

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER
TO PURCHASE CERTAIN PROPERTY IN THE
CHEHALEM RIDGETOP TO REFUGE TARGET AREA
UNDER THE 2006 NATURAL AREAS BOND
MEASURE AND SUBJECT TO UNUSUAL
CIRCUMSTANCES

RESOLUTION NO. 09-4095

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, on March 1, 2007, the Council approved 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"); and

WHEREAS, on September 20, 2007, the Council approved Resolution No. 07-3857, "Approving the Natural Areas Acquisition Refinement Plan for the Chehalem Ridgetop to Refuge Target Area," establishing the protection of "large, undeveloped tracts of forestland to protect water quality, wildlife habitat and connections and to provide public access opportunities" as the goal of the target area; and

WHEREAS, Resolution No. 07-3857 established as a Tier I Objective the acquisition of "upper elevation forestlands and oak woodlands on the Chehalem Ridge to enhance water quality and wildlife habitat and to provide potential public access opportunities"; and

WHEREAS, staff have entered into a purchase and sale agreement with the Trust for Public Land ("TPL") who has an agreement with a current property owner to purchase 1,143 contiguous acres of property located on Chehalem Ridge and identified as a Tier I objective in the target area, as more particularly identified and described on Exhibit A to this resolution (hereinafter, the "Property");

WHEREAS, the appraisal of the Property provided to Metro by TPL, which was prepared by an appraisal firm on the Natural Area Program's list of approved appraisal firms and frequently used to perform appraisals for Metro, relied upon two extraordinary assumptions regarding issues related to (1) a zoning change and development plan proposed by the owner that would allow 14 buildable acreage homesites and (2) the reliance on preliminary engineering and construction cost estimates for the proposed homesites; and

WHEREAS, the appraiser's conclusion of the fair market value of the Property confirmed the negotiated purchase price for the Property, but Metro's review appraiser did not confirm that value, instead arriving at a market value conclusion below that of the first appraisal; and

WHEREAS, the appraisal issues described above are "unusual circumstances," under the Acquisition Parameters and Due Diligence Guidelines, and the Council therefore must approve acquisition of the Property; and

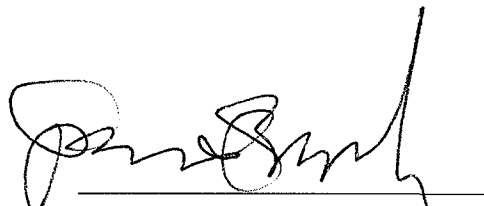
WHEREAS, the opportunity to purchase such a Property comparable in size to Metro's Oxbow Regional Park in a single transaction represents an unprecedented opportunity in the Open Spaces and Natural Areas Program's history, its purchase will meet and well exceed the Tier I acquisition goals within the Chehalem Ridgeway to Refuge Target Area, and, the Property provides extensive and exciting opportunities to achieve both habitat preservation and restoration, protection of water quality, and public recreation goals easily accessible to the residents of the region; and

WHEREAS, to date, the 2006 Natural Areas Program has acquired approximately 1,166 acres of land for a total purchase price of over \$46 million, averaging out to a price of approximately \$39,500 per acre; and

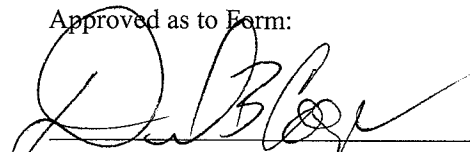
WHEREAS, the purchase price is supported by one appraisal and, given the recent economic volatility being experienced by the country and the region, we believe that the acquisition of the Property at the negotiated purchase price, which equates to approximately \$5,350 per acre, is a wise investment in light of the extensive future benefits that the Property will provide to the citizens of the region; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to acquire the Property, as identified in Exhibit A, at the negotiated purchase price, notwithstanding the unusual circumstances related to the appraisals of the Property, provided that the acquisition is otherwise in accord with all of the other Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan.

ADOPTED by the Metro Council this 10 day of DECEMBER 2009.


David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

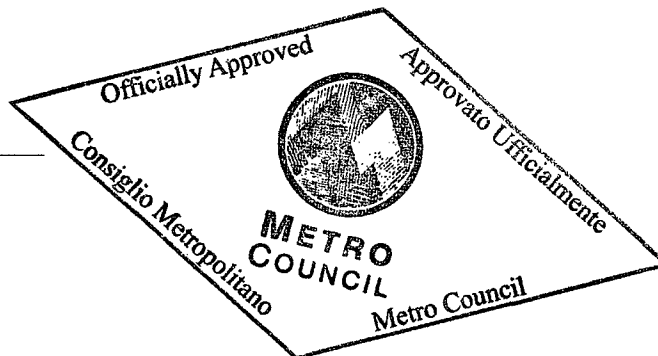


Exhibit A to Resolution No. 09-4095

Target Area: CHEHALEM RIDGETOP TO REFUGE
Chehalem Ridge Natural Area

Description: Staff has identified an opportunity to protect 1,143 acres that straddles the top of the Chehalem Ridge south of the Forest Grove and Cornelius (“Chehalem Ridge Natural Area”). The Property is adjacent to the 40-acre Berry property purchased by Metro in 2008 with 2006 Bond Measure funds.

