

BEFORE THE METRO COUNCIL

AMENDING THE NATURAL AREAS
IMPLEMENTATION WORK PLAN TO AUTHORIZE
THE CHIEF OPERATING OFFICER TO ACQUIRE
CERTAIN PROPERTIES WHEN THE PURCHASE
PRICE IS EQUAL TO OR LESS THAN \$5,000

RESOLUTION NO. 08-3963

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 the 2006 Natural Areas Bond Measure, authorizing Metro to sell \$227.4 million in general obligation bonds to fund natural area acquisition and water quality protection; and

WHEREAS, 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, identifies a pre-approved set of criteria and conditions under which the Chief Operating Officer and his designees are authorized to negotiate and complete land acquisition transactions related to the 2006 Natural Areas Bond Measure (the "Acquisition Parameters and Due Diligence Guidelines"); and

WHEREAS, the Acquisition Parameters and Due Diligence Guidelines require, among other things, that prior to negotiating and closing a real estate transaction related to the 2006 Natural Areas Bond Measure (1) an initial appraisal and a review appraisal of the property be obtained and (2) the purchase price for the property be equal to or less than the fair market value as established by such appraisal and appraisal review processes; and

WHEREAS, Metro staff occasionally identifies opportunities to purchase properties where the purchase price is less than \$5,000, to receive donated properties, or to acquire properties in tax foreclosure; and

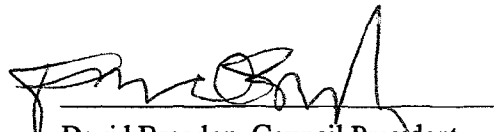
WHEREAS, in some cases, although such properties are adjacent to Metro-owned properties or to properties owned by other Metro region park providers, they have not been identified for acquisition on a Council-adopted target area confidential refinement map, so their acquisition would require the specific approval of the Metro Council by resolution; and

WHEREAS, the cost of obtaining an appraisal and appraisal review for such properties would be at least \$3,000 per property; and

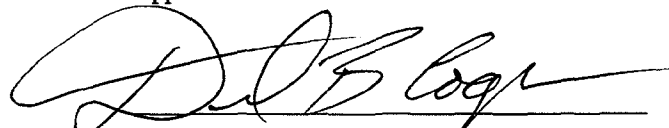
WHEREAS, it is in the best interest of the 2006 Natural Areas Bond Measure program, in order to allow it to operate as efficiently and effectively as possible, to acquire such properties without having to return to the Metro Council for each approval and without having to incur the additional cost associated with obtaining appraisals and appraisal reviews for each acquisition; now therefore,

BE IT RESOLVED that the Metro Council hereby amends the Natural Areas Implementation Work Plan to authorize the Chief Operating Officer to acquire certain properties when the purchase price is equal to or less than \$5,000, as described in Exhibit A.

ADOPTED by the Metro Council this 24th day of July 2008.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

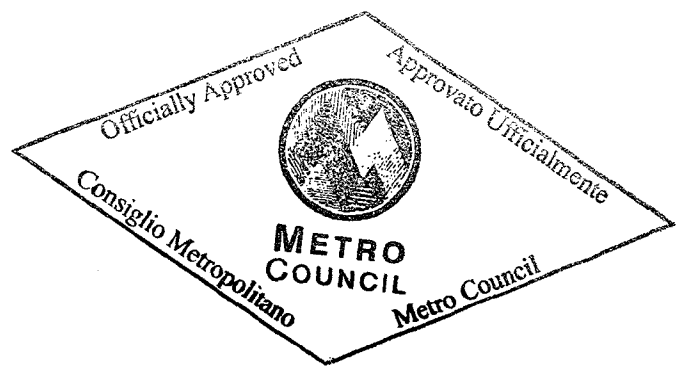


Exhibit A to Resolution No. 08-3963

The following provision shall be made part of the Acquisition Parameters section of the Natural Areas Implementation Work Plan:

Acquisitions For \$5,000 Or Less

The Metro Council authorizes the Chief Operating Officer and his/her designees to negotiate and close real estate transactions on any property where the purchase price (or other payment made to entity holding title in order to obtain title to the property) is equal to or less than \$5,000.00 and all of the criteria/conditions listed below have been met. Neither an appraisal nor an appraisal review of any such property shall be required.

