

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE ) RESOLUTION NO. 02-3174A  
OFFICER TO CONTRIBUTE TOWARD THE PURCHASE )  
OF THE JARVIS PROPERTY IN THE TRYON CREEK ) Introduced by Mike Burton,  
LINKAGES 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 May 16, 1996, via Resolution 96-2330, the Metro Council adopted a refinement plan for the Tryon Creek Linkages regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

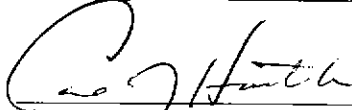
WHEREAS, Robert Jarvis, co-trustee, has agreed to sell and the city of Lake Oswego, the city of Portland Bureau of Environmental Services (BES) and Metro have agreed to the purchase of an approximately 6.5-acre parcel that lies in Tier II of the Tryon Creek Linkages target area, as described in the attached Exhibit A, conditional on Metro Council approval; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution 01-3106, modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition regional target area refinement plans to require Metro Council approval of all acquisitions in target areas where minimum acreage goals have been met; and

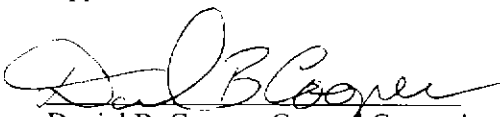
WHEREAS Metro has exceeded the minimum 20-acre goal established for the Tryon Creek Linkages target area, and therefore contributing toward the purchase of the Jarvis property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; now therefore

BE IT RESOLVED that the Metro Council authorizes the Metro Executive Officer to contribute \$350,000 toward the purchase of the Jarvis Property as identified in Exhibit A, in accordance with the terms and conditions set forth in the Agreement of Purchase and Sale for this Property.

ADOPTED by the Metro Council this 21<sup>st</sup> day of March, 2002.

  
\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

  
Daniel B. Cooper, General Counsel



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE ) RESOLUTION NO. 02-3174  
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OF THE JARVIS PROPERTY IN THE TRYON CREEK ) Introduced by Mike Burton,  
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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 May 16, 1996, via Resolution 96-2330, the Metro Council adopted a refinement plan for the Tryon Creek Linkages regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Robert Jarvis, co-trustee, has agreed to sell and the city of Lake Oswego, the city of Portland Bureau of Environmental Services (BES) and Metro have agreed to the purchase of an approximately 6.5-acre parcel that lies in Tier II of the Tryon Creek Linkages target area, as described in the attached Exhibit A, conditional on Metro Council approval; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution 01-3106, modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition regional target area refinement plans to require Metro Council approval of all acquisitions in target areas where minimum acreage goals have been met; and

WHEREAS Metro has exceeded the minimum 20-acre goal established for the Tryon Creek Linkages target area, and therefore contributing toward the purchase of the Jarvis property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; now therefore

BE IT RESOLVED that the Metro Council authorizes the Metro Executive Officer to contribute \$250,000 (15.6% of the purchase price) toward the purchase of the Jarvis Property as identified in Exhibit A, in accordance with the terms and conditions set forth in the Agreement of Purchase and Sale for this Property.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

## EXHIBIT A

## SCHEDULE A, Page No. 2

Legal Description, Continued

Order No.: 800995c

**PARCEL I:**

A tract of land situated in the Southwest one-quarter of Section 2, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, described as follows:

COMMENCING at an iron rod in the Southeasterly right of way property line of the Beaverton and Willsburg Railroad (now Southern Pacific Railroad) as the same was recorded in Book 102, Page 577, Deed Records; said iron rod is also further described as being the Southwest corner of said J. T. Stampher Tract; thence North 30° 24' East 112.15 feet to the point of beginning of the herein described tract; thence North 30° 24' East 117.85 feet; thence North 32° 30' East 32.15 feet to the Southerly line of a 30 foot roadway; thence South 75° 50' East 168.25 feet; thence South 75° 12' East 9.08 feet; thence South 11° 26' East 159.50 feet along a portion of the Westerly edge of a 30 foot roadway as described in Book 514, Page 474, and recorded August 3, 1956; thence North 75° 46' 30" West 289.31 feet to the true place of beginning.

