

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING AN)
AGRICULTURAL LEASE IN THE CLACKAMAS)
RIVER GREENWAY TARGET AREA)

RESOLUTION NO. 00-2955

Introduced by Mike Burton,
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 (Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, Measure 26-26 provided that lands acquired by Metro with the regional share of the bond funds would be "landbanked" with minimal maintenance, and no bond funds can be legally used for any operating expenses on these lands; and

WHEREAS, on April 11, 1996, the Metro Council adopted a refinement plan for the Clackamas River Greenway regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, on October 14, 1999, Metro entered into a purchase and sale agreement to acquire approximately 94 acres on the north bank of the Clackamas River between Carver and Barton (the Property) owned by James Calcagno; and

WHEREAS, a condition of the purchase and sale agreement is the execution of an Agricultural Lease, in substantially the form attached to this Resolution as Exhibit A, with Cal Farms, LLC, owned by Mr. Calcagno, which will encumber 50 acres of the Property and includes an accessory farm dwelling (the "Leased Property"); and

WHEREAS, the term of the Agricultural Lease is 10 years and the rate is determined by an appraiser for the tillable acreage being leased with provisions for rate adjustments; and

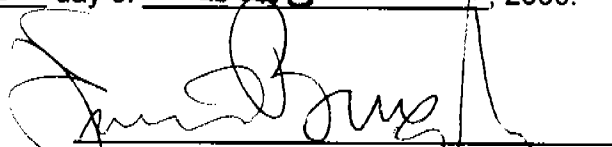
WHEREAS, Metro Council approval is needed for the Executive Officer to be authorized to enter into leases for a term of more than one year; and

WHEREAS, the Agricultural Lease requires that the Leased Property be managed in compliance with all applicable laws and regulations and in a way that will not cause unusual and excessive erosion and water runoff from the Leased Property or pollution to the water resources of the surrounding area from the Leased Property; now therefore,

BE IT RESOLVED,


That the Metro Council approves and authorizes the Metro Executive Officer to execute the Agricultural Lease with Cal Farms, LLC for a term of ten (10) years as provided in the Agreement of Purchase and Sale between Metro and Seller, in substantially the form attached as Exhibit A.

ADOPTED by the Metro Council this 22nd day of JUNE, 2000.



David Bragdon, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

AGRICULTURAL LEASE

By this Lease made this _____ day of _____, 2000, between Metro, a municipal corporation and political subdivision of the State of Oregon, located at 600 NE Grand Avenue, Portland, OR, 97232 ("Lessor") and Cal Farms, LLC, an Oregon Limited Liability Company located at 17031 S. Clackamas River Drive, Oregon City, OR, 97045 ("Lessee").

In consideration of the covenants and agreements hereinafter set forth, the parties agree as follows. The following terms, conditions, covenants, and agreements are each material to the execution of this Lease, and violation of any of the following shall constitute a breach of the Lease and be grounds for default, as set forth herein:

1. **DESCRIPTION OF LEASED PREMISES.** Lessor leases to Lessee the following described premises consisting of approximately 50 tillable acres in the eastern portions of Tax Parcels R23E17 01502 , 01503, and 1600, containing that portion of the property currently being farmed ("Leased Premises"). The Leased Premises are described in Exhibit 1 attached hereto, and more particularly illustrated on the map attached hereto as 1-a. The Leased Premises includes the caretaker residence, barn, and outbuilding located on the property as shown on Exhibit 1-a.
2. **TERM OF LEASE.** The term of this Lease shall be approximately ten (10) years, beginning June 3,2000, and terminating November 15, 2010.
3. **AGRICULTURAL RENT:** Lessee shall pay rent for the Leased Premises on a per tillable acre per year basis, based on the rate of \$ 125 acre. The sum of rent for this lease year is \$6,250. The parties agree that for purposes of rental calculation, there are FIFTY (50) tillable acres on the Leased Premises. Metro will take no action to reduce the tillable acres below 50 acres. Seller shall take no action to alter tillable acres, except upon express written authorization by Metro. The rent is due for the first year in advance at the Closing. Thereafter, the yearly rental shall be due and payable on the anniversary date of this Lease.
4. **PROVISION FOR YEARLY ADJUSTMENT OF RENT.** The rental rate per tillable acre shall be adjusted each year in an amount equal to any increase in the Consumer Price Index - seasonally adjusted. The rental rate shall also be adjusted at year 5 of the Lease term based on a reappraisal of the Leased Premises. The cost of the reappraisal shall be split by both parties and the rental rate readjusted accordingly.
5. **LESSOR'S USE OF ROAD THROUGH LEASED PROPERTY.** Lessor reserves the non-exclusive right to use the road from Highway 224 over the Leased Premises for any

