

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 03-3286A
METRO TO CONTRIBUTE TOWARD THE)
PURCHASE OF PROPERTY ON HOGAN) Introduced by Councilor Rod Park
BUTTE IN THE EAST BUTTES/BORING)
LAVA DOMES TARGET AREA)

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, via Resolution 96-2361 ("For the Purpose of Approving a Refinement Plan For the East Buttes and Boring Lava Domes Target Area as Outlined in the Open Space Implementation Work Plan") the Metro Council adopted a refinement plan for the East Buttes/Boring Lava Domes regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Bryan Freeman, et al., are the owners of an approximate 49-acre parcel that lies in Tier I of the East Buttes/Boring Lava Domes target area ("the Freeman Property"), as described in the attached Exhibit A, and the owners have agreed to negotiate an Agreement of Purchase and Sale with Metro and/or the Trust for Public Land and/or the City of Gresham; and

WHEREAS, funding is being sought for a majority of the purchase price, and Metro is willing to contribute \$500,000 to help in this regional acquisition effort; and

WHEREAS, if this fundraising effort is successful, Metro shall receive an ownership share in the Freeman Property proportionate to its contribution to the purchase price; and

WHEREAS, acquisition of the Freeman Property will be conditioned on the City of Gresham agreeing to the following conditions: (1) the City of Gresham shall transfer to Metro title or permanent preservation rights to a 29-acre piece of property the City of Gresham owns near Regner Road consisting of Tax Lots 00800 and 00900, Section 15c, Township 1 South, Range 3 East ("Regner Road Property"); (2) the City of Gresham shall make a good faith effort to provide or require off street public trail access from the Freeman Property through the proposed Deer Glen subdivision to connect through to the Regner Road Property; and (3) the City of Gresham shall agree to manage the Freeman Property and Regner Road Property pursuant to an Intergovernmental Agreement with Metro; and

WHEREAS, on September 27, 2001, the Metro Council approved 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"), 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 545-acre goal established for the East Buttes/Boring Lava Domes target area, and therefore contributing toward the purchase of the Freeman Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

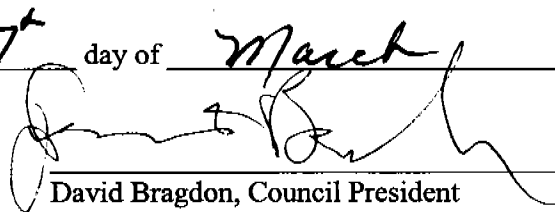
WHEREAS, the acquisition of the Freeman Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: 1) the acquisition of the Freeman Property will complete the acquisition of existing public ownership gaps in trails and greenways identified in the bond measure by connecting two parcels owned by the city of Gresham, and 2) the acquisition of the Freeman Property benefits from a significant financial contribution from a local government or other outside partner; now therefore

BE IT RESOLVED,

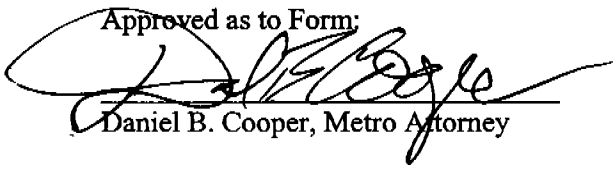
1. That the Metro Council authorizes the Chief Operating Officer to contribute \$500,000 toward the purchase of the Freeman Property as identified in Exhibit A, subject to the commitment of other funds by November 14, 2003 for the remainder of the purchase price above \$500,000, so that closing can occur by February 13, 2004; and

2. That the Metro Council also authorizes the Metro Chief Operating Officer to direct Metro Parks and Greenspaces and Office of Metro Attorney staff to negotiate an Agreement of Purchase and Sale with the Freeman Property owners and close the transaction in accordance with the parameters set forth in the Open Spaces Implementation Work Plan, subject to the following conditions: (1) the City of Gresham shall transfer title or permanent preservation rights to Metro for open space and/or park purposes on the Regner Road Property; (2) the City of Gresham shall make a good faith effort to provide or require off street public trail access through the proposed Deer Glen subdivision connecting the Freeman Property to the Regner Road Property; and (3) the City of Gresham shall agree to manage the Freeman Property and Regner Road Property pursuant to an Intergovernmental Agreement with Metro.

ADOPTED by the Metro Council this 27th day of March, 2003.



David Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

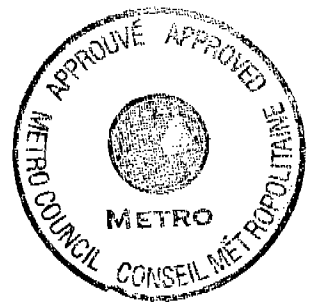


Exhibit A
Resolution No. 03-3286

PROPERTY VESTING

Parcel I: Brian J Freeman, Eugene O. White, Martha O'Grady, Patrick E. O'Grady, Lola Bessey, Vincent J. Cooney Jr., Kathleen L. Cooney as tenants in common;

Parcel II: Ann K. White;

Parcel III: Brian J. Freeman and Anne Marie Freeman as tenants by the entirety;

Parcel IV: Brian J. Freeman and Anne Marie Freeman as tenants by the entirety, as to an undivided one-half interest and Barry A. Freeman and Janice Freeman, as tenants by the entirety, as to an undivided one-half interest;

Parcel V: Brian J. Freeman and Anne Marie Freeman as tenants by the entirety, as to an undivided one-half interest and Barry A. Freeman and Janice Freeman, as tenants by the entirety, as to an undivided one-half interest;

Parcel VI: Lola A. Bessey, formerly known as Lola A. Duby, as to an undivided 220/842 interest, Patrick E. O'Grady and Martha O'Grady, as tenants by the entirety, as to an undivided 215/842 interest, Brian J. Freeman and Anne Marie

Freeman, as tenants by the entirety, as to an undivided 150/842 interest, Eugene O. White, as to an undivided 176/842 interest, and Vincent J. Cooney Jr. and Kathleen L. Cooney, as tenants by the entirety, as to an undivided 81/842 interest.

