

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 06-3687
CHIEF OPERATING OFFICER TO ENTER)
INTO OPTIONS TO PURCHASE PROPERTY)
UNDER THE PROPOSED 2006 NATURAL)
AREAS BOND MEASURE IN ACCORD WITH)
THE OPEN SPACES BOND MEASURE) Introduced by Chief Operating Officer
IMPLEMENTATION WORK PLAN AND) Michael J. Jordan, with the concurrence of
PROVIDING FUNDING) Council President David Bragdon

WHEREAS, the Metro Council has taken a leadership role in identifying remaining natural areas in the Metro Area and planning for their protection; and

WHEREAS, Resolution No. 06-3672B “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection,” adopted by the Metro Council on March 9, 2006 (the “2006 Natural Areas Bond Measure”), recommended submission to the voters of a general obligation bond, to preserve natural areas and clean water and protect fish and wildlife; and

WHEREAS, Resolution No. 05-3612 “For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures out of the Proceeds of Obligations to Be Issued in Connection with the Regional Parks and Greenspaces Program,” adopted by the Metro Council on September 29, 2005, directed staff to work on obtaining options to purchase specific properties approved by the Metro Council, as part of the preliminary work associated with the proposed funding measure; and

WHEREAS, in accord with Resolution No. 05-3612, Metro staff has identified opportunities to purchase specific properties in the proposed 2006 Natural Areas Bond Measure Target Areas, which properties are identified and further described in Exhibit A; and

WHEREAS, expenditure authority exists in the Fiscal Year 2005-2006 Adopted Budget totaling \$75,000 to pay for due diligence and provide earnest money for the entry into agreements to purchase property in the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon passage of the 2006 Natural Areas Bond Measure and Metro Council approval, as directed by Resolution No. 05-3612 as set forth on the schedule attached as Exhibit B; and

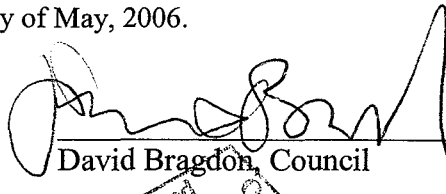
WHEREAS, additional expenditures of \$100,000 are anticipated for due diligence expenses and to provide earnest money for future opportunities to enter into agreements to purchase property in the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon passage of the 2006 Natural Areas Bond Measure and Metro Council approval, as directed by Resolution No. 05-3612; and

WHEREAS, all terms of the transactions contemplated herein shall be governed by the 1995 Open Spaces Bond Measure Implementation Work Plan, set forth in Metro Council Resolution No. 95-2228A “For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Open Spaces Implementation Work Plan,” adopted on November 21, 1995; now therefore

BE IT RESOLVED BY THE METRO COUNCIL THAT:

1. Metro Council hereby authorizes the Chief Operating Officer to enter into agreements of purchase and sale and/or agreements for options to purchase the properties identified in Exhibit A, conditioned upon passage of the 2006 Natural Areas Bond Measure and in accord with the parameters of the Open Spaces Bond Measure Implementation Work Plan.
2. Metro Council hereby authorizes the Chief Operating Officer to henceforth enter into agreements of purchase and sale and/or agreements for options to purchase properties located within the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon Metro Council approval, passage of the 2006 Natural Areas Bond Measure and the standard terms and conditions set forth in the Open Spaces Bond Measure Implementation Work Plan. Said agreements shall provide for the return of Metro's earnest money or option money if Metro Council disapproves the purchase.
3. Metro Council hereby authorizes the further expenditure of an additional \$100,000 from existing budget authority in either the General Fund or the Metro Capital Fund for due diligence expenses, and to provide earnest money to enter into agreements with property owners to acquire property in the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon passage of the 2006 Natural Areas Bond Measure, which agreements shall be brought forth to Council for approval, said earnest money or option money to be not more than 2% of estimated purchase price.

ADOPTED by the Metro Council this 11th day of May, 2006.



David Bragdon, Council

Approved as to form:



Daniel B. Cooper, Metro Attorney

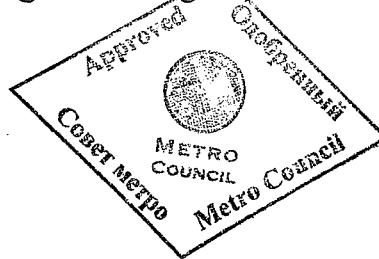


EXHIBIT A

Target Area: COLUMBIA SLOUGH - Graphic Packaging

Description: This 26.6-acre property is comprised of 2 undeveloped parcels adjacent to Heron Lakes, known site of Heron Rookery. The City of Portland's Bureau of Environmental Services recently completed a five-year half million dollar restoration project on this site and parts of surrounding parcels. The site includes an open emerging wetland planted with bull rushes, sedges, Wapato and cattails and a unique Columbia River floodplain forest of black cottonwood, Oregon ash and pacific willow. Inhabitants include bald eagles, grey horned owls, herons, nesting red tail hawks, coyote and a diverse frog population.