Exhibit A
Resolution No. 00-2955

purpose whatsoever, and Lessee shall in no way obstruct or restrict Lessor's access to its remaining property.

6. MANNER OF FARMING AND CONSERVATION LAWS. Lessee shall farm, cultivate, maintain and operate the Property consistent with the standard agricultural practices employed by the farming industry in the area where the Property is located. Lessee shall use and occupy the Leased Premises for cropland. Lessee shall refrain from practices that will cause unusual and excessive (a) erosion and water runoff from the Property or (b) pollution to the water resources of the surrounding area from the Property. Lessee shall maintain the Property in compliance with all federal, state and other governmental laws, regulations and directives.

7. CARETAKER RESIDENCE/ COMPLIANCE WITH OREGON RESIDENTIAL LANDLORD AND TENANT ACT AND OTHER APPLICABLE LAW. The Leased Premises includes a Caretaker Residence, in which Lessee would like to house one of Lessee's employees while engaged in the agricultural business on the Leased Premises. Lessee hereby warrants and represents that it will not lease or rent out the Caretaker Residence, and that no one shall occupy the Caretaker Residence, other than Lessee or one of Lessee's full-time employees who is engaged in the agricultural business on the Leased Premises, and whose employment is conditioned upon employment in and about the Leased Premises. Lessee further warrants and represents that it will maintain the Leased Premises, including the Caretaker Residence, in a safe, sanitary, and habitable condition, in full compliance with all applicable federal, state and local laws and regulations, including but not limited to the Oregon Residential Landlord and Tenant Act, ORS Chapter 90 and applicable portions of Chapter 91. Lessee shall provide Lessor with the name and employment status of anyone occupying the Caretaker Residence. Lessee shall, at Lessee's sole cost and expense, promptly make all repairs and provide maintenance on the Caretaker Residence necessary to keep the premises in a safe, sanitary, and habitable condition. Lessor shall be entitled to enter and inspect the Caretaker Residence at reasonable times upon 24 hours' notice, or as otherwise provided by law.

8. COMPLIANCE WITH LAW AND HAZARDOUS MATERIALS/INDEMNIFICATION.
 - (a) Lessee, at Lessee's expense, shall comply with all laws, rules, order, ordinances, directions, regulations, and requirements of federal, state, county and municipal authorities pertaining to Lessee's use of the Property, and with all recorded covenants, conditions, and restrictions, regardless of when they become effective. These include, without limitation, any required alteration of the Property because of Lessee's specific use, and all applicable federal, state, local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials as defined in Section (d) below, waste disposal, air emissions and other environmental matters, and all zoning and other land use matters.

 - (b) Lessee shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Property by Lessee, Lessee's agents, employees, contractors, or invitees without the prior written consent of Lessor, which shall not be unreasonably withheld as long as Lessee demonstrates to Lessor's reasonable satisfaction that such Hazardous

Exhibit A
Resolution No. 00-2955

Material is necessary to Lessee's business and will be used, kept, and stored in a manner that complies with all laws regulating any such Hazardous Materials brought upon or used or kept in or about the Property. Prior written consent of Lessor for use of petroleum products normally used in farming operations, such as gasoline or diesel fuels, is not required.