Exhibit A

Resolution No. 03-3286

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Parcel I:

Lot 16, Persimmon, in the City of Gresham, Multnomah County, Oregon.

Parcel II:

A tract of land in Section 22, Township 1 South, Range 3 East of the Willamette Meridian, in the City of Gresham, Multnomah County, Oregon, described as follows:

Beginning at the West quarter corner of Section 22; thence North $88^{\circ}44'10''$ East along the South line of the Northwest quarter of Section 22, a distance of 990.0 feet; thence North 490.0 feet to the true point of beginning; thence South $88^{\circ}27'50''$ West, 883.25 feet to the Easterly line of Regner Road No. 1275; thence North $63^{\circ}14'$ East along said Easterly line of Regner Road, 135.74 feet; thence continuing along said Easterly line of Regner Road on the arc of a 507.50 foot radius curve to the left (the long chord bears North $53^{\circ}55'$ East 164.43 feet) an arc distance of 164.94 feet; thence North $44^{\circ}36'$ East along the Easterly line of Regner Road 78.41 feet; thence South $83^{\circ}50'40''$ East leaving the Easterly line of said road 232.52 feet; thence North $30^{\circ}59'30''$ East 141.18 feet; thence North $76^{\circ}28'32''$ East 272.25 feet; thence South $82^{\circ}08'52''$ East 155.48 feet; thence South $21^{\circ}21'04''$ East 193.65 feet; thence South $20^{\circ}01'45''$ East 162.22 feet; thence West 273.67 feet to the true point of beginning.

Excepting therefrom that portion described as follows:

The true point of beginning being the center of Section 22, Township 1 South, Range 3 East of the Willamette Meridian, Multnomah County, Oregon; thence North $89^{\circ}59'18''$ West along the South line of said Northwest quarter, establishing this as the basis of bearing, 1620.66 feet, to the East line of the property conveyed to Urban Peier by deed recorded March 10, 1900 in Book 265, Page 115; thence North $01^{\circ}16'16''$ East along said Peier property 440.00 feet to the Northeast corner thereof; thence South $89^{\circ}43'46''$ West along the North line of said Peier property, 953.40 feet, to the Easterly line of Regner Road; thence right along a curve, with a radius of 256.48 feet, delta angle of $19^{\circ}34'57''$, a chord distance of 87.23 feet, and an arc distance of 87.66 feet to the point of beginning; thence North $64^{\circ}33'47''$ East, 135.74 feet; thence South $25^{\circ}26'13''$ East, 63.78 feet; thence South $89^{\circ}43'46''$ West back along the South line of Tax Lot 32 a distance of 149.98 feet to the point of beginning.

Parcel III:

Beginning at the West quarter corner of Section 22, Township 1 South, range 3 East of the Willamette Meridian, Multnomah County, Oregon; thence North $85^{\circ}44'10''$ East along the South line of the Northwest quarter of Section 22 a distance of 1523.55 feet; thence North 478.23 feet to the true point of beginning; thence West 259.75 feet; thence North $20^{\circ}01'45''$ West 162.22 feet; thence North $21^{\circ}21'04''$ West 193.65 feet; thence North $82^{\circ}08'52''$ West 155.48 feet; thence South $75^{\circ}28'32''$ West 272.25 feet; thence South $30^{\circ}59'30''$ West 141.18 feet; thence North $83^{\circ}50'40''$ West 232.52 feet to the Easterly line of Regner Road (No. 1275); thence Northeasterly along said Easterly line of Regner Road North $44^{\circ}36'$ East 190.29 feet; thence continuing along said Easterly line of Regner Road on the arc of an 848.60 foot radius curve to the left (the long chord bears Southwesterly along the East line of Regner Road a distance of 520.0 feet from the intersection with the East line of Regner Road and the South side line of a 50 foot roadway easement given to Louis E. Nelson recorded September 6, 1966 in Book 525, Page 396, Deed Records, Multnomah County, Oregon; thence East leaving the Easterly line of Regner Road 890.0 feet; thence South 419.02 feet to

the true point of beginning.

Parcel IV:

The following property located in Section 22, Township 1 South, Range 3 East of the Willamette Meridian, Multnomah County, Oregon:

Beginning at the Southeast corner of the Northwest quarter of said Section 22; thence West along the South line of said Northwest quarter, 1650.0 feet, more or less, to the East line of the property conveyed to Urban Peier by deed recorded March 10, 1900 in Book 265, Page 115; thence North along said Peier property 440 feet to the Northeast corner thereof; thence West along the North line of said Peier property to the Easterly line of Regner Road; thence Northerly along the Easterly line of Regner Road to a point, said point bearing Southwesterly along the East line of Regner Road a distance of 520.0 feet from the intersection with the East line of Regner Road and the South side line of the 50 foot roadway easement given to Louis E. Nelson et ux recorded September 6, 1966 in Deed Book 525, Page 396, said point being also the true point of beginning of the tract to be herein described; thence East 350.0 feet; thence North parallel with the Easterly line of Regner Road, 250.0 feet; thence West 350.0 feet to a point in the Easterly line of Regner Road; thence Southerly along the Easterly line of Regner Road 250 feet to the true point of beginning of the tract herein described.