- The landowner is a willing seller or a willing donor;
- The property is identified on a Council-adopted target area "confidential refinement map" or the property is contiguous to property owned by Metro or by another public parks-providing jurisdiction within the greater Metro region;
- The Real Estate Negotiator and a stabilization team representative have inspected the property, they and the Natural Areas Manager have approved the purchase, and an acknowledgement of such visits and approvals has been completed (Appendix 1);
- If the property is identified as agricultural land, then Metro has complied with the policy established by Metro Resolution No. 06-3727, "For the Purpose of Establishing Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure," as specifically refined by any applicable Refinement Plan for the target area in which the property is located; and
- "*Due diligence*" has been completed in conformance with the *due diligence* section of this Work Plan and no unusual circumstances have been found to exist.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3963, AMENDING THE NAUTRAL AREAS IMPLEMENTATION WORK PLAN TO AUTHORIZE THE CHIEF OPERATING OFFICER TO ACQUIRE CERTAIN PROPERTIES WHEN THE PURCHASE PRICE IS EQUAL TO OR LESS THAN \$5,000

Date: July 24, 2008

Prepared by: Kathleen Brennan-Hunter

BACKGROUND

The 2006 Bond Measure Natural Areas Implementation Work Plan describes a comprehensive contractual, due diligence and closing process that ensues when Metro acquires property under the Bond measure framework. The Work Plan currently does not address any special considerations that may arise if a property with no purchase price is offered to Metro or for properties with a nominal purchase price of less than \$5,000. For example tax foreclosures or donations (hereafter the "Property or Properties") that may be classified as having a purchase price under \$5,000 are the subject of this Resolution. In these instances, the due diligence comprises nearly the entire cost of acquisition to Metro.

The local taxing authorities (hereafter, the Owner) routinely circulate to other government entities descriptions of Properties that are available for the transfer of their title due to tax foreclosures or similar circumstances. The list of Properties is sent to the governmental agencies before the list is made available to the public for sale at a tax auction. Many of the Properties have gone into tax default because of characteristics that limit the property value; such as lack of access or minimal size. The Properties are offered to government entities at no cost except for the transaction costs, including, but not limited to, recording fees and payment of the back taxes. In addition, Metro orders a Phase One environmental report and a title insurance policy. These costs are normally under \$5,000.

If a Property is adjacent to an existing Metro holding, or would serve to demonstrably improve an existing Metro holding, it would be to Metro's advantage to claim the property and enter the process set forth by the Owner. The purpose of this Resolution is to authorize the Chief Operating Officer to acquire Properties that enhance Metro's existing natural areas without incurring unnecessary expenses such as an appraisal provided that the estimated expense to Metro is under \$5,000. These Properties may or may not be identified as Tier One or Tier Two properties on the confidential maps automatically authorizing their acquisition by Metro.

As an example of a contemplated typical transaction that would be expedited under this Resolution, Metro staff have identified a parcel offered by Multnomah County that is adjacent to Metro property acquired by the 1995 Open Spaces, Parks and Streams Bond Measure. The Property is 2.8 acres and is located in the 1995 Bond Forest Park Target Area. It is also part of the alignment of the proposed NW Portland Willamette Greenway. It is not considered buildable as it is zoned Commercial Forest Use and is bordered on the east by Highway 30 and on the west by railroad tracks, severely limiting even foot access. Metro staff inspected the property and did not observe any improvements, signs of recent use or any debris on the property. The adjacent Metro property has not yet undergone a formal planning process so it is unknown whether such a plan may be benefited by Metro's acquisition of the Property, or whether the plan would be harmed by a third party ownership of the property. Because of the strategic location of the Multnomah County parcel, it is likely that acquisition by Metro would be helpful to a future plan.

Acquisition costs to Metro for this Property are approximately \$3,300, including an environmental report, title insurance, and \$984.61 in unpaid taxes.

In some cases, the same considerations may apply to properties donated to Metro by non-governmental parties. If a private landowner, non-profit group, or corporation has surplus property adjacent to Metro property or in an identified target area and that property owner is willing to donate the surplus property to Metro, given that the above-referenced conditions are extant, then this Resolution No. 08-3963 shall apply.

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," was adopted on March 9, 2006.

The voters' approved 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," was adopted by the Metro Council on March 1, 2007, and established the Acquisition Parameters and Due Diligence Guidelines for the purchase of properties as part of the 2006 Natural Areas Bond Program.

3. Anticipated Effects

Assuming that no unusual circumstances arise, Metro will close on the acquisition of the Property and will own 100% fee title in the Property and other Properties that meet the above-referenced criteria.

4. Budget Impacts

Expenditures for purchases and related due diligence are budgeted in the Natural Areas Bond Fund, including any associated Stabilization Expenses. Future management costs will be borne by Metro, consistent with other property purchases.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 08-3963.