- (c) Lessee shall indemnify, defend, and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including without limitation, diminution in value of the Property, damages for the loss or restriction on use or rent of the Property, damages arising from any adverse impact on marketing of the Property, and sums paid in settlement of claims, attorney fees, consultant fees, and expert fees) that arise during or after the lease term due to contamination by Hazardous Materials as a result of Lessee's use or activities or of Lessee's agents or contractors. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Materials present in the soil or groundwater or under the Property. Without limiting the foregoing, if the presence of any Hazardous Material on the Property caused or permitted by Lessee or Lessee's agents or contractor results in any contamination of the Property, Lessee shall promptly take all actions at Lessee's sole expense as are necessary to return the Property to the condition existing prior to the release of any such Hazardous Material onto the Property, provided the Lessor's approval of such action shall first be obtained, and approval shall not be unreasonably withheld, as long as such actions would not potentially have any material adverse long- or short-term effect on the Property. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.
- (d) As used in this Lease, the term *Hazardous Material* means any hazardous or toxic substance, material, or waste, including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101), or by the United States Environmental Protection Agency as hazardous substances (40 CFR pt 302) and amendments thereto; ORS Chapter 465; petroleum products or other such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.
9. CHEMICALS AND FERTILIZERS. It is understood that chemicals and fertilizers may be necessary to produce the highest financial returns from the Property. Subject to the limitations in Section 8 above, chemicals and fertilizers may be used by Lessee, if necessary, so long as their use does not cause significant environmental degradation to the land leased hereunder and the waters of the surrounding area. At the beginning of the Lease, Lessee shall provide Lessor with a list of all chemicals and fertilizers Lessee anticipates using during the term of the Lease. Change in farming practices and use of chemicals and fertilizers outside of the tillable area shall be made only with the approval of the Lessor, such approval not to be unreasonably withheld.

Exhibit A
Resolution No. 00-2955

10. CONDITION OF THE PREMISES AT TERMINATION/REMOVAL BY LESSEE. At the termination of this Lease, Lessee shall remove or cause to be removed from the Property, at Lessee's expense, any and all livestock and other animals, equipment, vehicles, personal property, and/or trash, rubbish, debris or waste unless otherwise agreed to in writing by Lessor. Lessee shall have also completely shut down, decommissioned, and terminated all farming operations, in compliance with all applicable laws and regulations. At the termination of this Lease, the entire Leased Premises must be vacant and ready for exclusive possession by Lessor.
11. ENVIRONMENTAL EXIT AUDIT AND REMEDIATION. Approximately 30 days prior to termination of the Lease an independent environmental exit audit shall be engaged by Lessee and Lessor at Lessor's and Lessee's joint expense to determine the presence of hazardous substances on or about the Leased Premises ("Exit Audit"). The Exit Audit shall be performed in accordance with the ASTM standards for conducting Phase One Environmental Assessments, and Phase Two assessments if deemed appropriate by the testing entity and agreed upon by Lessor and Lessee. Lessor and Lessee shall have the right to approve the Exit Audit procedures and the company or individual conducting the audit, and shall be given a copy of the audit. Lessee's liability for remediation of any hazardous substance release or violation of environmental laws revealed by the Exit Audit shall be determined by Section 8 of this Lease and any remediation shall be performed in accordance with all applicable environmental laws. In the event this Lease terminates unexpectedly for any reason, Lessor and Lessee shall cause the Exit Audit to be conducted, in a manner acceptable Lessor and Lessee as described above, within thirty (30) days of the actual termination of this Lease. Following termination of this Lease, Lessor shall grant access to Lessee and its agents to perform any remediation required by Section 8.
12. USE OF LEASED PREMISES. Lessee shall use the Leased Premises solely for agricultural purposes. Lessee shall maintain the Leased Premises in good condition and shall not commit, permit, or suffer waste to the Leased Premises. Lessee shall maintain all of the buildings and improvements on the Leased Premises in as good a condition and repair as they were at the commencement of this Lease, reasonable wear and tear excepted.
13. IRRIGATION. Lessee shall have access to Richardson Creek or Clackamas River for irrigation purposes at the same location the electrical service for the pump currently exists. During the term of this Lease, Lessee shall cooperate on a reasonable basis to ensure maintenance of the Property's water rights. Lessee shall be responsible for all water costs as used by the Lessee. Lessor assumes no responsibility to Lessee for any water shortage, nor does Lessor warrant the quality or quantity of the water available to the Property. Lessee shall be responsible for maintenance, repair and replacement of the Lessee's irrigation equipment on the Property.
14. WATER RIGHTS. Certain water rights of approximately 18 acres run with the Property plus a quantity of water for a pond on the Property, and are identified as Certificate No.10878 ("Metro's Water Rights"). Lessee represents, warrants and agrees to maintain