The Chehalem Ridge Natural Area is currently managed as a commercial forest dominated by Douglas-fir, with 80% of the trees less than 25 years of age. In addition, there are fragments of oak woodland and isolated oak and madrone located primarily on slopes on the south and western aspects. Cedar, hemlock and grand fir are present in the cooler drainages, particularly on the east side of the ridge. Headwaters of at least ten streams originate from the Property and flow to the Tualatin River. Five high Cascade mountain peaks are visible from the Property: Rainier, St. Helens, Adams, Hood, and Jefferson. The Property is extraordinary for its large size, because protecting large contiguous areas will have the most benefit to water quality and wildlife. Accordingly, the restoration potential is significant along with its value in providing habitat connectivity to the Wapato Lake area and the Tualatin River floodplain.

The goal set for the Chehalem Ridgetop to Refuge Target Area is 400 acres. The acquisition of the Property will greatly exceed this goal and will complete the Tier I objectives for the target area.

Bond Criteria Addressed:

- Protect upper elevation forestlands and oak woodlands
- Provide restoration opportunities for oak and madrone habitat
- Enhance water quality and wildlife habitat by creating a large block of protected land that connects to other habitat in Wapato Lake and the Tualatin River Floodplain
- Provide future recreational and educational opportunities as well as sweeping landscape views

Property identification: The following tax parcel numbers and section numbers in Township 1 South, Range 3 West of the Willamette Meridian: Lot 500 in Section 28, Lots 101, 300 and 400 in Section 29, Lots 100 and 200 in Section 32, and Lots 200, 300 and 600 in Section 33.

Sellers: Private Party

Size: 1,143 acres

Stream frontage: Headwaters to at least ten creeks that are part of the Tualatin River basin

Conditions: Standard due diligence; subject to unusual circumstances regarding extraordinary assumptions in the appraisal and purchase price

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 09-4095 AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE CERTAIN PROPERTY IN THE CHEHALEM RIDGETOP TO REFUGE TARGET AREA UNDER THE 2006 NATURAL AREAS BOND MEASURE AND SUBJECT TO UNUSUAL CIRCUMSTANCES

Date: December 10, 2009

Prepared by: Kathleen Brennan-Hunter
503-797-1948

BACKGROUND

Metro has an unprecedented opportunity to purchase a natural area comparable in size and scale to Oxbow Regional Park. This 1,143-acre property straddles the top of the Chehalem Ridge south of the Cities of Forest Grove and Cornelius, and is about 20 minutes from downtown Hillsboro. Acquisition of this Property will protect the headwaters of at least ten streams in the Tualatin River watershed and create exceptional potential for future public recreation. Metro staff has entered into an agreement with The Trust for Public Land (“TPL”) to purchase this Property in the Chehalem Ridgetop to Refuge Target Area, which is more specifically identified in Exhibit A attached to the resolution (the “Property”). TPL has an agreement to purchase the Property from a private owner. Metro has an agreement to purchase the Property from TPL. The Property is adjacent to a 40-acre property acquired with funds from the 2006 Natural Areas Bond Measure.

The Metro Council adopted the Refinement Plan for the Chehalem Ridgetop to Refuge Target Area in September 2007. The Tier I objective for the target area is:

To acquire the upper elevation forestlands and oak woodlands on the Chehalem Ridge to enhance water quality and wildlife habitat and to provide potential public access opportunities.

Given the sensitive nature of real estate transactions, the maps associated with each Refinement Plan are kept confidential. The Property is identified on the Council-approved confidential refinement map for the target area and meets the Tier I objective. If approved, this acquisition will far exceed the number of acres that Metro hoped to acquire in this target area.

The Property straddles the forested ridge of the northern Chehalem Mountains in Washington County, southeast of Forest Grove. It is currently managed as a commercial forest dominated by Douglas-fir, with 80% of the trees less than 25 years of age. There are pockets of remnant rare habitat, including oak-madrone woodlands on slopes with south and western aspects. Cedar, hemlock and grand fir are found in the cooler drainages on the east side of the ridge. At least ten streams originate from the Property and flow to the Tualatin River. In addition, the views from the Property are outstanding, with five high Cascade mountain peaks visible simultaneously from some locations along the ridge: Rainier, St. Helens, Adams, Hood, and Jefferson. An existing gravel and dirt road network could be the basis for a future trail system.