Option Criteria Addressed:

- Unique opportunity to enhances water quality in the Columbia River Floodplain
- Protects and enhances a diverse habitat
- City of Portland Strongly Supports this acquisition, public support for protection of Heron Rookery
- Trail potential
- Connected to publicly owned Heron Lakes Golf Course

Managers: City of Portland's Bureau of Environmental Services will manage the property

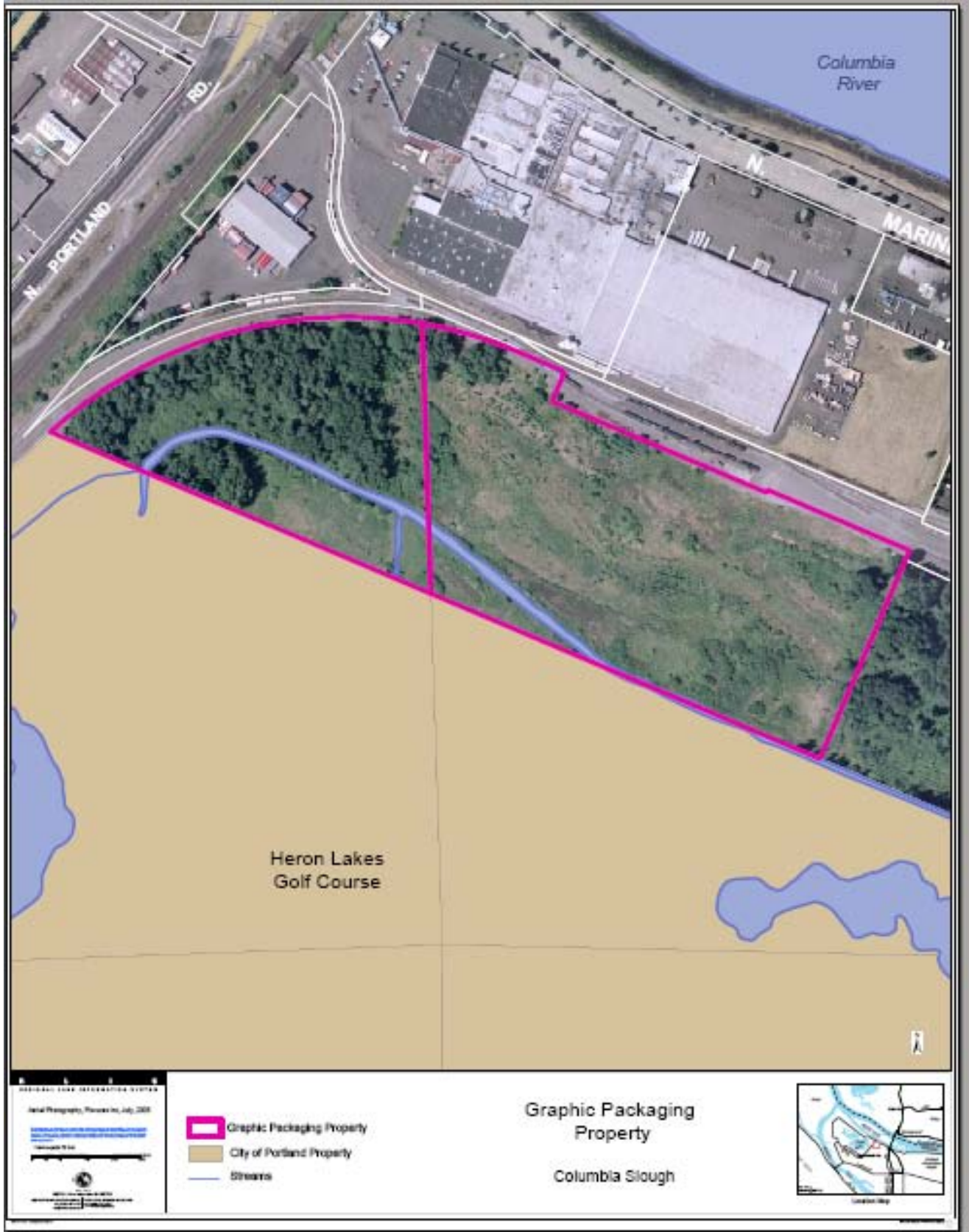
Sellers: Graphic Packaging et al.

Size: 26.6 acres

Stream Frontage: Columbia Slough West

Option Price: \$2,000

Conditions: Metro Council Approval, Appraisal and Environmental Review, Bond Measure





Target Area: COLUMBIA SLOUGH – Kennedy Rask Property

Description: This 20-acre IG-2 zoned site at NE 175th and Marine Drive is part of a larger group of sites known as the “Big Four Corners”, one of the two anchor habitat site on the Columbia Slough, (the other being Smith and Bybee Lakes). The City of Portland recently acquired the 120-acre site on the other side of the Slough, known as the Catellis property. The Columbia South Shore Slough Trail easement runs along the SE property boundary. City of Portland’s Bureau of Environmental Services has been working along the bank of the Slough, and this trail on revegetation, for over 3 years

Option Criteria Addressed:

- Anchor Habitat site on the Columbia Slough
- City of Portland Strongly Support this acquisition
- Public Access via existing trail: Columbia South Shore Slough Trail
- Connected to large tract of public owned property dedicated as Open Space, and the Slough

Managers: City of Portland’s Bureau of Environmental Services will manage the property

