

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER
TO PURCHASE PROPERTY IN THE JOHNSON
CREEK TARGET AREA UNDER THE 2006 NATURAL
AREAS BOND MEASURE AND SUBJECT TO
UNUSUAL CIRCUMSTANCES

RESOLUTION NO. 07-3830

Introduced by Chief Operating Officer
Michael J. Jordan, with the
concurrence of Council President
David Bragdon

WHEREAS, at the general election held on November 7, 2006, the voters of the Metro region approved Measure 26-80, the 2006 Natural Areas Bond Measure submitted to the voters to preserve natural areas and clean water and protect fish and wildlife (the “Measure”); and

WHEREAS, as provided in the Measure, Metro is currently undertaking a public refinement process to establish specific acquisition strategies, goals and objectives, and confidential tax-lot specific acquisition target maps, for each of the 27 target areas; and

WHEREAS, in advance of completing the refinement process, Metro staff has identified an opportunity to purchase a specific property in the 2006 Natural Areas Bond Measure Johnson Creek Target Area, which property is identified and further described in Exhibit A to this resolution (the “Property”); and

WHEREAS, on May 31, 2007, the Council approved Resolution No. 07-3819, “Authorizing the Chief Operating Officer to Acquire Property in the Johnson Creek Target Area Under the 2006 Natural Areas Bond Measure,” which resolution approved the acquisition of the Property, subject to all terms of the transaction complying with the 2006 Natural Areas Acquisition Parameters and Due Diligence Guidelines, set forth in Metro Council Resolution No. 07-3766A “Authorizing the Chief Operating Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan,” (the “Acquisition Parameters and Due Diligence Guidelines”) adopted on March 1, 2007; and

WHEREAS, the Acquisition Parameters and Due Diligence Guidelines provide that the purchase price for property must be no more than the fair market value of the property as determined by an independent certified appraiser and as confirmed by a review appraisal by an independent certified appraiser; and

WHEREAS, the fair market value of the Property as approved by one of Metro’s contract review appraisers, following an appraisal of the Property’s value by one of Metro’s contract appraisers, is approximately six percent below the negotiated purchase price for the property; and

WHEREAS, during the course of the refinement process it has become evident that the Property is critical to achieving the Measure’s goals within the Johnson Creek Target Area, that the failure to acquire the Property will significantly compromise Metro’s ability to achieve such goals, and that the purchase of the Property at the negotiated price will not compromise Metro’s ability to achieve other goals that will be established within that target area; now, therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to

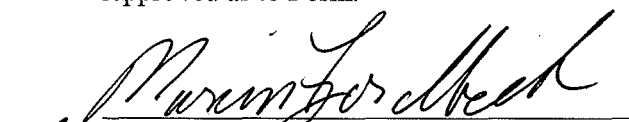
acquire the property identified in Exhibit A at the negotiated purchase price, and otherwise in accord with all of the Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan.

ADOPTED by the Metro Council this 5th day of July 2007.

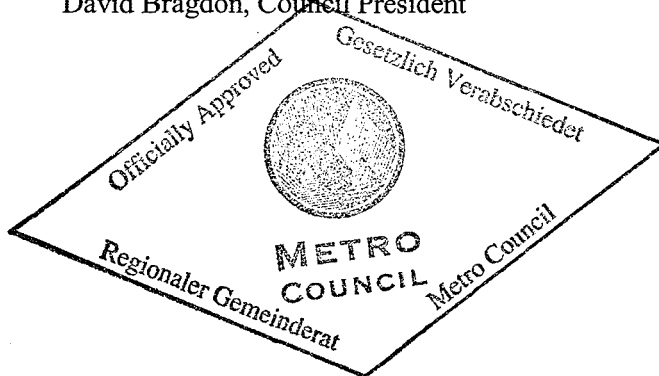


David Bragdon, Council President

Approved as to Form:



for Daniel B. Cooper, Metro Attorney



**Target Area: JOHNSON CREEK
Clatsop Buttes Natural Area Property**

Description: Staff has identified an opportunity to protect 49 acres of property including densely forested hillsides and floodplain creek frontage in the Boring Lava Domes in the Johnson Creek Target Area. The property is located south of Foster Road and west of Barbara Welch Road on the North face of the butte (“Clatsop Buttes Natural Area Property”).

