

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING)
THE EXECUTIVE OFFICER TO)
PURCHASE THE PORTLAND TRACTION)
COMPANY'S FORMER RAILWAY)
CORRIDOR FROM THE UNION PACIFIC)
RAILROAD)

RESOLUTION NO. 01-3142

Introduced by Mike Burton,
Executive Officer

WHEREAS, 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; and

WHEREAS, the bond measure included \$25 million for local share projects, which included the acquisition of the Portland Traction Company's (PTC's) former railway corridor from Milwaukie to Gladstone for a future trail; and

WHEREAS, the North Clackamas Parks and Recreation District (NCPRD) has requested that Metro Regional Parks and Greenspaces staff pursue the acquisition of the corridor, including real estate negotiations with the property owner and all related due diligence activities; and

WHEREAS, the PTC Trail is of regional significance as designated by Metro's Greenspaces Master Plan and Regional Transportation Plan (RTP); and

WHEREAS, the former railway corridor is a priority project in the NCPRD Parks Master Plan, and essential for the completion of the PTC Trail between Milwaukie and Gladstone; and

WHEREAS, the funding for the acquisition will come from NCPRD's local share allocation; and

WHEREAS, the amended Open Space Implementation Work Plan adopted in January 1997, provides that the Metro Council approval is required for purchases involving "unusual circumstances;" and

WHEREAS, Union Pacific Railroad (UP) owns the properties within the corridor and has offered to sell them to Metro; and

WHEREAS, the value determined by Metro's appraisal is 26% below the offered purchase price, and the value determined by the appraiser retained by UP is 40% above the purchase price; and

WHEREAS, there are issues concerning the permanence of the rail line easement in portions of the former railway corridor; and

WHEREAS, the purchase of the properties is on an "as-is" basis with no environmental representations or warranties regarding the conditions of the properties from the seller; and

WHEREAS, pursuant to the Open Spaces Implementation Work Plan, paying above Metro's appraised value, purchasing on an "as-is" basis without environmental representations or warranties, and purchasing property with issues concerning title is an "unusual circumstance;" and

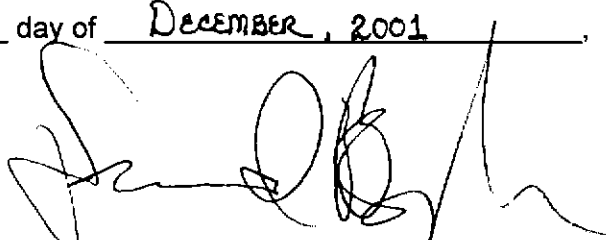
WHEREAS, the Open Spaces Implementation Work Plan requires Metro Council's specific approval for acquisitions which involve an "unusual circumstance;" now therefore

BE IT RESOLVED,

That the Metro Council authorizes the Metro Executive Officer to purchase the Union Pacific properties, as more particularly described in Exhibit A.


ADOPTED by the Metro Council this 6th day of DECEMBER, 2001.





David Bragdon, Presiding Officer

Approved as to form:



Dan Cooper, General Counsel

UNION PACIFIC RAILROAD COMPANY
Clackamas County, Oregon

EXHIBIT "A"

Any and all right title and interest in and to those parcels of land, commencing at the south line of Jefferson Street and running generally in a southerly direction to the north line of Glen Echo Road, as was conveyed to the East Side Railway Company, predecessor to Union Pacific Railroad Company and recorded in the Clackamas County Recorders Office, State of Oregon as follows:

Grantor	Recorded	Book	Page
Milwaukie Land Co	March 24, 1893	51	72 172
D. W. Crowley et al.	April 25, 1893	51	292
John Wetzler et ux.	October 15, 1892	50	37
J. W. Sauber et ux.	October 15, 1892	50	35
Abraham Hager et ux.	August 22, 1893	53	138
John L. Bernard	October 15, 1892	50	34
John F. Broetje	October 15, 1892	50	32
Oak Grove Land Improvement Co.	March 29, 1893	51	194
J. S. Risley	October 15, 1892	50	39
John W. Meldrum et al.	February 18, 1901	77	148
Jacob Naef	March 10, 1893	51	139
William T. Burney	October 15, 1892	50	41
John G. Roethe	February 22, 1893	50	467
August F. Neunert et ux.	March 24, 1893	51	173
John W. Meldrum et al.	March 15, 1893	52	63
John W. Meldrum et al.	March 15, 1893	51	148
Georgia P. Meldrum	March 10, 1893	51	131