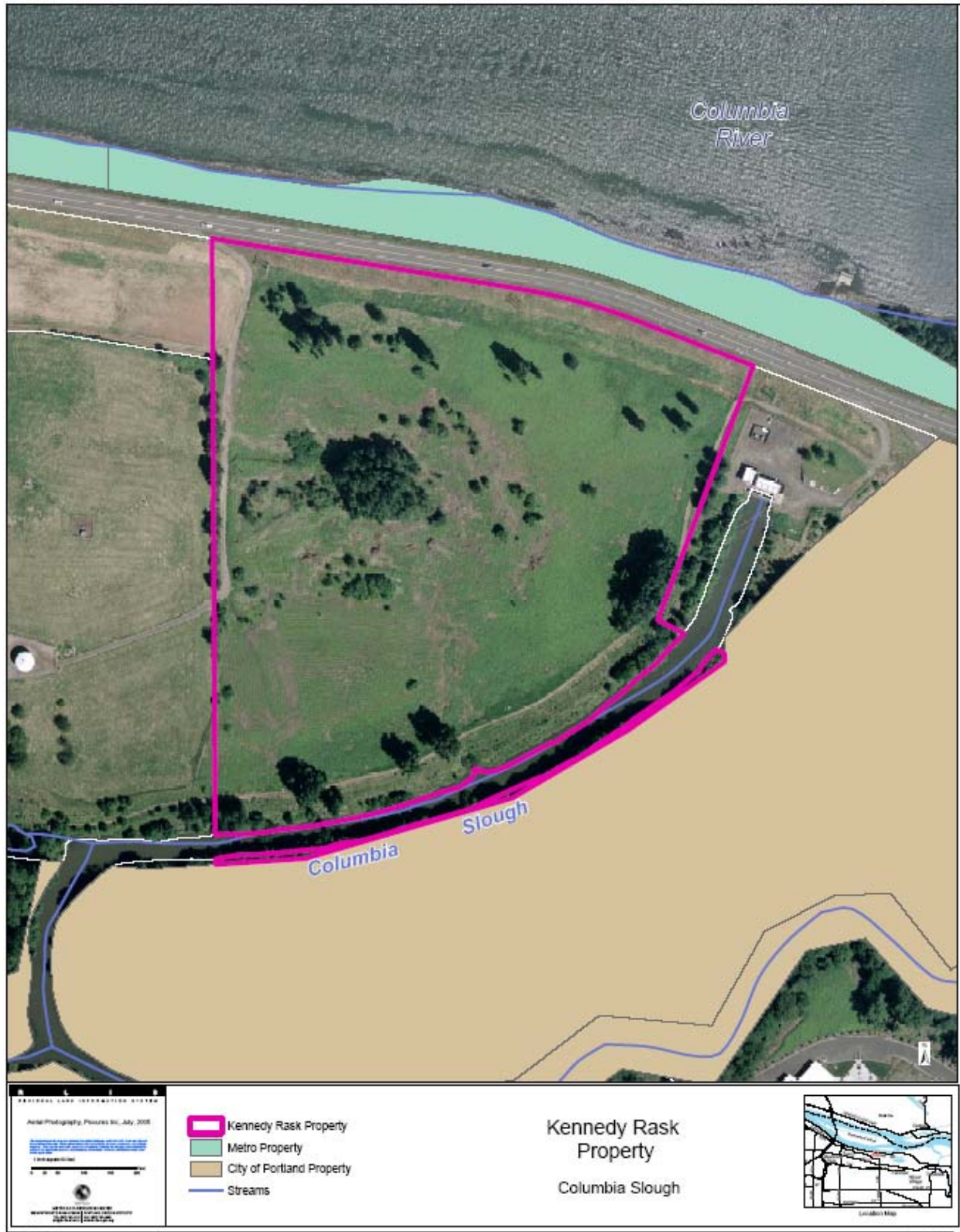
Sellers: Kennedy Rask et al.

Size: 19.95 acres

Stream Frontage: Columbia Slough

Option Price: \$20,000 cash for 9 month exclusive option

Conditions: Metro Council Approval, Appraisal and Environmental Review, Bond Measure



Target Area: JOHNSON CREEK – Spani Seely Property

Description: 1-acre parcel with frontage on Johnson Creek is directly adjacent to the Springwater Corridor (Three Bridges) and Johnson Creek Park. There is an opportunity to protect this site from development and restore with native vegetation.

Option Criteria Addressed:

- Protects / Enhances Water Quality
- Protects / Enhances Habitat
- Acquisition strongly supported by City of Portland
- Public Access from adjacent Johnson Creek Park
- Connectivity to Springwater Trail and Johnson Creek Park

Managers: City of Portland will manage the property

Sellers: Spani Seely.