Parcel V:

The following property located in Section 22, Township 1 South, Range 3 East of the Willamette Meridian, Multnomah County, Oregon:

Beginning at the Northeast corner of the Northwest quarter of said Section 22; thence West along the North line of said Section 22 to its intersection with the East side line of Regner Road No. 1275; thence Southerly along the Easterly side line of Regner Road to a point, said point being the intersection of Regner Road and the South side line of that certain 50.0 foot roadway easement given to Louis E. Nelson et ux recorded September 6, 1966 in Deed Book 525, Page 396, said point being also the true point of beginning of the tract to be herein described; thence Southerly along the Easterly side line of Regner Road 270.0 feet; thence East 350.0 feet; thence Northerly parallel to the Easterly side line of Regner Road to a point 50.0 feet South of the South side line of the 50.0 foot roadway easement given to Louis E. Nelson et ux as stated above; thence Easterly parallel to the South side line of the 50.0 foot roadway easement above mentioned a distance of 235.00 feet; thence North 50.0 feet to the South side line of the 50.0 foot roadway easement herein mentioned; thence Westerly along the South side line of said 50.0 foot roadway easement to the true point of beginning.

Parcel VI:

Beginning at the Northeast corner of the Northwest quarter of said Section 22; thence West 210 feet to the true point of beginning; thence South parallel with the North-South centerline of said Section 22, a distance of 350.0 feet; thence West 440.0 feet; thence South 243.0 feet; thence East 268.2 feet to a point, said point being a Northwest corner of that parcel contracted to Louis E. Nelson et ux recorded January 10, 1967 in Deed Book 542, Page 1022; thence South parallel to the North-South centerline of said Section 22 for a distance of 1157.0 feet; thence East 381.8 feet; thence South along the East line of the Northwest quarter of said Section 22 to the Southeast corner of said Northwest quarter; thence West along the South line of said Northwest quarter, 1650.0 feet, more or less, to the East line of the property conveyed to Urban Peier by deed recorded March 10, 1900 in Book 265, Page 115; thence along said Peier property 440 feet to the Northeast corner thereof; thence West along the North line of said Peier property to the Easterly line of Regner Road; thence Northerly along the Easterly line of Regner Road to a point, said point bearing Southwesterly along the East line of Regner Road a distance of 520.0 feet from the intersection with the East line of Regner

Resolution No. 03-3286

Road and the South side line of the 50-foot roadway easement given to Louis E. Nelson et ux recorded September 6, 1966 in Deed Book 525, Page 396; thence East 360.0 feet; thence Northerly parallel to the East line of Regner Road, to a point 50 feet South of the South side line of the 50-foot roadway easement given to Louis E. Nelson et ux as stated above; thence Easterly parallel to the South side line of the 50-foot roadway easement above mentioned a distance of 235.0 feet; thence North 50 feet to the South side line of the 50 foot roadway easement herein mentioned; thence Westerly along the South side line of said 50 foot roadway easement to its intersection with the East line of Regner Road; thence Northerly along the Easterly line of Regner Road to the South line of the property conveyed to August Wabbles by deed recorded June 26, 1900 in Book 268, Page 170; thence East along the South line of said Wabbles property to its Southeast corner; thence North along the East line of said property 614 feet, more or less, to the North line of the Northwest quarter of said Section 22; thence East along said North line to the true point of beginning.

Excepting therefrom that portion described as follows:

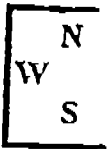
The true point of beginning being the center of Section 22, Township 1 South, Range 3 East of the Willamette Meridian, Washington County, Oregon; thence North $89^{\circ}59'18''$ West along the South line of said Northwest quarter, establishing this as the basis of bearing, 1620.66 feet, to the East line of the property conveyed to Urban Peier by deed recorded March 10, 1900, in Book 265, Page 115; thence North $01^{\circ}16'16''$ East along said Peier property 440.00 feet to the Northeast corner thereof; thence South $89^{\circ}43'46''$ West along the North line of said Peier property, 953.40 feet, to the Easterly line of Regner Road; thence right along a curve, with a radius of 256.48 feet, delta angle of $19^{\circ}34'57''$, a chord distance of 87.23 feet, and an arc distance of 87.66 feet; thence North $64^{\circ}33'47''$ East, 135.74 feet; thence South $25^{\circ}26'13''$ East, 63.78 feet; thence North $89^{\circ}43'46''$ East, 733.27 feet to the South corner of Tax Lots 32 and 39; thence South $88^{\circ}43'28''$ East, 393.46 feet; thence South $01^{\circ}16'32''$ West, 33.04 feet; thence left along a curve, with a radius of 30.00 feet, delta angle of $121^{\circ}31'29''$ a chord distance of 52.44 feet and an arc distance of 63.80 feet; thence North $59^{\circ}25'03''$ East, 110.87 feet to the Southeast corner of Tax Lot 31; thence North $01^{\circ}16'32''$ East, 419.02 feet to the Northeast corner of Tax Lot 31 and continuing along the same line a distance of 480.98 feet to the Northwest corner of Tax Lot 23; thence South $88^{\circ}43'28''$ East, 370.00 feet; thence South $30^{\circ}43'28''$ East, 240.00 feet; thence South $59^{\circ}36'32''$ East, 236.35 feet; thence South $01^{\circ}11'57''$ West, 180.00 feet to the Southwest corner of Tax Lot 2; thence South $88^{\circ}48'03''$ East, 381.80 feet to the Southeast corner of Tax Lot 2; thence South $01^{\circ}11'57''$ West, 856.23 feet to the true point of beginning.