The site is home to a mix of native trees and vegetation including maples, cedars, Douglas firs, red alder, Oregon grape, huckleberry, elderberry, sword fern and hosts wildlife including deer, fox, coyote, migrating flicker, pileated woodpecker and other birds. Threatened development, which proposes 97 residential sites would have substantial negative impact on the Johnson Creek watershed and would represent the destruction of one of the last remaining functioning intact habitats of this size in the City of Portland. Protection of the sight will retain important habitat, maintain scenic qualities and prevent the water quality impacts of a development of this magnitude on the watershed.

The area has been distinguished by Johnson Creek Target Area stakeholders as one of the last opportunities of this habitat quality and scale in the City of Portland. There is also strong public support for the area, 81.5% of respondents to date for the refinement questionnaire for the Johnson Creek Target Area, identified this area as a priority for acquisitions.

The City of Portland has identified this habitat in its Natural Areas acquisition strategy accepted by Portland City Council in 2006. The City of Portland is committed to long-term management of this site, maintaining its rare values and protecting it from invasive species.

- Bond Criteria Addressed:**
- Protection of this level of intact canopy on property with multiple drainages to the main stem will keep water temperatures low, a major water quality benefit.
 - Property represents a unique opportunity to protect one of the last intact forested habitats on Johnson Creek within the City of Portland.
 - Identified in refinement plans for the Johnson Creek Target Area an important link in the wildlife corridor extending from Powell Butte South.
 - Protects resources from imminent development threat.
 - The north facing Butte is an important scenic resource.
 - Opportunity is adjacent to City of Portland owned Kingsley D. Bundy Park, a dedicated natural area, which expands habitat protection another 5 acres across Johnson Creek to the North.
 - There has been strong community support and we anticipate active partnership in restoration.

Property identification: Township 1 South, Range 2 East, Section 24B, Lots 1300 and 1400; Township 1 South, Range 2 East, Section 23AA, Lots 900, 1200, 1201, 1202, and 1300; Township 1 South, Range 2 East, Section 23AD, Lot 100; and Township 1 South, Range 2 East, Section 24BB, Lot 1000; Township 1 South, Range 2 East, Section 24BD, Lots 1700, 1800 and 1900

Sellers: Private Party

Size: 49 acres

Stream Johnson Creek

Frontage:

Conditions: Standard due diligence; subject to unusual circumstance re: purchase price

STAFF REPORT

In consideration of Resolution No. 07-3830, authorizing the Chief Operating Officer to purchase property in the Johnson Creek Target Area Under the 2006 Natural Areas Bond Measure and Subject to Unusual Circumstances

Date: July 5, 2007

Prepared by: Kathleen Brennan-Hunter

BACKGROUND

Resolution No. 07-3830 requests authorization for Metro to purchase property in the Johnson Creek Target Area as described in Exhibit A. This Resolution proposes authorization for the purchase of the property subject to the terms of a Purchase and Sale Agreement, and an Addendum thereto, executed between Metro and the Seller. Metro Council authorized acquisition of the property on May 31, 2007 by Resolution 07-3819. Authorization is requested as the fair market value of the Property as approved by one of Metro's contract review appraisers, following an appraisal of the Property's value by one of Metro's contract appraisers, is approximately six percent below the negotiated purchase price for the property

Metro Council has directed staff to bring forward for consideration for purchase any high quality sites that are under some threat of being lost if not acted upon at this time, and highly likely to be recommended by key stakeholders and staff as priority sites for acquisition when the refinement plan for their respective target areas are brought forward. During the course of the refinement process it has become evident that the Property is critical to achieving the Measure's goals within the Johnson Creek Target Area, that the failure to acquire the Property will significantly compromise Metro's ability to achieve such goals, and that the purchase of the Property at the negotiated price will not compromise Metro's ability to achieve other goals that will be established within that target area. If not purchased by Metro, the developer/seller has indicated his intent to immediately proceed with finalizing his permits to begin development.