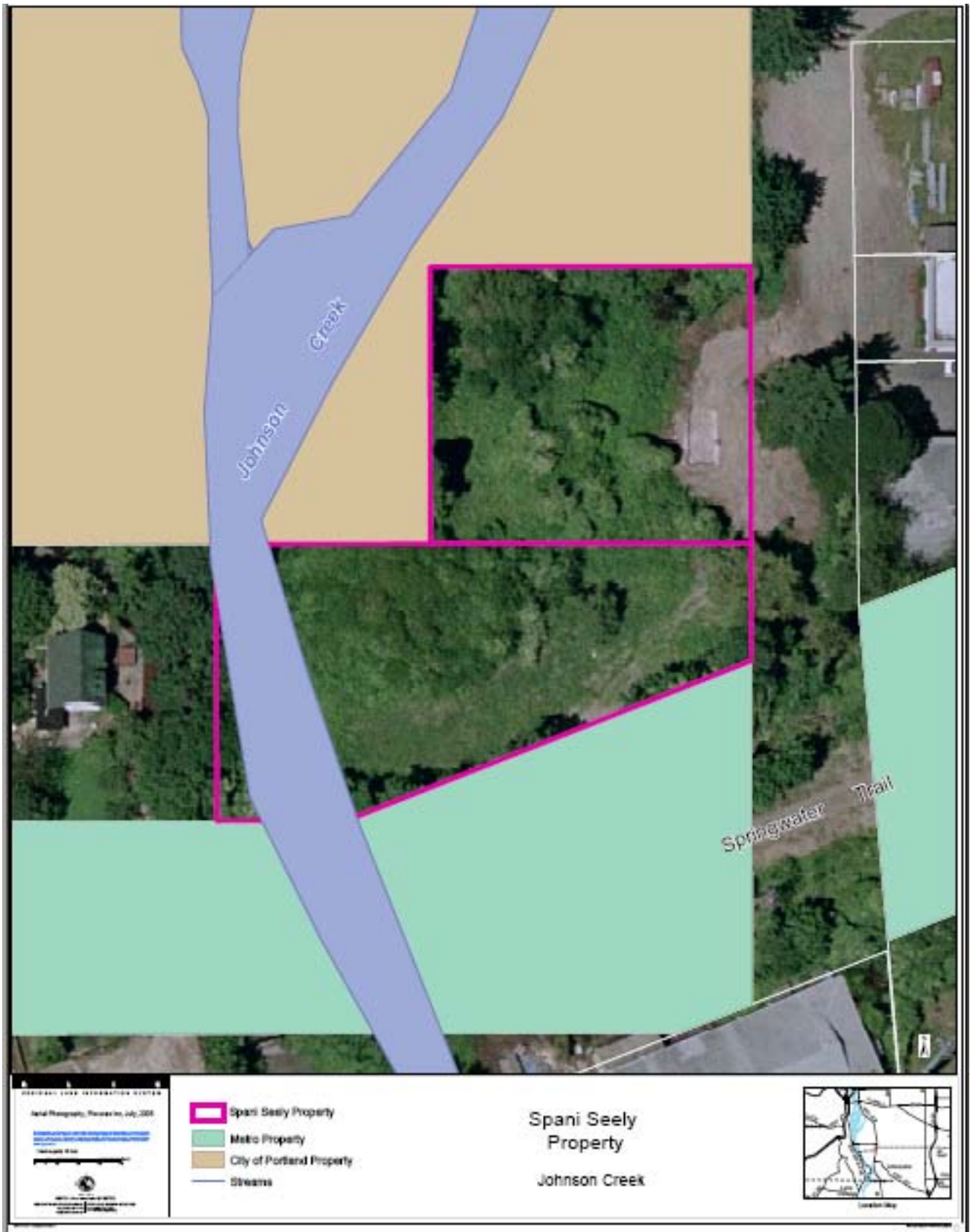
Size: 0.98 acres

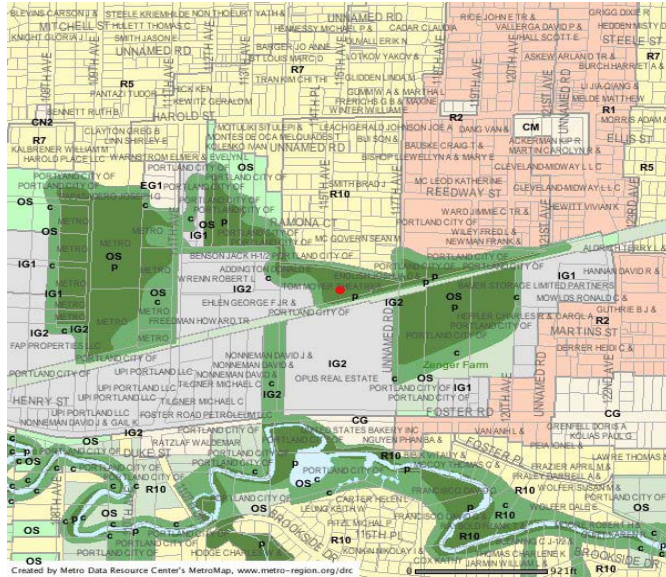
Stream Frontage: Johnson Creek

Option Price: \$2,500 in cash for 9 month exclusive option

Conditions: Metro Council Approval, Bond Measure







Target Area: JOHNSON CREEK – Moyer Property

Description: This 4-acre wetlands along the Springwater Trail, provides habitat connectivity between existing publicly owned properties including Zenger Farms and other City of Portland owned property at SE 115th Avenue

Option Criteria Addressed:

- Protects / Enhances Water Quality in the Johnson Creek Watershed
- Protects / Enhances Habitat opportunities to restore the wetlands habitat on this site
- Strongly supported by City of Portland’s Bureau of Environmental services who wish to include this site in area restoration management plans
- Public Access from neighborhood and adjacent Springwater Trail corridor.
- Connectivity with other publicly owned open space.

Managers: City of Portland’s Bureau of Environmental Services will manage the property