Also excepting therefrom that portion described in deeds to Ann K. White recorded August 6, 1986 in Book 1926, Page 2588 and to Brian J. Freeman et ux recorded in Book 818, Page 537 and to Brian J. Freeman, et ux, recorded in Book 2201, Page 2226.



Fidelity National Title Company of Oregon

Map # 1S3E22B 400



The sketch below is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.

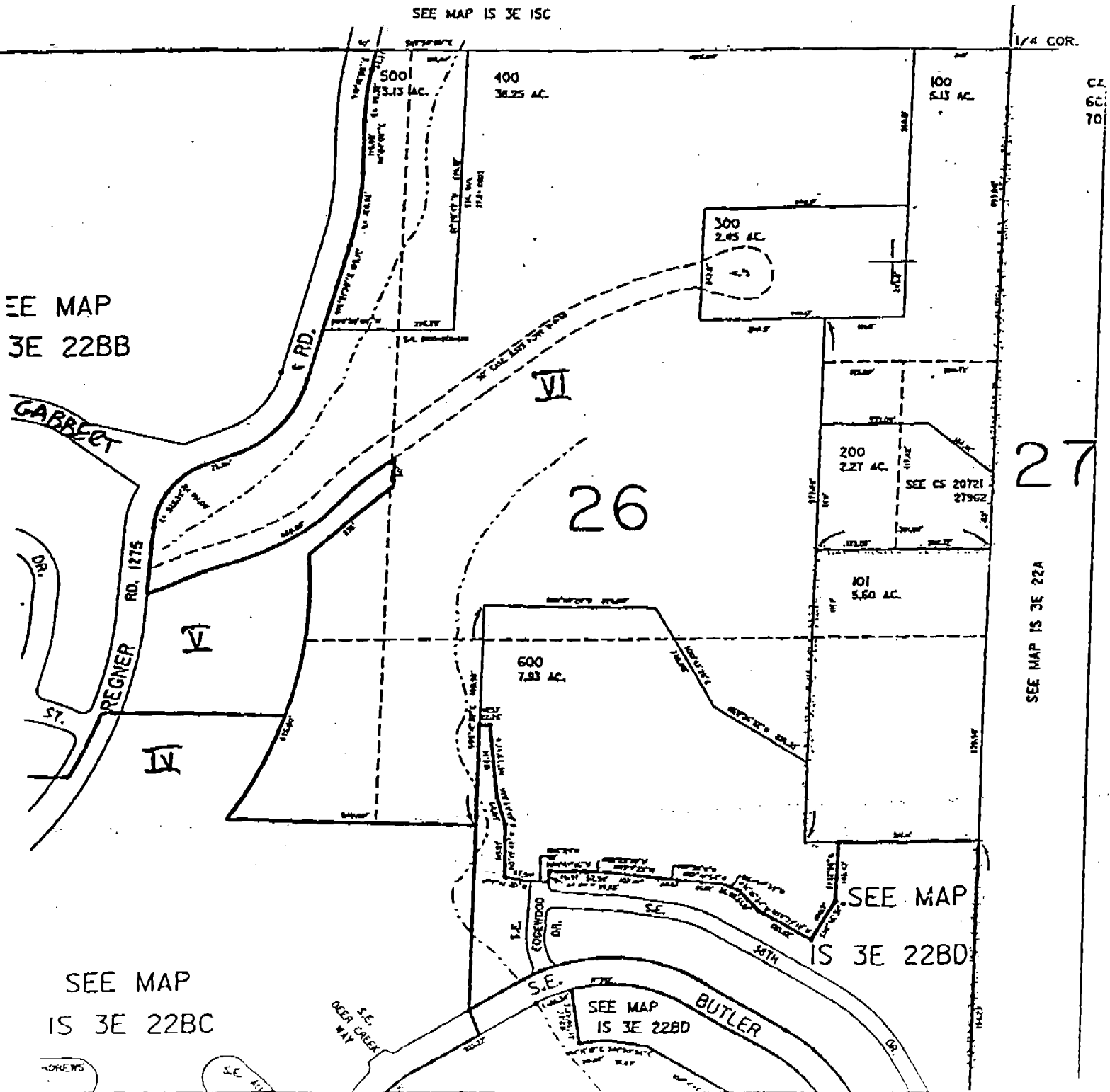




EXHIBIT A

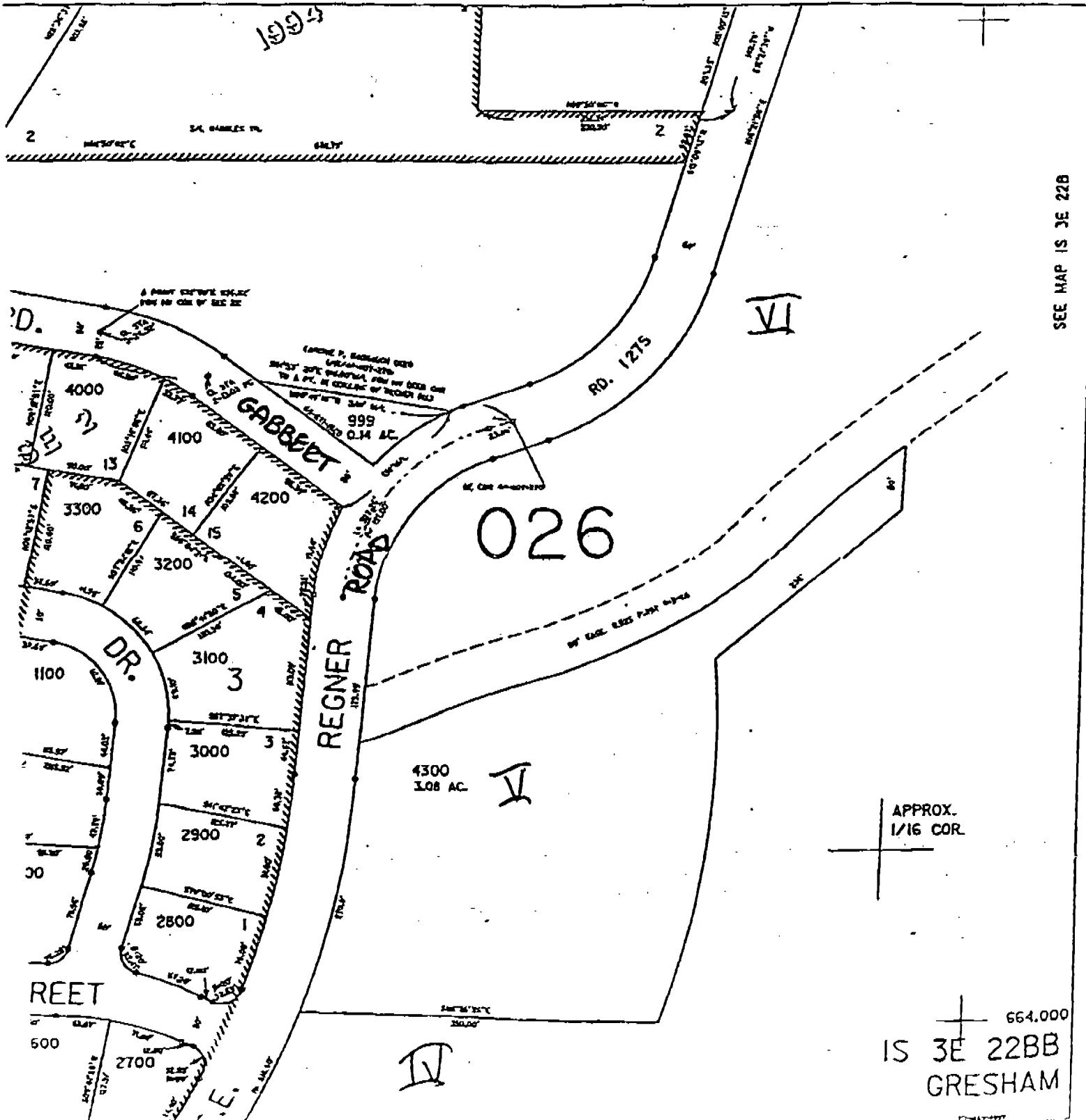
EXHIBIT A Resolution No. 03-3286

Fidelity National Title Company of Oregon

Map # 1S3E22BB 4300



The sketch below is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



SEE MAP 1S 3E 22B

664.000
1S 3E 22BB
GRESHAM

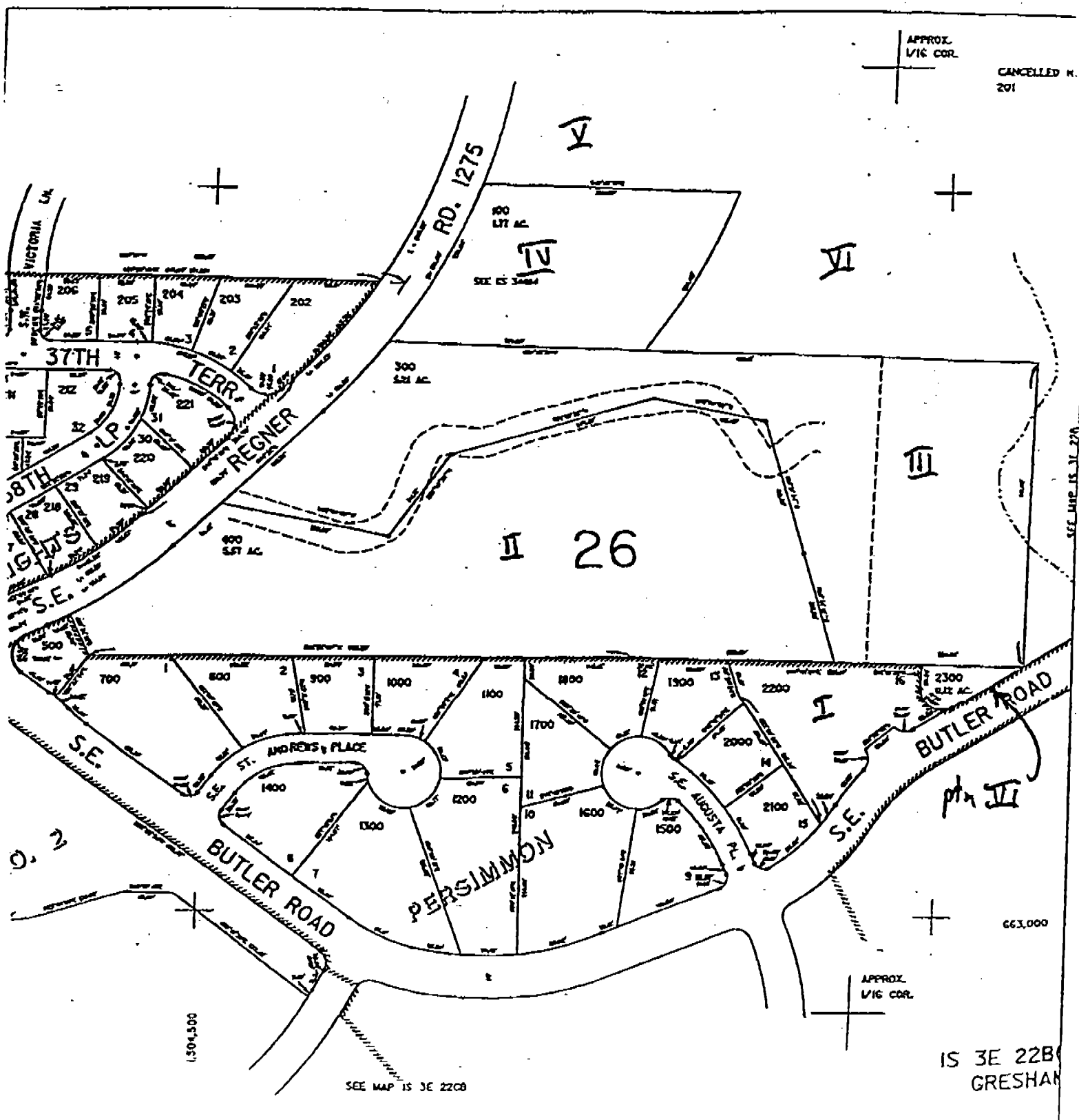


Fidelity National Title Company of Oregon

Map # 1S3E22BC 300, 400, 100

2200, 2300

The sketch below is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



1S 3E 22B
GRESHAM

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3286A FOR THE PURPOSE OF AUTHORIZING METRO TO CONTRIBUTE TOWARD THE PURCHASE OF PROPERTY ON HOGAN BUTTE IN THE EAST BUTTES/BORING LAVA DOMES TARGET AREA

Date: February 25, 2003

Prepared by: Jim Desmond
Nancy Chase

BACKGROUND

Resolution No. 03-3286 ("For the Purpose of Authorizing Metro to Contribute Toward the Purchase of Property on Hogan Butte in the East Buttes/Boring Lava Domes Target Area") requests authorization for Metro to contribute towards the purchase of the 49-acre Freeman property (hereafter referred to as "the Freeman Property") in the East Buttes/Boring Lava Domes target area.

This resolution proposes to authorize the purchase of the Freeman Property subject to the terms of a Purchase and Sale Agreement to be executed by Metro, the Freeman Property owners and/or The Trust for Public Land and/or the City of Gresham or other partners. The purchase of the Freeman 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 545-acre goal established for the target area.