**PARCEL II:**

A tract of land situated in the Southwest one-quarter of Section 2, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, described as follows:

BEGINNING at an iron rod in the Southeasterly line of the right of way conveyed to the Beaverton and Willsburg Railroad (now Southern Pacific Railroad) which bears South 52° 45' East 16.16 feet from the Southerly end of the 33 foot jog in the North line of the Josiah Franklin Donation Land Claim; thence North 30° 24' East along said right of way line, 268.10 feet to the Southwesterly corner of said Stampher Tract in common with the Northwesterly corner of the tract conveyed to Emil L. Petrin by Deed recorded in Book 395 at Page 704 and being the true point of beginning of the tract to be described; thence South 48° 45' East along the Northerly line of said Petrin Tract 217.36 feet to the most Northerly corner of the tract conveyed to V. P. Branstetter by Deed recorded in Book 324, Page 112; thence South 68° East along the Northerly line of said Branstetter Tract 202.52 feet to the most Westerly corner of the 20 foot strip of land conveyed to P. C. Sandberg by Deed recorded in Book 398, Page 93; thence North 13° 51' East along the Westerly line of said Sandberg Strip, 81.54 feet to the Southwest corner of a roadway tract conveyed to the Public by Deed recorded in Book 514, Page 474; thence North 11° 26' West along the Westerly line of said roadway tract, 169.04 feet, more or less, to the Southeasterly corner of the tract described in a Deed to Virginia M. Dorney recorded under Fee No. 68-20452; thence North 75° 46' 30" West along the Southerly line of said Dorney Tract 289.31 feet to the Southwesterly corner thereof at a point in the Easterly line of aforesaid railroad right of way; thence South 30° 24' West along said right of way line 112.15 feet to the true point of beginning.

(Continued)

**PARCEL III:**

A tract of land situated in the Southwest one-quarter of Section 2, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, described as follows:

BEGINNING at an iron pipe set in the Easterly right of way property line of the Southern Pacific Company, said iron pipe bears South 52° 45' East and is 16.16 feet distant from the Southerly end of the 33.00 foot jog in the North line of the Josiah Franklin Donation Land Claim in said Southwest one-quarter of Section 2; thence North 30° 24' East 92.75 feet to the true place of beginning of the tract of land hereinafter described; thence from said true place of beginning, North 30° 24' East, along the Easterly line of the said Southern Pacific Company's property a distance of 175.35 feet; thence South 48° 45' East 217.36 feet; thence South 30° 24' West 97.06 feet; thence North 69° 36' West 216.77 feet, more or less, to the true place of beginning.

**PARCEL IV:**

A tract of land situated in the Southwest one-quarter of Section 2, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, more particularly described as follows:

BEGINNING at an iron pipe set in the Easterly right of way property line of the Southern Pacific Company, said iron pipe bears South 52° 45' East and is 16.16 feet distant from the Southerly end of the 33.00 foot jog in the North line of the Josiah Franklin Donation Land Claim in said Southwest one-quarter of Section 2, from said beginning point; thence South 52° 45' East 496.11 feet to an iron pipe set at the Northwesterly corner of that certain tract of land conveyed by Deed to Ward C. Smith dated March 15, 1927 and recorded in the Deed Records of Clackamas County, Oregon; thence South 69° 44' 30" East 69.43 feet to the Southwest corner of a tract of land conveyed to P. O. Sandberg and Grace E. Sandberg, husband and wife, by Deed recorded October 9, 1947 in Book 397, Page 472, Deed Records; thence following the West line of said Sandberg Tract North 4° 34' East 173.87 feet to a point that is 164 feet South of the Northwest corner of said Sandberg Tract; thence North 68° West 31 feet; thence North 4° 34' East parallel with the West line of said Sandberg Tract 164 feet to the North line of a tract conveyed to V. P. Branstetter by Deed recorded in Book 324, Page 112, Deed Records; thence North 68° West 171.52 feet to the Northeast corner of a tract of land conveyed to Emil L. Petrin and Florence M. Petrin, husband and wife, by Deed recorded September 5, 1947, in Book 395, Page 704, Deed Records; thence South 30° 24' West following the East line of said Petrin Tract 97.06 feet to the Southeast corner of said Petrin Tract; thence North 69° 36' West following the Southerly line of said Petrin Tract 216.77 feet to the Southwest corner of said Petrin Tract; thence South 30° 24' West 92.75 feet to the place of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Portland, a municipal corporation, by Deed recorded in Book 618, Page 522, Clackamas County Deed Record.