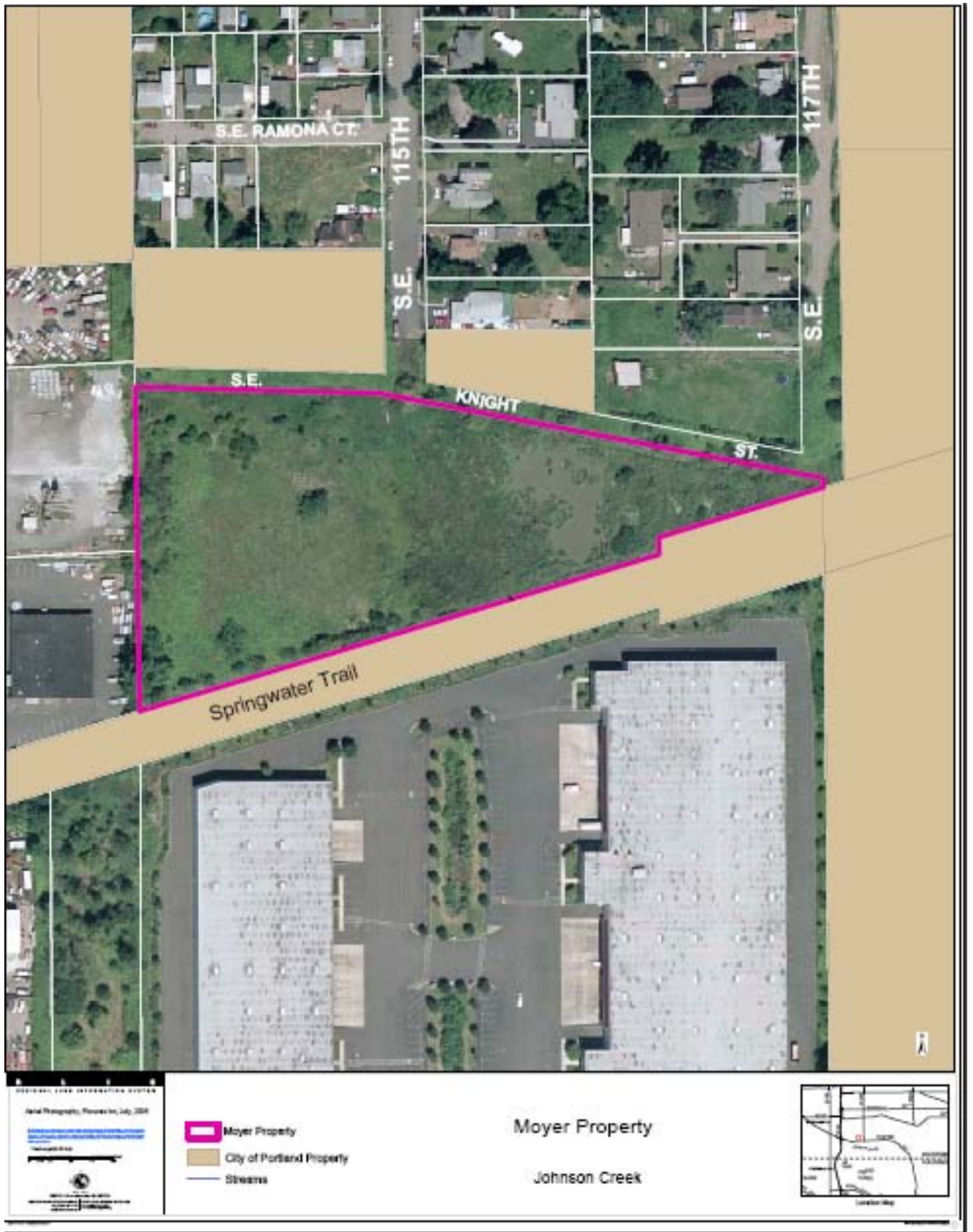
Sellers: Tom Moyer Theatres Inc.

Size: 4.23 acres

Stream Frontage: None

Option Price: \$500.00 in escrow to be deducted from Purchase Price on Closing

Conditions: Metro Council Approval, Bond Measure, Environmental Review



Target Area: NEWELL CREEK – Spady Property

Description: This 51-acre site represents a substantial in holding in publicly owned property along the west side of Newell Creek, a major tributary to Abernathy Creek. Abernathy Creek is a Target Area identified in the 2006 Natural Areas Bond Measure. The property has approximately 1/3 mile of frontage along a seasonal tributary to Newell Creek, and Metro owns land to the south, east and north of this site. The property has a platted development approval for up to four residential building sites ranging in size from 1.4 – 1.9 acres. Topography is moderately to steeply sloping down towards Newell Creek, and the property contains a mixed coniferous and deciduous forest of western red cedar, Douglas fir, big-leaf maple and red alder.

- Option Criteria Addressed:**
- Fills a “gap” in public ownership and provides connectivity with publicly owned properties to the south, east and north
 - Protects / Enhances water quality in Newell and Abernathy Creeks
 - Protects / Enhances riparian and upland habitat
 - Provides potential public trail connections
 - Strong local support