Exhibit A
Resolution No. 00-2955

and use these water rights throughout the term of this Lease on the Leased Premises. All water rights appurtenant to the property shall be used exclusively on the Leased Premises. Lessee and Metro agree, pursuant to the Agreement of Purchase and Sale, section 6, between Lessee and Metro regarding the Property, that approximately 17 acres of water rights acquired from Wade and Corinne Newbegin, identified as Transfer No. T8053 from rights in Certificate No. 40753, and other certain water rights for approximately 20.66 acres, acquired from Mr. Vandenberghe, identified as Transfer 7676 Special Order, Volume 52, Page 56 from rights in Certificate No. 32261, will be retained by Lessee and will be transferred to Lessee from the Property at the termination of this Lease at Lessee's sole cost, risk and expense ("Lessee's Reserved Water Rights"). Metro will cooperate with Lessee, at Lessee's expense, to transfer said Newbegin/Vandenberghe water rights to downstream real property owned or leased by Lessee. Lessee bears the risk that such transfer of water rights may be denied by the applicable authorities and such denial shall in no way effect the Lease or the terms set forth herein.

15. BUFFER AREA/NO ALTERATIONS TO PROPERTY. Lessee shall not alter the Property in any way and shall use the Property solely for agricultural purposes set forth herein. Lessee shall not cut any trees or reduce the buffer area between the tilled portion of the Property and the riparian area adjacent to the Clackamas River.
16. LIENS. Lessee shall pay when due all claims for work done on the Property, and for services rendered or material furnished to Lessee to grow Lessee's crops on the Property or incurred for Lessee's repair responsibilities for the Property and improvements; and Lessee shall keep the Property free of any liens.
17. MAINTENANCE OF THE PROPERTY. Lessee shall not make any additions or alterations to the premises without Lessor's written consent obtained in each instance except that Lessee can erect fencing as necessary to protect the cropland and pasturage hereby leased. Any additions or improvements made by Lessee at his expense and fencing must be removed by Lessee at or prior to termination of this lease.
18. NO SUBLEASING OR ASSIGNMENT: Lessee will not sublet the premises nor any part thereof, nor transfer or assign this lease without obtaining advance written consent of Lessor in each case, which consent shall be granted or withheld in Lessor's sole discretion. Any use of the leased premises by an assignee or sub-lessee shall be for cropland only. Lessee shall not permit any transfer, by operation of law, of the interest in said premises acquired through this lease. Lessor retains the right to transfer the premises leased hereunder and shall have the option to assign this lease to the transferee.
19. ACCESS: Lessee will allow Lessor access to the Leased Premises as necessary to insure compliance with the lease agreement and where it does not interfere with normal farming operations. Lessor is liable for any damages to the Property or the Lessee's crops that result from the Lessor's entry into the Property.
20. TERMINATION AND DEFAULT:

Exhibit A
Resolution No. 00-2955

- (a) Termination by Mutual Consent. This lease may be terminated by mutual consent. Where termination of the lease is by mutual consent and not due to violation of covenants and agreements set forth herein, Lessee shall have the right to harvest any crops planted at the time of agreement of termination.
- (b) Termination by Notice from Lessee. This lease may be terminated with six month's advance written notice from Lessee. All other terms and conditions set forth herein shall remain in effect during the six month notice period.
- (c) Termination by Lessee's Default. The following shall be events of default: (i) Failure to pay the rent when due; (ii) Dissolution, termination of existence, insolvency, business failure, discontinuance as a going business, or commencement of any proceedings under any bankruptcy or insolvency laws by or against Lessee; (iii) Abandonment by the Lessee of the Leased Premises; (iv) Failure of Lessee to comply with any of the terms, conditions, covenants and agreements set forth herein, or failure to fulfill any other obligation of the Lease within thirty 30 days after written notice by Lessor specifying the nature of the default with reasonable particularity. Lessee shall have the ability to diligently commence a cure within 30 days of notice from Lessor. If such default remains uncorrected after thirty (30) days written notice thereof from Lessor, Lessor may re-enter the premises or any part thereof and remove Lessee or anyone claiming under Lessee in addition to any other remedies Lessor may have.
21. AS IS CONDITION OF THE PREMISES: The Lessee is fully familiar with the physical condition of the leased property. The Lessee is solely responsible for and shall pay for all costs of material, labor, equipment, utilities, and other expenses necessary to farm the Leased Premises, to raise crops, and to maintain all buildings and improvements. The Lessor has made no representations of any nature in connection with the condition of the leased property or its suitability for cultivation. Lessee accepts the Leased Premises, caretaker residence, and improvements included in this Lease in their present condition, AS IS.
22. INDEMNIFICATION: In addition to the environmental indemnification set forth above, Lessee shall also indemnify, defend and hold Lessor harmless for, from, and against any and all claims, demands, costs, expenses, losses, causes of action, or liabilities arising out of or relating to any activity of Lessee or Lessee's agents, employees, invitees, or occupants on the Property.
23. INSURANCE. Before going into possession of the Property, Lessee shall procure, and during the term of this Lease shall continue to carry public liability and property damage insurance, naming Lessor as an additional insured, with liability limits of not less than \$500,000 for injury to persons or property in one occurrence. Such insurance should be provided by an insurance carrier reasonably acceptable to Lessor. Lessee shall deliver to Lessor certificates evidencing such insurance with an endorsement requiring 10 days' notice to Lessor prior to the cancellation of such insurance coverage.

Exhibit A
Resolution No. 00-2955

24. GENERAL COOPERATION: Lessor will cooperate with Lessee in providing information to the appropriate agencies managing cost-share and other farm management programs that may benefit the Lessee in conducting farming operations on the Property.
25. NOTICES: Notice from one party to the other shall be deemed to have been properly given if mailed by first class or certified mail, postage prepaid, to the other party at the respective addresses which appear in this lease.
26. SEVERABILITY: If any provision of this lease or portion of such provision or the application thereof to any person or circumstance is held invalid, the remainder of the lease (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.
27. FURTHER ACTIONS OF LESSOR AND LESSEE. Metro and the Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Lease.
28. ENTIRE AGREEMENT. This Lease (including any exhibits attached to it) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter of the Lease and supersedes all prior understandings with respect to it. This Lease may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted here.
29. TIME OF ESSENCE. The Lessee and Lessor hereby acknowledge and agree that time is strictly of the essence with respect to every term, condition, obligation, and provision.
30. WAIVER: The waiver of one breach of any term, condition, covenant, obligation or agreement of this lease shall not be considered to be a waiver of that or any other term, condition, covenant, obligation or agreement or of any subsequent breach thereof.