Acquisition of the Freeman Property is recommended because:

- (a) The acquisition of the Freeman Property would meet two 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 parcels owned by the city of Gresham.
 - "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 or other partners is significant, as Metro is being asked to contribute 20% of the purchase price.
- (b) The Freeman Property was identified as a "Tier I" acquisition priority in the confidential tax lot map approved in connection with the adoption of the refinement plan for the East Buttes/Boring Lava Domes target area, which outlined the land protection strategy for the target area, all pursuant to Resolution 96-2361 ("For The Purpose Of Approving A Refinement Plan For The East Buttes/Boring Lava Domes Target Area, As Outlined In The Open Space Implementation Work Plan").
- (c) The opportunity to leverage significant funding in the Metro region, specifically the East Buttes/Boring Lava Domes target area.

The Freeman Property is a heavily forested hillside adjacent to the developing area north of the Persimmon Golf Club. Its ecological value is high due to the relatively large, high native plant species diversity in all vegetative layers (tree, mid-story and shrub) at the site. The forest is dominated by Douglas fir, western red cedar, big-leaf maple and red alder. Two streams, which are unnamed tributaries of Johnson Creek, flow through the Freeman Property.

The passage of Resolution 01-3106 in September 2001 limits the ability of the Metro Chief Operating Officer to contribute towards the purchase of this Freeman Property because Metro has previously exceeded the minimum acreage goal established for the East Buttes/Boring Lava Domes target area, and that resolution specifically requires Metro Council approval of any such transactions.