Managers: Metro will manage the property

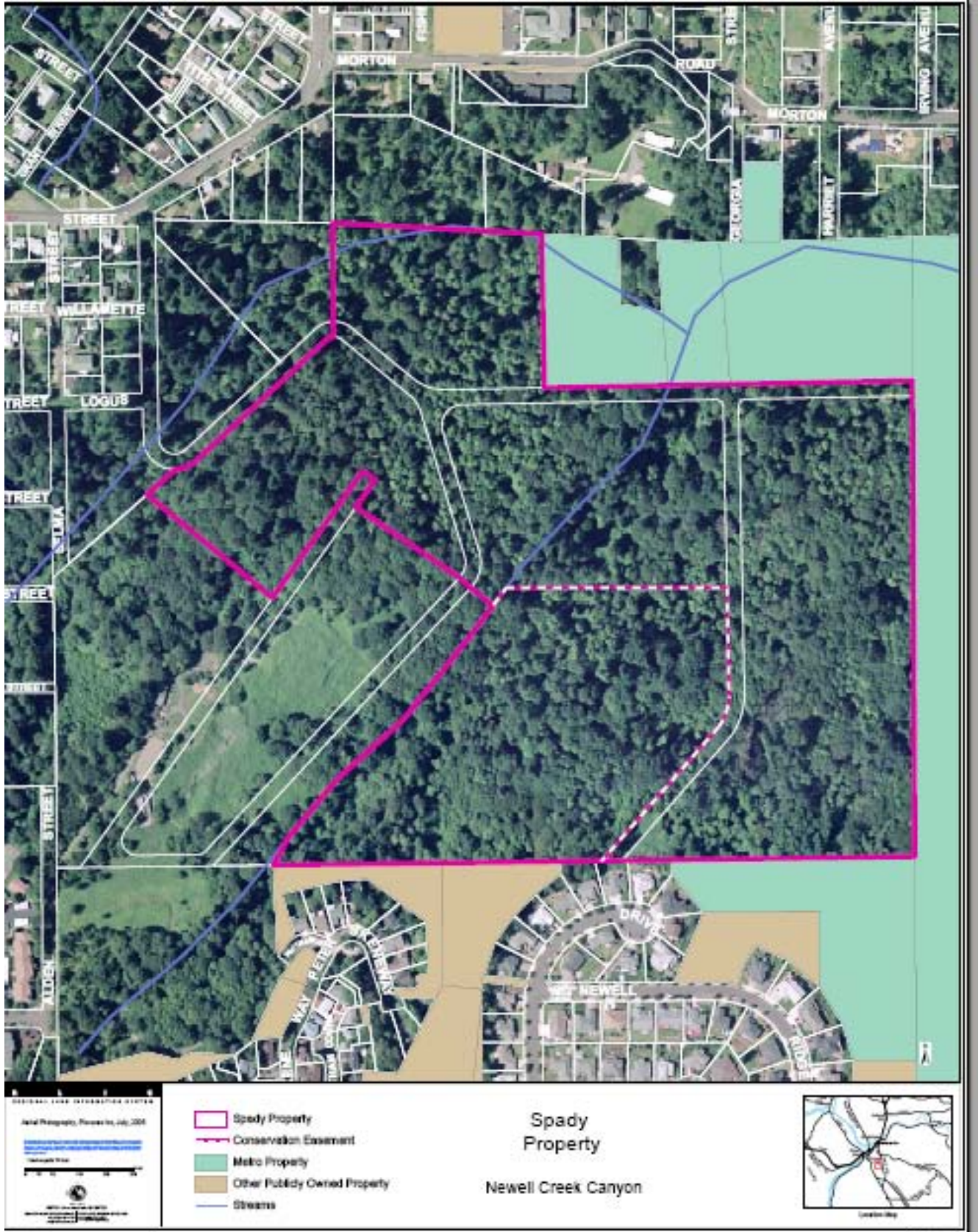
Sellers: Patricia Kay Spady.

Size: Approximately 51 acres. Exact size to be confirmed by survey

Stream Frontage: Yes, along unnamed seasonal tributary to Newell Creek

Option Price: \$500.00 in escrow for an exclusive 12-month option.

Conditions: Metro Council Approval, Bond Measure, Environmental Review



**Target Area: TUALATIN HEADWATERS: BAKER CREEK
Burge Property**

Description: This 52.93- acre property contains the confluence of Heaton Creek with Baker Creek plus an unnamed tributary to Baker Creek. The property has over 1-3/4 miles of stream frontage along these three creeks and is located within 1/2 mile of Metro's Gotter Prairie property adjacent to the Tualatin River. The property is approved for two single-family building sites on its upland portions and if not purchased by Metro will most likely be developed. In addition to the substantial riparian corridors along the creeks, the property contains a mixed upland forest of conifers and deciduous trees.

Option Criteria Addressed:

- Protects / Enhances water quality of two major tributaries to the Tualatin River
- Protects / Enhances riparian and upland habitat

Managers: Metro will manage the property

Sellers: Robert W. and Barbara R. Burge .

Size: 52.93 acres

Stream Frontage: Baker Creek, Heaton Creek, unnamed tributary

Option Price: \$4,500.00 escrow deposit for a 12-month exclusive option. Purchase price to be adjusted by the amount of the escrow deposit at Closing.

Conditions: Metro Council Approval, Bond Measure passage; Metro agrees to complete an appraisal within 90 days from the Effective Date of the Agreement.