Exhibit A
Resolution No. 00-2955

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above mentioned.

METRO

Mike Burton, Executive Officer

CAL FARMS, LLC

BY: _____

BY: _____

Its _____

Its _____

Exhibits:
Exhibit 1 Legal Description of Leased Premises
Exhibit 1-a Map of Leased Premises

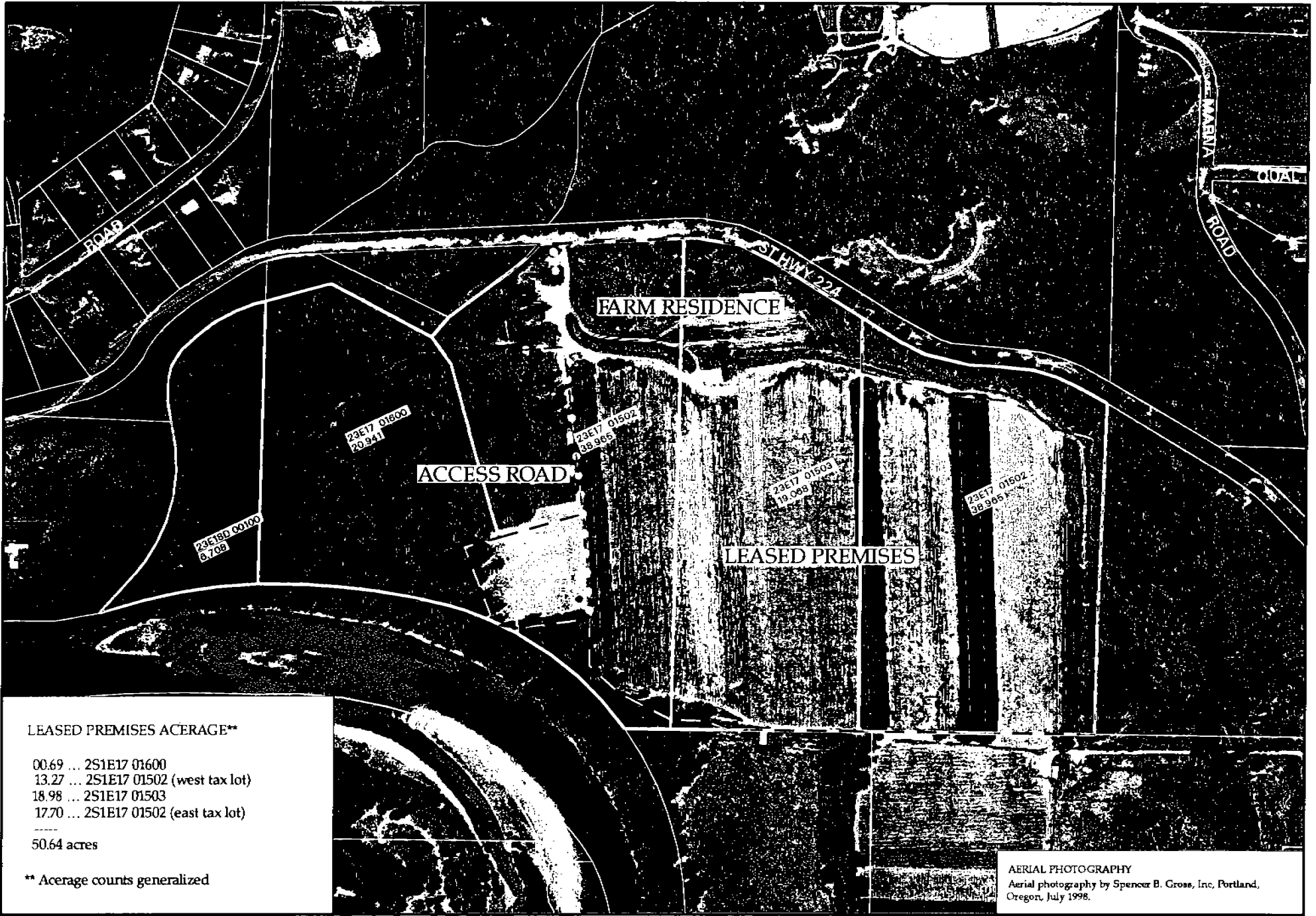
**AGRICULTURAL LEASE
EXHIBIT 1**

Leased Premises Acreage

Clackamas County, Oregon

2S1E17 01600..... .69 acres
2S1E17 01502..... 13.27 acres (west tax lot)
2S1E17 01503.....18.98 acres
2S1E17 01502.....17.7 acres (east tax lot)

Total 50.64 acres



LEASED PREMISES ACERAGE**



00.69 ... 2S1E17 01600
 13.27 ... 2S1E17 01502 (west tax lot)
 18.98 ... 2S1E17 01503
 17.70 ... 2S1E17 01502 (east tax lot)

 50.64 acres

** Acreage counts generalized

AERIAL PHOTOGRAPHY
 Aerial photography by Spencer B. Cross, Inc, Portland,
 Oregon, July 1998.

KEY

-  Properties of Interest
-  Leased Portion of Properties

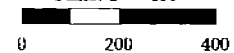


Metro Open Spaces, Parks & Streams Bond Measure:

Calcagno Property and Vicinity

Exhibit 1-A

Scale: 1" = 400'



METRO

METRO OPERATIONS COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 00-2955, FOR THE PURPOSE OF APPROVING AN AGRICULTURAL LEASE IN THE CLACKAMAS RIVER GREENWAY AREA

Date: June 8, 2000

Presented by: Councilor Atherton

Committee Action: At its June 7, 2000 meeting, the Metro Operations Committee voted 3-0 to recommend Council adoption of Resolution 00-2955. Voting in favor: Councilors Atherton, Washington and Monroe.

Background: Jim Desmond, Open Spaces Manager, gave the staff presentation. Resolution 00-2955 approves a 10-year agricultural lease on 50 acres of a 94-acre open space purchase on the Clackamas River. The agricultural lease will allow the current owner to continue primarily vegetable farming. With this condition met, the property can close on June 30, 2000. The remaining 44 acres will be landbanked, and will not be affected by the lease.

