

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE ) RESOLUTION NO. 00-2985  
EXECUTIVE OFFICER TO PURCHASE )  
PROPERTY IN THE EAST BUTTES / BORING ) Introduced by Mike Burton  
LAVA DOMES 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 (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, on July 25, 1995 via resolution 96-2361, the Metro Council adopted a refinement plan for the East Buttes / Boring Lava Domes regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, the East Buttes / Boring Lava Domes target area refinement plan identifies properties on Mt. Talbert as a regional priority for acquisition in partnership with the local jurisdiction contributing 25% of the purchase price under a challenge grant program; and

WHEREAS, since 1996, Metro has acquired approximately 143 contiguous acres in four transactions on Mt. Talbert, with North Clackamas Parks and Recreation (NCPRD) contributing 25% of the purchase price in each acquisition; and

WHEREAS, via Resolution 97-2563 the Metro Council approved an intergovernmental agreement (IGA) with NCPRD for management of Metro-purchased properties on Mt. Talbert; and

WHEREAS, via Resolution 00-2970 the Metro Council approved a management plan for Mt. Talbert, which was also approved by the NCPRD Board in April and the Clackamas County Commissioners in June 2000; and

WHEREAS, Metro has entered into a purchase and sale agreement, subject to approval by the Metro Council, to purchase 40 acres on Mt. Talbert, identified in Exhibit A, adjacent to Metro's previously purchased 143 acres and within the Council-approved tax-lot specific refinement plan map; and

WHEREAS, NCPRD is not able to contribute 25% of the purchase price of these 40 acres, but has committed to long-term management of the property under the existing IGA and Mt. Talbert Master Plan; and

WHEREAS, the Mt. Talbert challenge grant program has already created a successful local Mt. Talbert partnership; and

WHEREAS, the seller of the 40 acres on Mt. Talbert requires that the property deed contain a restriction that the property may be used only for park, open space or other public purposes; and

WHEREAS, a master plan for park and public open space use already has been adopted for Mt. Talbert, including this property, and no other use which would violate the deed restriction is anticipated; and

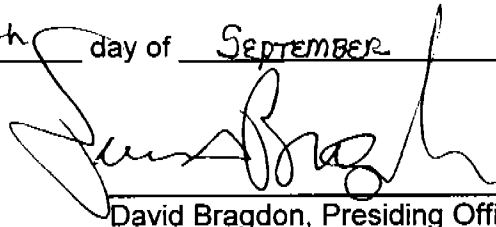
WHEREAS, the property is considered critical from a regional perspective for the protection of Mt. Talbert and the completion of acquisitions as envisioned by the refinement plan, thus allowing for the implementation of the adopted master plan at Mt. Talbert; and

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

BE IT RESOLVED,

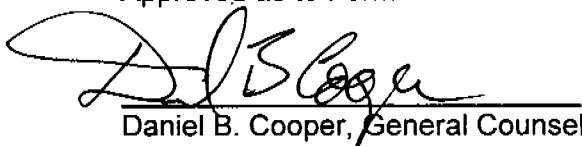
That the Metro Council authorizes the Metro Executive Officer to purchase 40 acres on Mt. Talbert, as identified in Exhibit A, by waiving the challenge grant requirement for a 25% contribution from a local jurisdiction and accepting the deed restriction in favor of the seller that the property be used only for park, open space or other public purposes.

ADOPTED by the Metro Council this 7<sup>th</sup> day of September, 2000.



David Bragdon, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

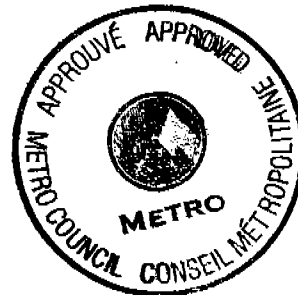


EXHIBIT A  
PROPOSED ACQUISITION OF 40 ACRES ON MT. TALBERT  
IN THE EAST BUTTES/BORING LAVA DOMES TARGET AREA

Legal Description of Property

The Southwest one-quarter of the Northwest one-quarter of Section 3, Township 2 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas, State of Oregon.

## Staff Report

### **CONSIDERATION OF RESOLUTION NO. 00-2985 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE LAND IN THE EAST BUTTES/ BORING LAVA DOMES TARGET AREA.**

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**Date: August 30, 2000**

**Presented by: Charles Ciecko  
Jim Desmond**

#### Proposed Action

Resolution No. 00-2985 requests authorization for the Executive Officer to purchase land on Mt. Talbert in the East Buttes/Boring Lava Dome Target Area.

#### Existing Legislation

Metro Code 2.04.026 (a) (3) requires that the Executive Officer obtain the authorization of the Metro Council prior to executing any contract for the purchase of real property. The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 96-2424, was established to implement the Open Spaces, Parks and Streams bond measure passed by the voters of the region in 1995. The Work Plan established acquisition parameters that authorize the Executive Officer to purchase property, within the Council-approved target area refinement plan maps. Purchases that do not meet these criteria or have "unusual circumstances" (as that term is defined in the Work Plan) require specific Council approval. Via Resolution 96-2361, the Metro Council approved the East Buttes/Boring Lava Domes target area refinement plan tax-lot specific map, which includes the subject Mt. Talbert property. The refinement plan was amended via Resolution 98-2724 to remove the challenge grant cap. Via Resolution 97-2563, the Metro Council approved an intergovernmental agreement with North Clackamas Parks and Recreation (NCPRD) to manage Metro and NCPRD-owned properties on Mt. Talbert. Just recently via Resolution 00-2970 the Metro Council approved a Master Plan for Mt. Talbert, which was also adopted by the NCPRD board in April and the Clackamas County Board of Commissioners in June of this year. This resolution proposes to approve an unusual circumstance purchase, waive one requirement of the refinement plan, and authorize the purchase of the subject property subject to the terms of the Purchase and Sale Agreement, executed by Metro and the landowner, subject to approval by Metro Council.