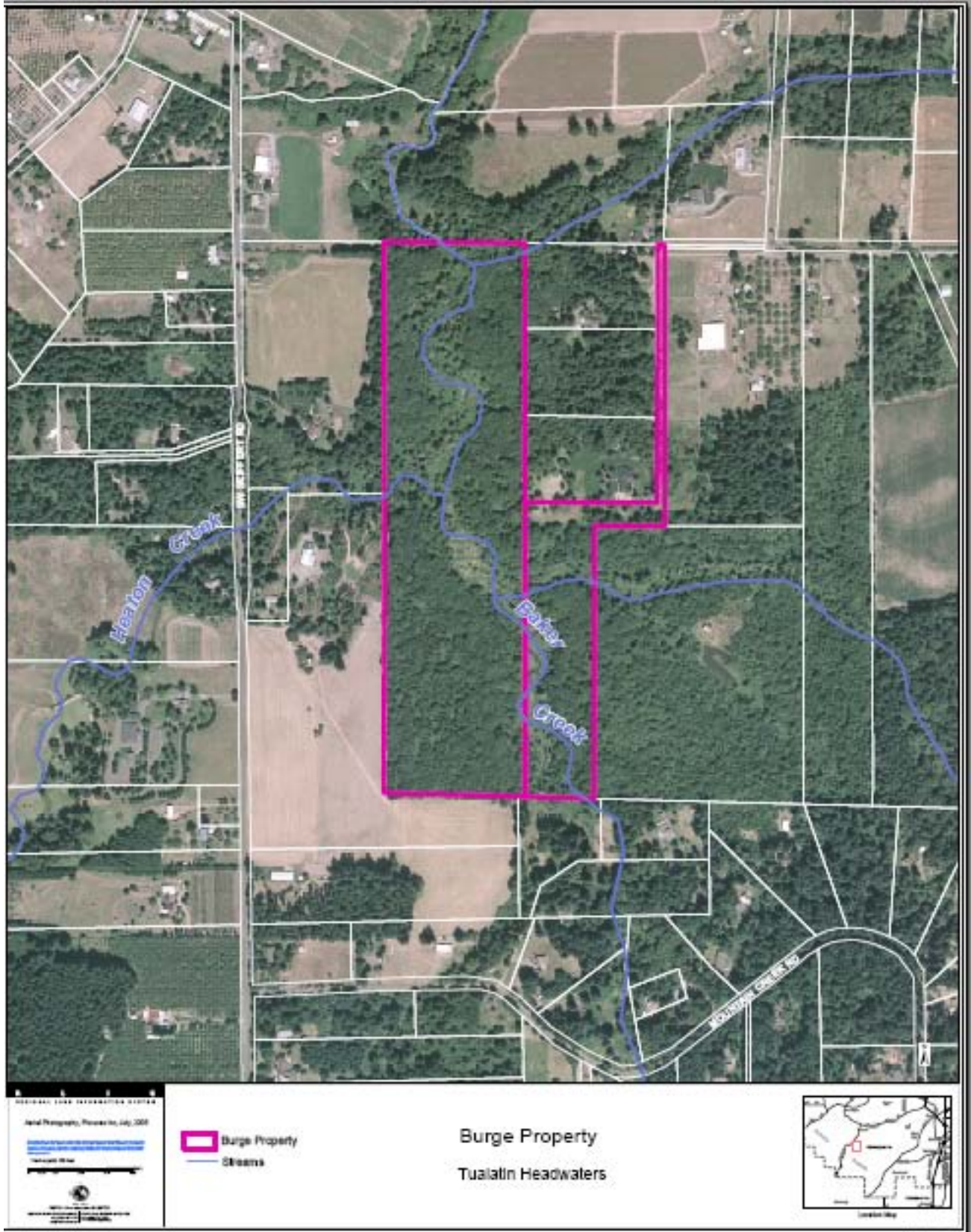


EXHIBIT B

FUNDING FOR OPTIONS

Target Area	Property Owner	Size (acres)	Estimated Option Funds Required
Columbia Slough	Kennedy Rask	19.95	\$25,000
Columbia Slough	Graphic Packaging	26.6	\$2,000
Johnson Creek	Spani Seely	0.98	\$2,500
Johnson Creek	TMT Development	4.23	\$500
Lower Tualatin Headwaters	Burge	52.93	\$10,000
Newell Creek	Spady	51.0	\$500
			\$45,000

Staff Report

IN CONSIDERATION OF RESOLUTION NO. 06-3687 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO OPTIONS TO PURCHASE PROPERTY UNDER THE 1995 OPEN SPACES BOND MEASURE AND PROPOSED 2006 NATURAL AREA BOND MEASURE IN ACCORD WITH THE OPEN SPACES IMPLEMENTATION WORK PLAN AND PROVIDING FUNDING

Date:

Prepared by:

Hillary Wilton
William Eadie

BACKGROUND

Metro staff was directed by Metro Council on September 29, 2005 (Resolution No. 05-3612 “For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program”) to obtain options to purchase specific properties approved by Council, as part of the preliminary work for the 2006 Natural Area Bond Measure. As part of the FY 2005-06 Adopted Budget, the Metro Council approved spending up to \$75,000 for the purchase of options or as earnest money in preparation for the 2006 Natural Area Bond Measure.

Metro staff has identified opportunities to enter into purchase and sale agreements to acquire property in the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon passage of the 2006 Natural Areas Bond Measure, Metro Council approval and funding to provide earnest money for these opportunities. Council approval is necessary to enter into these agreements.

Columbia Slough Properties

The Columbia Slough is one of the very few sites in North Portland with the potential to recreate habitat and improve water quality. The Columbia Slough is a Target Area identified in the 2006 Natural Areas Bond Measure.

Staff has identified an opportunity to acquire a 20-acre IG-2 zoned site at NE 175th and Marine Drive (“Kennedy Rask”). The parcel is part of a larger group of sites known as the “Big Four Corners”, one of the two-anchor habitat sites on the Columbia Slough, (the other being Smith and Bybee Lakes). The Columbia South Shore Slough Trail runs along the southeast property boundary, where a revegetation project is also ongoing. The City of Portland recently acquired the 120-acre site on the other side of the Slough, known as the Catellis property. Acquisition of the Kennedy Rask parcel strongly enhances public capacity to protect water quality and habitat, and provides public access opportunity via existing trail. The City of Portland and the Columbia Slough Watershed Council strongly support this acquisition, which is part of the 2003 Watershed Council Action Plan.

Staff has also identified a 26-acre site comprised of 2 undeveloped parcels directly adjacent to Heron Lakes Golf Course, owned by the City of Portland, and known site of a Heron rookery (“Graphic Packaging”). The site is important for water quality on the Columbia Slough and is also a potential alignment for the nature trail behind Heron Lakes. The Bureau of Environmental Services has recently

completed a 5-year half million-dollar revegetation project on the site and is interested in continued management.