This action confirms a contribution of \$500,000 towards the purchase, provided that other funding sufficient to purchase the 49-acre parcel is subsequently confirmed and obtained. This commitment to contribute funds shall expire on June 30, 2003, unless other partners have been found to contribute the remaining funds and the closing can occur on or about September 30, 2003.

As conditions to the contribution of \$500,000 by Metro towards this purchase, the City of Gresham shall agree to the following in writing on or before June 30, 2003:

1. Gresham shall transfer to Metro title or preservation rights to a 29-acre piece of Gresham property, commonly known as Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East (the "Regner Road Property"), to be managed and maintained for open space and park purposes.
2. As part of its approval of the proposed Deer Glen subdivision, on land purchased in part by the developer from the City of Gresham, Gresham shall make a good faith effort to obtain public trail access (off street) from the Freeman Property (north edge of parcel) through the Deer Glen parcel to connect to and allow reasonable and feasible trail access to the Regner Road Property.
3. Gresham shall agree to manage the Freeman Property and the Regner Road Property for open space and park purposes pursuant to an Intergovernmental Agreement with Metro.

FINDINGS

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

- The Freeman Property lies in Tier I of the East Buttes/Boring Lava Domes target area.
- The Freeman Property has significant natural and scenic resource values.
- The appropriation of funds by Metro will assist in leveraging significant funding in the region, and in particular, the East Buttes/Boring Lava Domes target area.
- The Freeman Property represents a link in the gap between existing sites owned by the City of Gresham.
- While the overall minimum acreage goal of the target area has been exceeded, the acquisition of this Freeman Property is desirable due to its natural area features, opportunity for restoration and its proximity to the City of Gresham.