Existing Law: The Metro Executive Officer is authorized to execute future leases of Metro property, under certain conditions, including discretionary one-year agricultural leases. Leases for a longer period must be approved by the Metro Council.

Budget Impact: The land in question will be leased back to the current owner at \$125/acre, and generate \$6,250 the first year, which will be used to offset landbanking costs for the Open Spaces program.

Committee Issues/Discussion: The committee clarified some of the costs associated with the purchase, lease and agricultural practices of this property.

Staff Report

CONSIDERATION OF RESOLUTION NO. 00-2955 FOR THE PURPOSE OF APPROVING AN AGRICULTURAL LEASE IN THE CLACKAMAS RIVER GREENWAY TARGET AREA

Date: May 25, 2000

Presented by: Charles Ciecko
Jim Desmond

Proposed Action

Resolution No. 00-2955 requests authorization for the Executive Officer to execute an agricultural lease between Metro as the Lessor, and Cal Farms, LLC, as the Lessee, for a term of 10 years ("Agricultural Lease").

Existing Law

Metro Council Resolution 97-2483 authorized the Metro Executive Officer to execute future leases of Metro real property when such leases:

- a) relate to the acquisition of an Open Spaces parcel;
- b) contain a term of no more than one year; and, for any agricultural leases, may contain the option for renewal at the discretion of the Metro Executive Officer; and
- c) provide for lease payments of not more than \$2,000 per month.

The proposed Agricultural Lease is for a term of 10 years and therefore must be approved by the Metro Council.