Johnson Creek Properties

Johnson Creek remains the most densely urbanized creek in our region. Staff has identified several opportunities along the creek and in its watershed. Johnson Creek is a Target Area identified in the 2006 Natural Areas Bond Measure.

The City of Portland recommends acquisition of a 1-acre parcel on the creek, also adjacent to the Springwater Trail and Johnson Creek Park (“Spani Seely”). This parcel, otherwise subject to development, provides opportunity for botanic restoration, enhances the trail view shed and contributes to neighborhood open space resources. The City of Portland’s Bureau of Parks and Recreation will manage the property.

A 4-acre wetland parcel has also been identified on the Springwater corridor in the Johnson Creek watershed (“Moyer”). The property provides habitat and botanical connectivity between Zenger Farms and other City of Portland managed wetland areas. The City of Portland Bureau of Environmental Services is interested in managing and restoring this site in conjunction with its stewardship of adjacent properties.

Lower Tualatin Headwaters Property

Baker Creek is an important watershed in the Lower Tualatin Headwaters Target Area. Acquisition of land in this headwaters creek protects water quality in the lower Tualatin River basin, as well as providing important habitat. The Lower Tualatin Headwaters Creek is a Target Area identified in the 2006 Natural Areas Bond Measure.

Staff has identified two adjacent parcels (“Burge”) totaling 52.93 acres located off Scholls-Sherwood Road in Washington County. These properties are within ½ mile of Metro’s Gotter Prairie property adjacent to the Tualatin River. The parcels contain the confluence of Heaton and Baker Creeks as well as a small un-named tributary to Baker Creek. The two parcels have over 1-3/4 miles of stream frontage along the three creeks as well as substantial upland habitat. As such, these two parcels will protect and enhance water quality in the creeks as well as protect and enhance upland habitat. Each of the parcels is approved for a single-family building site in the upland portion. Both parcels are currently listed for sale; acquisition by Metro will protect the parcels from development. Metro will manage this site as part of its land stewardship program.

Newell Creek Canyon Property

Newell Creek is the major tributary to Abernethy Creek. Newell Creek Canyon is a Target Area identified in the 1995 Opens Spaces Bond Measure, and Abernethy Creek is a Target Area identified in the 2006 Natural Areas Bond Measure.

Staff has identified a 51- acre parcel (“Spady”) that represents a substantial in-holding in publicly owned property located along the west side of Newell Creek Canyon. Metro owns adjacent land to the north, east, and south of this site. The property has approximately 1/3 mile of frontage along a seasonal tributary to Newell Creek, and the property exhibits a moderate to steep slope down toward Newell Creek. The property also contains a mixed coniferous and deciduous forest. As such, this property will protect and enhance water quality in Newell and Abernethy Creeks as well as protect upland habitat. The property will also fill an important gap in public ownership along the west side of Newell Creek Canyon and provide potential public trail links.

The property has a platted development approval for up to four residential building sites ranging in size from 1.4 - 1.9 acres. Acquisition by Metro will protect the property from future development. Metro will manage this site as part of its land stewardship program.

Details of these options are outlined in Exhibit A and B of the Resolution.

Other Opportunities

Staff is pursuing other specific opportunities in 1995 Target Areas: Forest Park, Tryon Creek; Fanno Creek, and Canemah Bluff and in 2006 Natural Areas Bond Measure Target Areas: Rock Creek, Stafford, Columbia Slough, Damascus Buttes, Johnson Creek and Cazadero Trail. The combined opportunities are representative of the region, geographically diverse and strongly represent measure goals.

Whilst negotiations remain preliminary and specific opportunities are not ready for consideration at this time, to facilitate negotiations, staff is requesting further allocation of \$100,000 from existing budget authority in either the General Fund or the Metro Capital Fund to pay for due diligence and to provide earnest money, not more than two percent of estimated purchase price, to enter into agreements with property owners. These agreements to acquire property in the 1995 Open Spaces Bond Measure Target Areas and proposed 2006 Natural Area Bond Measure Target Areas, will be conditioned upon passage of the 2006 Natural Areas Bond Measure, and shall be brought forth to Council for approval.

ANALYSIS/INFORMATION

1. Known Opposition

None known.

2. Legal Antecedents

Resolution No. 06-3672B, "For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisitions and Water Quality Protection"

Resolution No. 05-3612, "For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program"

3. Anticipated Effects

- Metro will enter into Purchase and Sale Agreements for properties as identified on Exhibit A
- Metro will utilize additional funding to negotiate and bring forth to Council additional opportunities to enter into agreements of purchase and sale for properties in 2006 Natural Area Bond Measure Target Areas conditional on the bond measure passing

4. Budget Impacts

This Resolution does not increase budget authority.

In the 2005-06 Adopted Budget, the Metro Council designated \$75,000 in the General Fund toward the purchase of options and to use as earnest money on properties that would be purchased upon passage of the 2006 Natural Areas Bond Measure.

Adoption of this Resolution would allow staff to use up to an additional \$100,000 of existing budget authority, either within the General Fund or the Metro Capital Fund, to be reallocated toward this program and eventually reimbursed from the sale of bonds upon passage of the 2006 Natural Areas Bond Measure in November 2006. Expenditures toward properties not already identified in this resolution would still require Council approval. Expenditures may include the purchase of Options, escrow payments as Earnest Money toward property purchases, or on associated Due Diligence expenditures, such as appraisals and environmental assessments.

RECOMMENDED ACTION

Chief Operating Officer Michael Jordan recommends passage of Resolution No.06-3687.