JOHNSON CREEK HEADWATERS

As stated in the 2006 Natural Areas bond description of the Johnson Creek Target Area, as adopted by Metro Council:

Johnson Creek remains the most densely urbanized creek in our region. Opportunities remain to acquire tracts within the remaining floodplain, upland habitat areas adjacent to the main stem, and along both Butler and Kelly creeks to protect water quality and connect public holdings with the Damascus Buttes.

Clatsop Buttes Natural Area

Staff has identified an opportunity to protect 49 acres of property including densely forested hillsides and floodplain creek frontage in the Boring Lava Domes in the Johnson Creek Target Area. The property is located south of Foster Road and west of Barbara Welch Road on the north face of the butte ("Clatsop Buttes Natural Area Property").

Several significant drainages, springs and creeks traverse the site, which includes frontage on Johnson Creek. The site is home to a mix of native trees and vegetation including maples, cedars, Douglas firs, red alder, Oregon grape, huckleberry, elderberry, sword fern and hosts wildlife including deer, fox, coyote, migrating flicker, pileated woodpecker and other birds.

This area including the Clatsop Buttes Natural Area Property has been identified by most stakeholders in refinement planning for the Johnson Creek Target Area as a priority habitat protection opportunity and important link in the wildlife corridor extending from Powell Butte to the south. The area has been distinguished by Johnson Creek stakeholders as one of the last opportunities of this habitat quality in the City of Portland.

Threatened development, which proposes 97 residential sites, would have substantial negative impact on the Johnson Creek watershed and would represent the destruction of one of the last large, intact habitats in the City of Portland. Protection of the site will secure important habitat, maintain scenic qualities and prevent water quality impacts from development in this watershed.

There is strong stakeholder and community advocacy for protection of this property. Based on refinement work to date, the science community and stakeholders agree this property will be one of the highest priorities for the Johnson Creek Target Area Refinement Plan.

ANALYSIS/INFORMATION

1. Known Opposition

None.

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," adopted on March 9, 2006.

The voters' approval of Metro's 2006 Natural Areas Bond Measure at the general election held on November 6, 2006.

Resolution No. 07-3766A "Authorizing the Chief Operating Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan," adopted by the Metro Council on March 1, 2007, established the Acquisition Parameters and Due Diligence Guidelines for the purchase of properties as part of the 2006 Natural Areas Bond Program.

Resolution No. 07-3819, "Authorizing the Chief Operating Officer to Acquire Property in the Johnson Creek Target Area Under the 2006 Natural Areas Bond Measure," which resolution approved the acquisition of the Property, subject to all terms of the transaction complying with the 2006 Natural Areas Acquisition Parameters and Due Diligence Guidelines.

This Resolution No. 07-3830 proposes to authorize the purchase of the Property subject to the terms of Purchase and Sale Agreement and the amendment executed by the Property owners and Metro.

This authorization assumes that the purchase will meet all other terms of the Acquisition Parameters and Due Diligence Guidelines of the 2006 Natural Areas Implementation Work Plan on matters such as appraisal review, environmental audit and title matters. Except with respect to the Purchase Price, this authorization does not cover any other "unusual circumstances" and to the extent any other "unusual circumstances" arise during Metro's due diligence process, further Council review and authorization will be required.

3. Anticipated Effects

Assuming that no additional unusual circumstances arise, Metro will close on the purchase of these properties and will own 100% fee simple interest in the properties.

The City of Portland will assume Management of the Clatsop Buttes Natural Area Property, under a management IGA to be finalized.

4. Budget Impacts

The properties are scheduled to close prior to September 30, 2007 and will be purchased utilizing 2006 Regional Bond proceeds. Metro shall bear only the stabilization costs for the Clatsop Buttes Natural Area Property. Landbanking and future management costs for the Clatsop Buttes Natural Area Property shall be borne by the City of Portland under an intergovernmental agreement regarding management.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 07-3830.