(Continued)

**PARCEL V:**

A parcel of land lying in the Southwest one-quarter of Section 2, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, and being a portion of that certain tract of land conveyed by Deed to V. M. Branstetter and Margaret J. Branstetter as recorded in Book 324, Page 112, Deed Records, said parcel being described as:

BEGINNING at an iron pipe driven in the Northerly line of that certain tract of land conveyed by Deed to V. M. and Margaret J. Branstetter as recorded in Book 324, Page 112, Deed Records, said iron pipe being South  $48^{\circ} 45'$  East 217.43 feet and South  $68^{\circ}$  East 202.52 feet from the Northwest corner thereof; thence South  $4^{\circ} 34'$  West a distance of 337.87 feet to a point on the Southerly line of said Branstetter property; thence South  $69^{\circ} 44' 30''$  East, a distance of 68.59 feet to an iron pipe; thence North  $76^{\circ} 37' 30''$  East a distance of 98.40 feet to an iron pipe; thence North  $65^{\circ} 04' 30''$  East a distance of 174.89 feet to an iron pipe; thence North  $56^{\circ} 12' 30''$  East a distance of 61.77 feet to an iron pipe; thence North  $39^{\circ} 49' 45''$  West a distance of 157.77 feet to an iron pipe; thence North  $81^{\circ} 45'$  West a distance of 18.64 feet to an iron pipe; thence North 16.50 feet to an iron pipe; thence North  $68^{\circ}$  West a distance of 242.98 feet, more or less, to the place of beginning.

**PARCEL VI:**

A tract of land situated in the Southwest one-quarter of Section 2, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, more particularly described as:

BEGINNING at an iron pipe set in the Easterly right of way property line of the Southern Pacific Company, said iron pipe bears South  $52^{\circ} 45'$  East and is 16.16 feet distant from the Southerly end of the 33.00 foot jog in the North line of the Josiah Franklin Donation Land Claim in said Southwest one-quarter of Section 2; from said beginning point, thence South  $52^{\circ} 45'$  East 496.11 feet to an iron pipe set at the Northwesterly corner of that certain tract of land conveyed by Deed to Ward C. Smith dated March 15, 1927, and recorded in the Deed Records of Clackamas County, Oregon; thence South  $69^{\circ} 44' 30''$  East 69.43 feet to the Southwest corner of a tract of land conveyed to P. O. Sandberg, et ux, by Deed recorded October 9, 1947 in Book 397, Page 472, Deed Records; thence following the West line of said Sandberg Tract North  $4^{\circ} 34'$  East 173.87 feet to a point that is 164 feet South of the Northwest corner of said Sandberg Tract, said point being the true point of beginning; thence North  $68^{\circ}$  West 31 feet; thence North  $4^{\circ} 34'$  East, parallel with the West line of said Sandberg Tract 164 feet to the North line of a tract conveyed to V. P. Branstetter by Deed recorded in Book 324, Page 112, Deed Records; thence South  $68^{\circ}$  East to the Northwest corner of Parcel I as conveyed to Herbert D. Rustrum, et ux, by Deed recorded September 14, 1969, Fee No. 69-18769; thence South  $4^{\circ} 34'$  West to the true point of beginning.

(Continued)

**PARCEL VII:**

A parcel of land lying in the Socrates H. Tryon Donation Land Claim and being a portion of that certain tract of land conveyed by Deed to J. T. Stampher in Section 2, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, as recorded in Book 169, Page 505, Clackamas County Records, said parcel being described as:

BEGINNING at an iron pipe set in the Southerly line of that certain tract of land conveyed by Deed to J. T. Stampher as recorded in Book 169, Page 505, Clackamas County Records, said iron pipe being South 48° 45' East, 217.43 feet and South 68° East, 223.48 feet from the Southwest corner thereof; thence North 13° 51' East, a distance of 84.40 feet to an iron pipe; thence North 76° 09' West, a distance of 20.00 feet to an iron pipe; thence South 13° 51' West, a distance of 81.54 feet to an iron pipe set in the Southerly line of said Stampher property; thence South 68° East along said Southerly line, a distance of 20.20 feet, more or less, to the point of beginning.

