices, the appraised value of the property is below the negotiated option price.

The seller is unwilling to sell the property to Metro for the appraised value because a rebound in timber prices will likely occur and thereby enhance the value of the property, and because Agency Creek's holding costs related to the property are minimal, thereby allowing the company to hold the property and "wait out" the current devalued timber prices. Metro staff wishes to close on the property at the negotiated option price now for the following reasons:

- a) Metro has spent nearly three years negotiating with the seller to come to an agreed price and Metro's option to purchase the property expires soon;
- b) the property is significant in terms of its size, resource value and connectivity to other open space areas of importance;
- c) the Multnomah County Local Share component of the Ancient Forest Preserve Master Plan will be facilitated and expedited by allowing more flexibility in trail and parking lot placement; and
- d) cost reductions in parking lot and trail construction at the Ancient Forest Preserve will be realized as a result of acquiring the Agency Creek property, which cost reductions were not considered in the appraised value of the property.

Exemption from Easement Policy

Metro commissioned a survey of the property, which survey disclosed that several neighboring landowners encroached across lot lines onto the Agency Creek property. These sorts of minor encroachments do not constitute "unusual circumstances," as they are not uncommon for a property of this size, particularly where one side of the property borders a residential neighborhood. The encroachments, which together total less than one acre of land, do not reduce the appraised value of the property, consist of some storage sheds, a hot tub, a septic field, a deck addition to a house, and some dog cages. Metro staff is working with Agency Creek and the landowners to resolve these issues, but the process could take longer than the time remaining in the option period. Therefore, Metro staff is requesting Council approval to resolve these issues post-closing, via quitclaim, easement, license, or otherwise, without requiring that such actions go through the Easement Policy, which generally applies to post-closing requests for easements on Metro park property. Because these encroachments are "part of the deal," they should be exempted from the Easement Policy.

In accordance with the Open Spaces Implementation Work Plan adopted by Metro Council; the Open Spaces Acquisition Committee met on November 15, 1999 and on November 29, 1999, and recommended that the property be purchased by Metro on these terms.

FINDINGS

Acquisition of this property with above-stated terms is recommended based on the following:

- The lowest purchase price at which the landowner will agree to sell is above current appraised value. Approximately 50% of the appraised value of the property is based on current timber prices, which are at a recession point. One of the "public interest" factors cited in the Work Plan which should be considered is "the likelihood that the market value of the property will rise quickly within the subsequent 12-24 month

period, rendering the purchase price a reasonable one within a relatively short time frame." Although the market value of the property may come up to equal the purchase price within the next 12 to 24 months, Metro's option on the property expires within the next 30 days and the opportunity to acquire the land may be permanently lost.

- The Agency Creek property lies in Tier 1 and fulfills the stated objectives of the Forest Park Expansion Refinement Plan. It also helps to fulfill some objectives of the Multnomah Channel Target Area Refinement Plan, including the Tier III objective of "Acquire land or otherwise protect specific Tualatin Mountain streams which drain to Multnomah Channel...." McCarthy and Burlington Creeks run through the property.
- Acquisition of the Agency Creek property would facilitate the implementation of the Ancient Forest Preserve local share project. Implementation costs would be reduced, as the current logging road system and level areas suitable for parking on the property would reduce the need for a significant portion of the \$169,000 trail and parking area construction costs identified by the Master Plan adopted by the Metro Council via Resolution No. 96-2345 in June 1996.
- Future timber harvest on the property will negatively impact the water quality of the regionally significant wetland areas managed by the Oregon Department of Fish and Wildlife which lie directly below the Agency Creek property (Burlington Bottom).
- The acquisition has strong support from the Friends of Forest Park, The Nature Conservancy, and other citizens and organizations. Russell Hoeflich of The Nature Conservancy stated in a letter to Metro, "We strongly urge you and the Metro Council to take whatever action is necessary to acquire this [the Agency Creek] property."
- The property is also in the Tualatin Range bird flyway and the trees provide valuable habitat and protection for numerous species. The site provides nesting and roosting habitat for a variety of neo-tropical songbirds and birds of prey such as bald eagles.
- The encroachments are not significant and will not affect Metro's ability to use the property as open space, and should be exempted from the Easement Policy when resolved post-closing.
- The Acquisition Committee met on November 15, 1999 and on November 29, 1999, and recommended purchase of the property for the purchase price set forth in the purchase and sale agreement and the terms set forth herein.

BUDGET IMPACT




Bond funds would supply acquisition money. As this site has been reforested and achieved the "free to grow" stage, landbanking costs are expected to be similar or below those of other unimproved forested properties.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends passage of Resolution No. 99-2866.



Key

	Existing Parks & Open Spaces
	Bond Measure Acquisitions
	Agency Creek Properties

Open Spaces, Parks and Streams Bond Measure
 Forest Park and Vicinity - Agency Creek Properties