Background and Analysis

Metro executed a purchase and sale agreement on October 14, 1999, to acquire approximately 94 acres on the Clackamas River from James E. Calcagno, as indicated in Attachment A (the Property). The Property is a Tier 2 acquisition under the Clackamas River Greenway Target Area Refinement Plan adopted on March 21, 1996, under Resolution No. 96-2308, and is scheduled to close on or before June 30, 2000 so long as remaining contingencies are met. As part of the Agreement, Mr. Calcagno requires that he lease back 50 tillable acres plus an accessory farm dwelling (the Leased Property) for a term of 10 years, in the name of Cal Farms, LLC, which is owned by Mr. Calcagno. The proposed Leased Property is currently being farmed by Mr. Calcagno, primarily for vegetables. The approximate 44-acre remainder of the Property, not the subject of the lease, will be landbanked by Metro after closing. Richardson Creek, an important fishbearing stream, traverses this 44-acre portion before draining into the Clackamas River.

The purchase and sale agreement is conditioned upon Metro's agreement to lease the Leased Property to Cal Farms, LLC at closing.

Typically in the market, agricultural leases tend to be multi-year leases so that the farmer may plan for crop rotation, including years where nothing is grown to allow the soil to recover minerals. In addition, expenditures in soil amelioration practices may take several years to recoup the investment. This was recognized by the Metro Council in Resolution No. 97-2483: "For the Purpose of Authorizing the Executive Officer to Execute Current and Future Leases Related to Metro's Open Spaces Property Acquisitions." Although that resolution did give the

Executive Officer the authorization to enter into agricultural leases with options for renewal at the Executive Officer's discretion, it did not give the Executive Officer the authorization to enter into leases whose with a term of more than one year. From the beginning of this long negotiation, the seller has insisted on a fixed agricultural lease term of 10 years.

In order to close on the Property and approve the 10-year lease of real property, it is necessary for the Metro Council to authorize the Executive Officer to execute the Agricultural Lease in substantially the form attached hereto as Attachment A.

Findings

Authorization of the Executive Officer's execution of the Cal Farms, LLC lease is recommended based on the following:

- The Clackamas River Greenway Target Area Refinement Plan includes the following among its objectives:
 - “Provide river access at designated points.”
 - “Acquire continuous blocks of riparian corridor to support wildlife, fish, water quality, scenic and recreational values.”

Closing on the Property and subsequent execution of the Agricultural Lease serves these objectives:

- The Agricultural Lease will not block river access or destroy the habitat value of the overall site.
- The Agricultural Lease is an acceptable encumbrance upon the Property because it continues the current and historical use of the Property. The lease does not prevent or impair riparian land management and restoration, and by accepting the lease as a term of the purchase, Metro facilitates the acquisition of this Tier 2 property.
- Important acquisition objectives of the Clackamas River Greenway Target Area Refinement Plan will be fulfilled, as described above, if this acquisition is completed. The 44-acre portion of the Property has one-third of a mile of Clackamas River frontage, and a one-third mile stretch of Richardson Creek.
- A provision of the Agricultural Lease mandates that an environmental audit will be performed before the termination of the lease, and any remediation necessary under applicable laws as a result of Lessee's use or activities will be conducted by the Lessee.

Budget Impact

The Agricultural Lease will provide Metro with \$6,250 in income for the first year, and will be adjusted to an index each year thereafter. Metro's management and landbanking costs will be less as a result of leasing out a portion of the Property.

Executive Officer's Recommendation

The Executive Officer recommends passage of Resolution No. 00-2955.





LEASED PREMISES ACERAGE**

- 00.69 ... 2S1E17 01600
- 13.27 ... 2S1E17 01502 (west tax lot)
- 18.98 ... 2S1E17 01503
- 1770 ... 2S1E17 01502 (east tax lot)

50.64 acres

** Agerage counts generalized

KEY

-  Properties of Interest
-  Leased Portion of Properties



Metro Open Spaces, Parks & Streams Bond Measure:

Calcagno Property and Vicinity