And those parcels conveyed to Portland Railway Light & Power Company, predecessor to Union Pacific Railroad Company recorded in the Clackamas County Recorders Office, State of Oregon as follows:

Grantor	Recorded	Book	Page
Elmer Coleman	July 8, 1909	109	602
J. H. McArthur	December 22, 1911	127	164
Emily C. Shaw et vir.	June 6, 1932	216	22
Emily C. Shaw		216	4

And those parcels conveyed to Pacific Electric Power Co. predecessor to Union Pacific Railroad Company recorded in the Clackamas County Recorders Office, State of Oregon as follows:

Grantor	Recorded	Book	Page
Hawley Pulp & Paper Co	May 22, 1935	227	371
State of Oregon	April 26, 1935	227	166
State of Oregon	May 1, 1935	227	212
James F. Lytle	October 20, 1928	195	104
Clackamas County	March 16, 1935	226	432
Julia Mathews	March 10, 1934	222	222

And those parcels conveyed to Portland City & Oregon Railway Co. predecessor to Union Pacific Railroad Company recorded in the Clackamas County Recorders Office, State of Oregon as follows:

Grantor	Recorded	Book	Page
Mary Ryan Executrix	January 4, 1902	79	54
Jane Atkinson	September 25, 1901	78	167
Isaac Jacobs et al.	January 24, 1902	79	131
Henry W. Fries et ux.	September 25, 1901	78	169
James Steel et ux	September 10, 1901	78	150
J. Frank Watson	December 23, 1901	78	466
<i>Dora Tenant</i>		<i>79</i>	<i>21</i> *

And those parcels conveyed to Pacific Northwest Public Service Co. predecessor to Union Pacific Railroad Company recorded in the Clackamas County Recorders Office, State of Oregon as follows:

Grantor	Recorded	Book	Page
A. A. Webster et al.	January 19, 1933	209	408
Clackamas County	June 8, 1932	216	22

Containing an area of 18.009 acres, more or less














Office of Real Estate
Omaha, Nebraska
June 29, 2000

Written by: JCO
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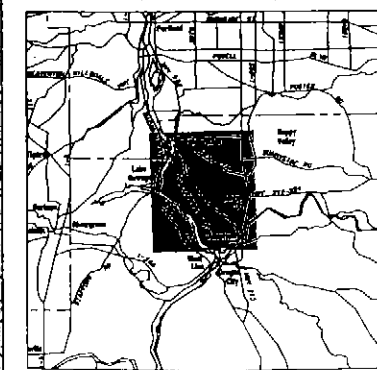
R L I S
 REGIONAL LAND INFORMATION SYSTEM

**Green Ribbon Committee
 Site Selection
 Portland Traction Trail**

-  Developed land (derived from July, 2000 aerial photography)
-  Vacant land (derived from July, 2000 aerial photography)
-  Vacant/Developed Land data not available
-  Parks and Open Spaces
-  Bond Measure Acquisitions
-  Sites To Be Considered By The Green Ribbon Committee
-  Urban Growth Boundary
-  County Boundary
-  City Boundaries
-  Existing Regional Trails
-  Proposed Trails
-  Trail crosses property acquired by the Metro Open Spaces Parks and Streams Bond Measure
-  Trail identified in the Metro Open Spaces, Parks and Streams Bond Measure

Note: Proposed Trail & Greenway alignments are conceptual

Scale: 1" = 2800'
 0 1400 2800



Location map

Staff Report

CONSIDERATION OF RESOLUTION NO. 01-3142 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE THE PORTLAND TRACTION COMPANY'S FORMER RAILWAY CORRIDOR FROM THE UNION PACIFIC RAILROAD

Date: December 3, 2001

**Presented by: Charles Ciecko
Jim Desmond**

Description

Resolution No. 01-3142 requests authorization for the Executive Officer to purchase the Portland Traction Company (PTC) former railway corridor (approximately 6.09 acres of land, 40 feet wide in most areas, and 5.7 miles long) owned by Union Pacific Railroad ("the Property"). The project area is between the cities of Milwaukie and Gladstone, running south/southeast from the Milwaukie boat launch to Glenn Echo Road. The neighborhood along the corridor is residential in character, with commercial development located along SE McLoughlin Boulevard.

Existing Law

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. 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 95-228A (and amended 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.

This resolution proposes to approve an unusual circumstance purchase and authorize the purchase of the Property subject to the terms of the Purchase and Sale Agreement, executed by Metro and the Property owner.