- The City of Gresham strongly supports this acquisition.
- Stabilization, landbanking and restoration costs will not be borne by Metro, as the Freeman Property and Regner Road Property will be managed by the City of Gresham.

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 96-2361 (“For The Purpose Of Approving A Refinement Plan For the East Buttes/Boring Lava Domes 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 East Buttes/Boring Lava Domes. Through that resolution, the Metro Council also approved the target area refinement plan tax-lot specific map, which includes the subject Freeman Property as a Tier I 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 Freeman Property subject to the terms of Purchase and Sale Agreement to be executed by the Freeman 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 acreage goal established for the target area, Resolution 01-3106 requires that the purchase of the Freeman Property be authorized by the Metro Council prior to acquisition.

This authorization assumes that the purchase will meet the terms of the Acquisition Parameters of the Open Spaces Implementation Work Plan on matters such as appraisal review, environmental audit and title matters. This authorization does not cover any such “unusual circumstances” and to the extent any “unusual circumstances” arise during the negotiation of a Purchase and Sale Agreement or during Metro’s due diligence process, further Council review and authorization will be required.

3. Anticipated Effects

Metro will receive a share of title to the Freeman Property proportionate to its contribution to the purchase price, and Metro will receive title or a conservation easement over the Regner Road Property.

Acquisition and possible ownership of the Freeman Property will allow greater protection of important forested butte resources in the East Buttes/Boring Lava Domes target area and leverage a significant amount of non-Metro funding.

4. Budget Impacts

These funds (\$500,000) shall be reserved and taken from the remaining regional acquisition funds, which as of the date hereof equal approximately \$4.25 million.

Landbanking and future management costs will be borne by the City of Gresham.

RECOMMENDED ACTION

The Council President recommends passage of Resolution No. 03-3286.

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LAVA DOMES TARGET AREA)

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, via Resolution 96-2361 ("For the Purpose of Approving a Refinement Plan For the East Buttes and Boring Lava Domes Target Area as Outlined in the Open Space Implementation Work Plan") the Metro Council adopted a refinement plan for the East Buttes/Boring Lava Domes regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Bryan Freeman, et al., are the owners of an approximate 49-acre parcel that lies in Tier I of the East Buttes/Boring Lava Domes target area ("the Freeman Property"), as described in the attached Exhibit A, and the owners have agreed to negotiate an Agreement of Purchase and Sale with Metro and/or the Trust for Public Land and/or the City of Gresham; and

WHEREAS, funding is being sought for a majority of the purchase price, and Metro is willing to contribute \$500,000 to help in this regional acquisition effort; and

WHEREAS, if this fundraising effort is successful, Metro shall receive an ownership share in the Freeman Property proportionate to its contribution to the purchase price; and

WHEREAS, acquisition of the Freeman Property will be conditioned on the City of Gresham agreeing to the following conditions: (1) the City of Gresham shall transfer to Metro title or permanent preservation rights to a 29-acre piece of property the City of Gresham owns near Regner Road consisting of Tax Lots 00800 and 00900, Section 15c, Township 1 South, Range 3 East ("Regner Road Property"); (2) the City of Gresham shall make a good faith effort to provide or require off street public trail access from the Freeman Property through the proposed Deer Glen subdivision to connect through to the Regner Road Property; and (3) the City of Gresham shall agree to manage the Freeman Property and Regner Road Property pursuant to an Intergovernmental Agreement with Metro; and

WHEREAS, on September 27, 2001, the Metro Council approved 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"), 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 545-acre goal established for the East Buttes/Boring Lava Domes target area, and therefore contributing toward the purchase of the Freeman Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

WHEREAS, the acquisition of the Freeman Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: 1) the acquisition of the Freeman Property will complete the acquisition of existing public ownership gaps in trails and greenways identified in the bond measure by connecting two parcels owned by the city of Gresham, and 2) the acquisition of the Freeman Property benefits from a significant financial contribution from a local government or other outside partner; now therefore

BE IT RESOLVED,

1. That the Metro Council authorizes the Chief Operating Officer to contribute \$500,000 toward the purchase of the Freeman Property as identified in Exhibit A, subject to the commitment of other funds by June 30, 2003 for the remainder of the purchase price above \$500,000, so that closing can occur by September 30, 2003; and

2. That the Metro Council also authorizes the Metro Chief Operating Officer to direct Metro Parks and Greenspaces and Office of Metro Attorney staff to negotiate an Agreement of Purchase and Sale with the Freeman Property owners and close the transaction in accordance with the parameters set forth in the Open Spaces Implementation Work Plan, subject to the following conditions: (1) the City of Gresham shall transfer title or permanent preservation rights to Metro for open space and/or park purposes on the Regner Road Property; (2) the City of Gresham shall make a good faith effort to provide or require off street public trail access through the proposed Deer Glen subdivision connecting the Freeman Property to the Regner Road Property; and (3) the City of Gresham shall agree to manage the Freeman Property and Regner Road Property pursuant to an Intergovernmental Agreement with Metro.

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3286 FOR THE PURPOSE OF AUTHORIZING METRO TO CONTRIBUTE TOWARD THE PURCHASE OF PROPERTY ON HOGAN BUTTE IN THE EAST BUTTES/BORING LAVA DOMES TARGET AREA

Date: February 25, 2003

Prepared by: Jim Desmond
Nancy Chase

BACKGROUND

Resolution No. 03-3286 ("For the Purpose of Authorizing Metro to Contribute Toward the Purchase of Property on Hogan Butte in the East Buttes/Boring Lava Domes Target Area") requests authorization for Metro to contribute towards the purchase of the 49-acre Freeman property (hereafter referred to as "the Freeman Property") in the East Buttes/Boring Lava Domes target area.