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 02-3174 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO CONTRIBUTE TOWARDS THE PURCHASE OF THE JARVIS PROPERTY IN THE TRYON CREEK LINKAGES TARGET AREA

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Date: March 8, 2002

Presented by: Charles Ciecko  
Jim Desmond

## BACKGROUND

Resolution No. 02-3174 requests authorization for the Executive Officer to contribute towards the purchase of the 6.51-acre Jarvis property (hereafter referred to as "the Property") in the Tryon Creek Linkages target area.

This resolution proposes to authorize the purchase of the Property subject to the terms of a Purchase and Sale Agreement to be executed by the Property owners, Metro, the City of Lake Oswego and perhaps other partners. The purchase of the Property requires Metro Council authorization pursuant to Resolution 01-3106 ("For The Purpose of Modifying The Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans To Direct Future Acquisitions Of Properties That Satisfy Specific Identified Criteria") because Metro has previously exceeded the minimum 20-acre goal established for the target area.

Acquisition of the Property is recommended because:

- (a) The acquisition of this Property would meet three of the criteria set forth in Resolution 01-3106.
- "Complete the acquisition of existing public ownership gaps in trails and greenways identified in the bond measure." The purchase of this site would connect two areas identified in the bond measure – Tryon Creek and the Willamette River.
  - "Acquire key remaining parcels adjacent to parcels already acquired by Metro or other parks or conservation entities... consistent with the specific goals and objectives set forth in the refinement plan for that target area." The purchase of this site was identified as a specific Tier II objective in the refinement plan for the Tryon Creek Linkages target area.
  - "Within existing target areas and parcels that meet the objectives otherwise set forth in this resolution, particular emphasis should be given to acquisitions that would either (a) have a significant financial contribution from a local government or other outside partner or ..." The financial contribution by local governments is significant, as Metro is being asked to contribute 22% of the purchase price.
- (b) The Property was identified as a "Tier II" acquisition priority in the confidential tax lot map approved in connection with the adoption of the refinement plan for the Tryon Creek Linkages target area, which outlined the land protection strategy for the target area, all pursuant to Resolution 96-2330 ("For The Purpose Of Approving A Refinement Plan For The Tryon Creek Linkages Target Area, As Outlined In The Open Space Implementation Work Plan"). Acquiring the Property meets a specific Tier II objective of the target area refinement plan: "Provide linkage from the Tryon Creek State Park to the mouth of Tryon Creek at the Willamette River."

- (c) Metro has been engaged in negotiations to purchase the Property dating back to 1996 and has on numerous occasions indicated to the City of Lake Oswego its intent to contribute \$250,000 towards the purchase; and
- (d) The Property lies at the confluence of Tryon Creek and the Willamette River and as such contains critical stream front area with outstanding restoration potential.

The Property lies within the city limits of Lake Oswego but is adjacent to a sewage treatment facility owned by the City of Portland. It is separated from Tryon Creek State Park only by the right-of-way to Highway 43, and therefore, is a critical link between the State Park and the Willamette River. The Property comprises a number of tax parcels that are zoned for residential use and contains a significant amount of Tryon Creek and Willamette River frontage. The Property is improved with one large residential house, a second smaller residential house, a garage, barn and outdoor swimming pool. The Property is zoned for low-density residential use and could be improved with five additional homesites.

The Property represents a long-time, high priority acquisition for the City of Lake Oswego. Efforts to restore fish runs on Tryon Creek are considered dependent on the ability to control the mouth of the stream as well as the passage of Tryon Creek below the Willamette River Trolley Line and US 43, which form the western boundary of the Property. In a letter dated February, 12, 2002, from Mayor Judie Hammerstad to Carl Hosticka, Presiding Officer of Metro Council, it is stated that the Property is rated by the City's natural resources advisory board as the "highest priority" for open space acquisition due to its significant natural resource potential and critical links for the regional trail system. Partners and supporters for the acquisition include the Tryon Creek Watershed Council, the Friends of Tryon Creek State Park, the state of Oregon State Parks, and the Three Rivers Land Conservancy.