The Property is extraordinary due to its large size. As the largest single acquisition in Metro’s history, it would create a legacy natural area and opportunities for landscape scale restoration. This acquisition prevents the subdivision of one of the largest blocks of contiguous forest remaining in the region. Protecting such a large contiguous area will have a great benefit to water quality and wildlife in the area, and will provide habitat connectivity to the Wapato Lake Unit of the Tualatin River National Wildlife Refuge. It also provides potential recreation not feasible on smaller sites. The Property is similar in size to Metro’s acclaimed Oxbow Park and could provide the opportunity to create a similar large scale natural

recreational area, that could complement the bird and wildlife viewing opportunities anticipated at the Tualatin River National Wildlife Refuge at Wapato Lake near Gaston.

To put the Property in context with other 2006 regional bond measure purchases, to date Metro has acquired 1,166 acres at a cost of over \$46 million. With its 1,143 acres, the Property would nearly double the current acreage.

This Resolution requests authorization for the Chief Operating Officer (COO) to purchase the Property at the negotiated purchase price notwithstanding two unusual circumstances related to the appraisals of the Property. First, the appraisals of the Property relied on two extraordinary assumptions, and second, although the first appraisal confirmed the purchase price for the Property, Metro's review appraiser did not confirm the purchase price. The Council-approved Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan (the "Work Plan") prohibit the COO from closing on an acquisition involving such unusual circumstances without first obtaining the Council's approval.

Unusual Circumstance - Extraordinary Assumptions in Appraisal

The appraisal and review appraisal of the Property included two extraordinary assumptions, which means the appraiser presumed some uncertain information to be true in reaching his conclusion about value. The first extraordinary assumption is that the completion of a Washington County zoning change from the Agricultural and Forest-20 zone (AF-20) to the Exclusive Forest and Conservation zone (EFC) and the subsequent application of the dwelling "template test" to allow the creation of 14 buildable homesites with an average lot size of 81.6 acres is feasible. The Property is currently being used for commercial forestry, which is more akin to the uses permitted in EFC zoning. Moreover, earlier this year Washington County approved the same type of zone change on a similar property approximately eight miles from this Property and owned by the owner of this Property, so there is precedent for such a zone change. A zone change from AF-20 to EFC, in this instance, would allow some of the lots to be divided into 80-acre minimum lots, and would then allow homes to be sited on each lot that satisfied the template test. The Office of the Metro Attorney has reviewed documentation provided by TPL and OMA has confirmed that 14 buildable homesite lots would likely be allowed pursuant to the Washington County Community Development Code, provided the zoning change was approved.

The second extraordinary assumption is that the appraisals relied on the preliminary engineering work and construction cost estimates to create the 14 homesites that was prepared by W&H Pacific, Inc. ("WH Pacific"), an experienced, national, land development consulting business. Metro staff believes the cost estimates provided by WH Pacific are reasonable based on past experience with these matters.

Unusual Circumstance - Appraisal Review Did Not Confirm Appraised Value

The appraisal for the Property, which supports the negotiated purchase price of \$6.12 million, was provided to Metro by TPL. The appraisal firm that completed the appraisal is one of the reputable, certified firms from Metro's approved list of appraisers. As is Metro's standard practice following the Implementation Work Plan, Metro hired another well-regarded appraisal firm to review the appraiser's conclusion about the fair market value of the Property. The review appraiser did not confirm the original appraiser's conclusion, and instead determined the fair market value to be significantly less than that of the first appraisal. Both appraisers applied a subdivision analysis using similar methodologies, but the review appraiser was more conservative in his assumptions and conclusions about the marketability of estate size homesites in the current economic climate. Such a disparity in valuation by two reputable appraisers is not unprecedented, especially given the pervasive uncertainty regarding when the residential

development market will rebound out of the current economic downturn. Metro has been informed by TPL that the landowner likely will only sell at the negotiated price and plans to hold the Property for future development if the sale to TPL/Metro is not completed. In addition, Metro staff believes that the landowner is likely to receive approval to create up to twenty Measure 49 homesites from properties around the state that could be transferred to the Property to enlarge the residential development beyond the proposed 14-lot subdivision. This could be make development on the Property more profitable and thus inevitable as the market changes in the future. Staff believes the opportunity to purchase this large, contiguous site might be prohibitively expensive if we do not act now.

Due to the extraordinary opportunity to achieve goals identified in the 2006 Natural Areas Bond Measure, and later specifically defined in the Chehalem Ridgetop to Refuge target area Refinement Plan, Metro staff recommends proceeding with acquisition despite the unusual circumstances outlined above.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

The voters' approved Metro's 2006 Natural Areas Bond Measure at the general election held on November 7, 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.

Resolution No. 07-3857, "Approving the Natural Areas Acquisition Refinement Plan for the Chehalem Ridgetop to Refuge Target Area," was adopted by the Metro Council on September 20, 2007.

3. Anticipated Effects

The 1,143-acre acquisition will be Metro's largest purchase for the protection of water quality and wildlife habitat in the history of the Open Spaces and Natural Areas Bond Programs. The Property will also complete Metro's Tier I acquisition goals for the target area.

4. Budget Impacts

Metro's contribution to the Property shall be funded with 2006 Regional Bond proceeds.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 09-4095.