Background

1. The PTC trail project is funded by Metro's Open Spaces, Parks and Streams bond measure, which was approved by the voters of the region in May 1995. The PTC Trail was specifically listed as a local share project under the bond measure. The North Clackamas Parks and Recreation District (NCPRD) was designated as project manager. NCPRD has designated and reserved \$500,000 of its local share funds towards the acquisition of the Property and related rights.

2. The trail is also designated as regionally significant in Metro's Greenspaces Master Plan (and trails and greenways system map), and the Regional Transportation Plan (RTP).
3. NCPRD staff has requested that Metro Parks and Greenspaces staff pursue the acquisition of the corridor, including real estate negotiations with the Property owner and all related due diligence activities. Funding would come from NCPRD's local share allocation under the Open Spaces bond measure.
4. Metro has entered into an agreement with the current owner, Union Pacific Railroad ("UP"), to purchase the former rail corridor totaling approximately 6.09 acres and located from Milwaukie to Gladstone.
5. The Open Spaces Acquisition Committee met and unanimously recommended that the Property be purchased by Metro on conditions set forth in this staff report and those more specifically stated in the purchase and sale agreement.

Unusual Circumstances

The transaction has three unusual circumstances for which Council approval is sought:

1. **Value:** The value of the fee-held portion of the railroad corridor determined by Metro's appraisal is 26% below the purchase price, and the value determined by the appraiser retained by UP is 40% above the purchase price. However, railroad corridors are very difficult to appraise, as the market for them is limited. Union Pacific believes that the negotiated price is below that which it generally receives for similar railroad corridors.
2. **Title:** The railroad ceased passenger operations in the rail corridor in 1958, continuing freight service until 1967, when it removed the rails and ties throughout much of the corridor. Portions of the rail corridor are owned by the railroad in fee simple. The cessation of rail use has no relevance as to these fee-held portions. However, one-third to one-half of the rail corridor is an easement or right-of-way held by the railroad for purposes of operating a rail line. It appears that, upon the cessation of rail service, these easements may have terminated. The entire corridor is also subject to a blanket Portland General Electric transmission line easement. PGE has expressed a willingness to allow a future trail, but Metro does not yet have a binding agreement with PGE.
3. **As-is Sale:** The negotiations between Metro and UP on the environmental aspects of the properties have been extensive. UP has insisted that the Property sale be on an "as-is" basis with no environmental representations or warranties regarding the conditions of the properties. Metro typically receives these types of representations and warranties from sellers of real property. UP will only sell the properties under this "as-is" clause, which is not unusual for national railroad entities. Metro's standard due diligence and environmental assessment revealed no adverse environmental issues related to the site. However, in an abundance of caution due to the "as-is" terms of this transaction, Metro's consultant has recommended some testing of soil and groundwater be performed relating to adjacent properties. The Council's acceptance of the "as-is" clause would be predicated on Metro receiving a "clean" report.

Findings

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

1. The former rail corridor is of regional significance (per Metro Greenspaces Master Plan and Regional Transportation Plan) and was listed in the 1995 Open Spaces Bond Measure, which was approved by the voters.
2. The section of the former rail corridor in Gladstone has already been purchased by the city and developed into a regional trail with a connection to Oregon City (over the Clackamas River on the old 82nd Avenue Bridge).
3. The NCPRD Parks and Trails Master Plan cites the project as a priority for the district.
4. NCPRD, Milwaukie and Clackamas County parks staffs support this acquisition, and have indicated a willingness to discuss which agency or agencies, take on responsibility for future operations and maintenance of the trail.
5. Metro's Green Ribbon Committee has included the trail on its list of projects proposed for funding by Metro.
6. This trail has strong community support from Milwaukie, Gladstone, Oak Lodge and other surrounding communities.

Budget Impact

Funding comes from NCPRD's local share allocation from the Open Spaces bond measure.

Outstanding Questions

NCPRD/Metro have performed a Phase I Environmental Assessment on the Property, which revealed no evidence of a recognized environmental condition related to the Property. However, because of the Property's history as a rail-freight corridor, and because of the present and post-industrial use of surrounding properties, Metro's consultant has recommended soil and groundwater testing be performed. Metro will perform the recommended testing, and the Council's acceptance of the "as-is" clause would be predicated on Metro's receipt of satisfactorily clean test results.

Executive Officer Recommendation

The Executive Officer recommends passage of Resolution No. 01-3142.