#### Background and Analysis

In May 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure, which authorized Metro to issue \$135.6 million in general-obligation bonds to finance land acquisition and certain park-related capital improvements.

On July 25, 1996, via Resolution 96-2361, the Metro Council adopted a refinement plan, which outlined a land protection strategy for the East Buttes/Boring Lava Domes regional target area. One objective of the plan is to "encourage participation of other governments and non-profit organizations in acquiring strategic properties that enhance and connect existing open space in the Mt. Scott, Mt. Clatsop, Powell Butte, Kelley Butte, Rocky Butte, and Mt. Talbert areas by

establishing a challenge grant program.” One of the refinement plan requirements is that acquisitions on these buttes be made with a minimum 25% non-Metro match.

Mt. Talbert is a priority acquisition area for the challenge grant program for several reasons. First, it is an undeveloped-forested butte, which is prominently in view from as far away as downtown Portland, and from as close as I-205. Second, the Mt. Talbert forest contains healthy stands of second growth and remnant old growth trees, which shade Mount Scott Creek. Third, standing amidst the rapid urbanization of the I-205/Sunnyside Road area, Mt. Talbert’s wooded slopes provide natural area opportunities for an area which will continue to experience rapid growth.

Metro has entered into a purchase and sale agreement to purchase 40 acres on Mt. Talbert. This agreement is subject to approval by Metro Council based on the acquisition parameters of the open spaces work plan and adopted refinement plan for the area. The property is critical to the overall effort to protect Mt. Talbert as it extends to the top of the butte, is adjacent to existing Metro holdings and constitutes much of the viewshed from the west, including from the Clackamas Town Center and the hills of SW Portland. Metro staff has been in negotiation for more than three years to acquire the site which is considered to be among the most prominent “essential” open space sites remaining for acquisition by Metro.

The challenge grant program has resulted in the acquisition of 143 acres on Mt. Talbert, which Metro accomplished with the assistance of the North Clackamas Parks and Recreation District (NCPRD). NCPRD’s financial commitment to the acquisition of properties has totaled \$1,557,250 in acquisition dollars plus significant additional sums for master planning activities. NCPRD has requested that based on NCPRD’s significant contribution to prior acquisitions and commitment to implement the master plan and provide for the operation and maintenance of this regionally significant area, that the 25% requirement be waived for this acquisition.

Metro Council authorized the acquisition of the property in question on Mt. Talbert when Council approved the East Buttes/Boring Lava Domes Target Area refinement plan. Sufficient bond measure funds exist to acquire more properties on Mt. Talbert and the buttes identified in the challenge grant program and still meet acreage and budget goals in the thirteen other regional target areas and six trails/greenways.

Staff has been unable to find any other sources of match money for this property. The transaction has a very brief 30-day closing requirement.

For these reasons, removal of the 25% match guideline on the challenge is requested to take advantage of the rare opportunity to greatly enhance Metro and NCPRD’s prior acquisitions and preserve an undeveloped urban butte with high natural resource qualities.

Council approval is also needed for an unusual circumstance related to the property. Seller has requested that the deed contain a restriction that the property may be used only for park, open space or other public purposes. This restriction effectively prohibits Metro from selling the property to a private, non-conservation entity. Given the completion and adoption of a master plan for Mt. Talbert, it is now highly unlikely that under the language of the bond measure this property could be declared “surplus” and later sold. Thus, in staff’s opinion, the restriction is not unduly burdensome. The owner will not be a “willing seller” if such restriction is not included.

There are also several title exceptions currently encumbering this property, which Metro is requiring the seller to remove at closing. These title exceptions involve pending or future monetary claims of questionable validity, and the Seller and Metro are currently working with the title company to resolve these issues.

In accordance with the Open Spaces Implementation Work Plan, the Open Spaces Acquisition Committee met on August 30, 2000 and recommended that the property be purchased on the terms laid out in the contract.

### **Findings**

Acquisition of the property is recommended, based on the following:

- The East Buttes/Boring Lava Domes Target Area Refinement Plan identifies Mt. Talbert, an undeveloped butte with second growth and remnant old growth forest cover, as a regional priority for protection through a challenge grant program. The goal of the challenge grant, to facilitate public partnerships, has been accomplished on Mt. Talbert.
- Metro and NCPRD acquired 143 acres atop Mt. Talbert with the assistance of challenge grant funding, which protected a significant portion of the butte from development, and which leveraged the opportunity to expand this protection through the acquisition of neighboring properties. These properties are managed by NCPRD pursuant to an intergovernmental agreement with Metro.
- NCPRD has recently completed a master plan for the Mt. Talbert area, including the subject property, which has been formally adopted by NCPRD, Clackamas County and Metro. NCPRD supports this acquisition and has committed to manage and operate this property under the terms of the existing IGA and approved master plan.
- The remaining provisions of the East Buttes/Boring Lava Domes Target Area refinement plan shall remain unchanged, with the sole modification being the waiver of the 25% match requirement for this property.
- This site is considered critical from a regional perspective for the protection of Mt. Talbert, and the completion of acquisitions as envisioned by the refinement plan, thus allowing for the implementation of the master plan at Mt. Talbert.

### **Budget Impact**

Bond funds would supply acquisition money. NCPRD has committed to assuming long-term management responsibilities for the property as part of the Metro-NCPRD IGA (Metro contract number 920211) and the Mt. Talbert Master Plan, approved via Resolution 00-2970.

### **Executive Officer's Recommendation**

The Executive Officer recommends passage of Resolution No. 00-2985.