This resolution proposes to authorize the purchase of the Freeman Property subject to the terms of a Purchase and Sale Agreement to be executed by Metro, the Freeman Property owners and/or The Trust for Public Land and/or the City of Gresham or other partners. The purchase of the Freeman 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 545-acre goal established for the target area.

Acquisition of the Freeman Property is recommended because:

- (a) The acquisition of the Freeman Property would meet two 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 parcels owned by the city of Gresham.
 - "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 or other partners is significant, as Metro is being asked to contribute 20% of the purchase price.
- (b) The Freeman Property was identified as a "Tier I" acquisition priority in the confidential tax lot map approved in connection with the adoption of the refinement plan for the East Buttes/Boring Lava Domes target area, which outlined the land protection strategy for the target area, all pursuant to Resolution 96-2361 ("For The Purpose Of Approving A Refinement Plan For The East Buttes/Boring Lava Domes Target Area, As Outlined In The Open Space Implementation Work Plan").
- (c) The opportunity to leverage significant funding in the Metro region, specifically the East Buttes/Boring Lava Domes target area.

The Freeman Property is a heavily forested hillside adjacent to the developing area north of the Persimmon Golf Club. Its ecological value is high due to the relatively large, high native plant species diversity in all vegetative layers (tree, mid-story and shrub) at the site. The forest is dominated by Douglas fir, western red cedar, big-leaf maple and red alder. Two streams, which are unnamed tributaries of Johnson Creek, flow through the Freeman Property.

The passage of Resolution 01-3106 in September 2001 limits the ability of the Metro Chief Operating Officer to contribute towards the purchase of this Freeman Property because Metro has previously exceeded the minimum acreage goal established for the East Buttes/Boring Lava Domes target area, and that resolution specifically requires Metro Council approval of any such transactions.

This action confirms a contribution of \$500,000 towards the purchase, provided that other funding sufficient to purchase the 49-acre parcel is subsequently confirmed and obtained. This commitment to contribute funds shall expire on June 30, 2003, unless other partners have been found to contribute the remaining funds and the closing can occur on or about September 30, 2003.

As conditions to the contribution of \$500,000 by Metro towards this purchase, the City of Gresham shall agree to the following in writing on or before June 30, 2003:

1. Gresham shall transfer to Metro title or preservation rights to a 29-acre piece of Gresham property, commonly known as Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East (the "Regner Road Property"), to be managed and maintained for open space and park purposes.
2. As part of its approval of the proposed Deer Glen subdivision, on land purchased in part by the developer from the City of Gresham, Gresham shall make a good faith effort to obtain public trail access (off street) from the Freeman Property (north edge of parcel) through the Deer Glen parcel to connect to and allow reasonable and feasible trail access to the Regner Road Property.
3. Gresham shall agree to manage the Freeman Property and the Regner Road Property for open space and park purposes pursuant to an Intergovernmental Agreement with Metro.

FINDINGS

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

- The Freeman Property lies in Tier I of the East Buttes/Boring Lava Domes target area.
- The Freeman Property has significant natural and scenic resource values.
- The appropriation of funds by Metro will assist in leveraging significant funding in the region, and in particular, the East Buttes/Boring Lava Domes target area.
- The Freeman Property represents a link in the gap between existing sites owned by the City of Gresham.
- While the overall minimum acreage goal of the target area has been exceeded, the acquisition of this Freeman Property is desirable due to its natural area features, opportunity for restoration and its proximity to the City of Gresham.

- The City of Gresham strongly supports this acquisition.
- Stabilization, landbanking and restoration costs will not be borne by Metro, as the Freeman Property and Regner Road Property will be managed by the City of Gresham.

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 96-2361 (“For The Purpose Of Approving A Refinement Plan For the East Buttes/Boring Lava Domes 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 East Buttes/Boring Lava Domes. Through that resolution, the Metro Council also approved the target area refinement plan tax-lot specific map, which includes the subject Freeman Property as a Tier I 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 Freeman Property subject to the terms of Purchase and Sale Agreement to be executed by the Freeman 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 acreage goal established for the target area, Resolution 01-3106 requires that the purchase of the Freeman Property be authorized by the Metro Council prior to acquisition.

This authorization assumes that the purchase will meet the terms of the Acquisition Parameters of the Open Spaces Implementation Work Plan on matters such as appraisal review, environmental audit and title matters. This authorization does not cover any such “unusual circumstances” and to the extent any “unusual circumstances” arise during the negotiation of a Purchase and Sale Agreement or during Metro’s due diligence process, further Council review and authorization will be required.

3. Anticipated Effects

Metro will receive a share of title to the Freeman Property proportionate to its contribution to the purchase price, and Metro will receive title or a conservation easement over the Regner Road Property.

Acquisition and possible ownership of the Freeman Property will allow greater protection of important forested butte resources in the East Buttes/Boring Lava Domes target area and leverage a significant amount of non-Metro funding.

4. Budget Impacts

These funds (\$500,000) shall be reserved and taken from the remaining regional acquisition funds, which as of the date hereof equal approximately \$4.25 million.

Landbanking and future management costs will be borne by the City of Gresham.

RECOMMENDED ACTION

The Council President recommends passage of Resolution No. 03-3286.