Numerous prior attempts by Metro during the period from 1996 through 2000 to purchase the Property were unsuccessful. In January 2000, Metro staff believed they had reached an agreement and submitted an Agreement of Purchase and Sale to purchase a 4.2-acre portion of the Property in partnership with the City of Lake Oswego and the City of Portland Bureau of Environmental Services (BES). Metro would have contributed \$250,000 in that transaction with the City and BES contributing the remainder of the acquisition funds. In the end, that transaction was never agreed to by the landowner, and subsequently City of Lake Oswego staff assumed the lead in the negotiations to acquire the Property, including a consideration of condemnation of the Property. Now however, the passage of Resolution 01-3106 in September 2001 limits the ability of the Metro Executive to confirm Metro's longstanding offer to contribute towards the purchase of this Property because Metro has previously exceeded the minimum acreage goal established for the Tryon Creek Linkages target area, and that resolution specifically requires Metro Council approval of any such transactions.

After two years of negotiations with the landowner following Metro's efforts to purchase the Property, the City of Lake Oswego staff have reached an agreement to purchase the entire site consisting of 6.51 acres. As a result of the inclusion of more property, the purchase price has increased accordingly, and therefore, Mayor Hammerstad has requested in her letter dated February 12, 2002, that Metro increase its contribution by \$100,000 (from the \$250,000 previously discussed, to \$350,000). A contribution by Metro of \$250,000 would represent 15.6% of the total purchase price, while a contribution of \$350,000 would represent 22% of the total purchase price.

The Executive Officer is referring this to Council with a recommendation to continue the \$250,000 commitment towards the purchase. Council may, in its deliberations, choose to consider whether to include the additional \$100,000 now requested by the City.



## FINDINGS

Acquisition of the Property with the above-stated terms is recommended based on the following:

- The Property lies in Tier II of the Tryon Creek Linkages target area and fulfills a specific goal of the refinement plan.
- The Property has significant natural and scenic resource values, including frontage along both the Willamette River and Tryon Creek.
- The Property represents a critical link in the gap between Tryon Creek State Park and the Willamette River and the control of this Property is considered critical for the restoration of fish and related habitat along Tryon Creek.
- While the overall minimum acreage goal of the target area has been exceeded, the acquisition of this Property is highly desirable from a regional perspective due to its natural area features, frontage along a stream and river both of regional significance, opportunity for restoration and its proximity to the City of Lake Oswego.
- The partial funding of this acquisition by Metro would represent the completion of a longstanding commitment from Metro towards two of its local partners: the City of Lake Oswego and the City of Portland Bureau of Environmental Services.
- Stabilization, landbanking and restoration costs will not be borne by Metro, as the Property will be managed by the City of Lake Oswego with assistance from BES.

## ANALYSIS/INFORMATION

### 1. Known Opposition

None.

### 2. Legal Antecedents

In May 1995, 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. 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 ("For The Purpose Of Authorizing The Executive Officer To Purchase Property With Accepted Acquisition Guidelines As Outlined In The Amended Open Spaces Implementation Work Plan") established acquisition parameters that authorize the Executive Officer to purchase property, within the Council-approved target area refinement plan maps. Via Resolution 96-2330 ("For The Purpose Of Approving A Refinement Plan For the Tryon Creek Linkages Target Area, As Outlined In The Open Space Implementation Work Plan"), the Metro Council adopted a refinement plan, which outlined a land protection strategy for the Tryon Creek Linkages. Through that resolution, the Metro Council also approved the target area refinement plan tax-lot specific map, which includes the subject Jarvis property as a Tier II priority.

On September 27, 2001, the Metro Council adopted Resolution 01-3106, which modifies the Open Spaces Implementation Work Plan. Section B of Resolution 01-3106 requires Metro Council approval of new acquisitions in target areas where minimum acreage goals (as established in the bond measure) have been met.

This resolution proposes to authorize the purchase of the Property subject to the terms of Purchase and Sale Agreement executed by the Property owners and Metro. The proposed acquisition satisfies more than one of the listed criteria set forth in Section A of Resolution 01-3106, but because Metro has exceeded the minimum 75-acre goal established for the target area, Resolution 01-3106 requires that the purchase of the Property be authorized by the Metro Council prior to acquisition.

### **3. Anticipated Effects**

Acquisition of this Property will allow public agency control of the confluence of Tryon Creek and the Willamette River and is a key connection between the Willamette River and Tryon Creek State Park.

### **4. Budget Impacts**

After the acquisition of this Property, assuming that Metro's contribution is \$250,000, approximately \$9,081,515 will remain of unrestricted regional bond funds.

Landbanking and future management costs will be borne by the City of Lake Oswego and BES.

### **RECOMMENDED ACTION**

The Executive Officer recommends passage of Resolution No. 02-3174.