

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO OPTIONS TO PURCHASE REAL PROPERTY FOR THE PURPOSE OF PROVIDING AN ELEPHANT RESERVE UNDER THE 2008 OREGON ZOO BOND MEASURE

RESOLUTION NO. 11-4230

Introduced by Chief Operating Officer Michael J. Jordan, with the concurrence of Council President Tom Hughes

WHEREAS, on May 8, 2008, the Metro Council adopted Resolution No. 08-3945, "For the Purpose of Submitting to the Metro Area Voters a General Obligation Bond Indebtedness In the Amount of \$125 Million to Fund Oregon Zoo Capital Projects to Protect Animal Health and Safety, Conserve and Recycle Water, and Improve Access to Conservation Education; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Said Bonds Upon Issuance," approving, certifying and referring to the Metro Area voters at the General Election held on November 4, 2008 Ballot Measure 26-96 (the "Oregon Zoo Bond Measure 26-96"); and

WHEREAS, at the General Election held on November 4, 2008, the voters of the Metro Area approved Oregon Zoo Bond Measure 26-96; and

WHEREAS, Exhibit A to Resolution No. 08-3945 generally set forth the details of Oregon Zoo Bond Measure 26-96, stating that "the zoo is exploring the feasibility of providing an off-site area for elephants, and "funds are set aside for potential capital needs of off-site space"; and

WHEREAS, Metro has explored the feasibility of providing an off-site area for elephants, and funds are set aside from Oregon Zoo Bond Measure 26-96 for the potential capital needs of off-site space; and

WHEREAS, in 2009, Zoo staff convened a panel of elephant experts in a two-day workshop to consider the needs of the Zoo's elephant herd for off-site space, and develop criteria for site selection ("Selection Criteria") and said panel's findings are contained in a report entitled "Oregon Zoo Off-Site Elephant Facility Workshop – November 9 and 10, 2009," submitted by CLR Design Inc. and Schultz & Williams (the "Workshop Report"); and

WHEREAS, Zoo staff prepared a business plan for the potential off-site elephant area, determining construction and infrastructure costs required to establish the off-site elephant area, and including long term transportation, operation and maintenance costs; and

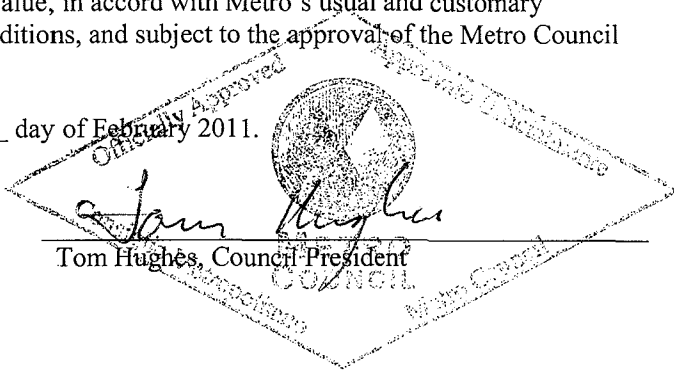
WHEREAS, Metro has been evaluating sites of at least 200 acres within the three county area that satisfies the Selection Criteria and is ideally located within an hour's travel distance, and has found there are a limited number of sites available that satisfy the Selection Criteria; and

WHEREAS, the Zoo wishes to obtain the Metro Council's authorization to enter into multi-year options to purchase real property meeting the Selection Criteria for purposes of the off-site elephant area (the "Options"), so that the Zoo may secure site-control, continue financial feasibility planning and initiate a fundraising campaign for capital costs and operating expenses with the help of the Oregon Zoo Foundation; and

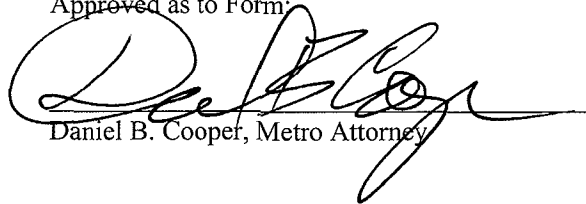
WHEREAS, said Options would provide for the future purchase of property from willing sellers, at a price not to exceed appraised fair market value, subject to the approval of the Metro Council, in accord with Metro's usual and customary acquisition parameters and due-diligence preconditions. Any Option fee required by Owners will be applied to the purchase price if Metro exercises the Option and buys the property, but may be forfeited if the Metro Council elects not to acquire the property for an off-site elephant area; now, therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to secure multi-year Options from willing sellers for Metro to purchase real property for an off-site elephant area, at no more than the appraised fair market value, in accord with Metro's usual and customary acquisition parameters and due diligence preconditions, and subject to the approval of the Metro Council prior to closing.

ADOPTED by the Metro Council this 10 day of February 2011.



Approved as to Form:

  
Daniel B. Cooper, Metro Attorney

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 11-4230 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO OPTIONS TO PURCHASE REAL PROPERTY FOR THE PURPOSE OF PROVIDING AN ELEPHANT RESERVE UNDER THE 2008 OREGON ZOO BOND MEASURE**

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Date: February 3, 2011

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#### **BACKGROUND**

In May of 2008, voters approved Ballot Measure 26-96 (the “Oregon Zoo Bond Measure 26-96”) to effect several improvements to the physical environment and operation of the Oregon Zoo. The measure specifically listed projects that Metro would pursue. The project titled “More Humane Conditions for Elephants” explicitly set forth the needs of the zoo herd at the Zoo and the concept of an off-site facility to further improve the health and well-being of the animals and to expand the elephant program.

In 2009, a panel of elephant experts took part in a workshop to identify the requirements for an off-site breeding, training and management facility and develop criteria for the selection of an appropriate site. The workshop facilitators, CLR Design Inc. and Shultz & Williams, created a report to guide site assessment titled, “Oregon Zoo Off-Site Elephant Facility Workshop –November 9 and 10, 2009”. Subsequently, Zoo staff prepared a business plan for the potential off-site facility that included infrastructure needs, staffing and other related services. Collectively, these studies have guided Metro in looking for a location that would fit certain selection criteria identified in the studies.

Staff has been evaluating sites of at least 200 acres within the three county area that satisfies the selection criteria and is ideally located within an hour’s travel distance to meet animal care needs. Once a property meets those guidelines, additional considerations include, but are not limited to, availability of the property, real estate value, zoning and land use restrictions, adequate roadways to the site, the character of adjacent properties, topography, soil classifications needed for optimal elephant foot health, and availability of needed infrastructure.

Staff concludes that there are very few properties that may meet the site requirements and that it is desirable to secure the rights to acquire such property when found. An option to acquire real property would secure the necessary rights for Metro, and allow adequate time to conduct studies and create plans to successfully implement the off-site elephant facility concept, including site capital needs. Because the process to determine the suitability of the site for the stated purpose and the subsequent financial and planning work will most likely be a multi-year process, it is necessary to have assurance that the property will be available to Metro if the Council ultimately directs staff to purchase the property.

The current Comprehensive Capital Master Planning project to develop schematic designs for the specific bond projects, infrastructure improvements, and sustainability initiatives includes development of a comprehensive program-level budget for the remaining bond funds. The process to finalize project scopes and associated budgets, including the off-site elephant capital needs, will be included in that work. This work is intended to refine and/or validate target budgets used for bond measure planning. Staff will return to Council for direction on overall bond fund budget allocation as part of the Comprehensive Capital Master Plan development and adoption.

Staff is requesting Metro Council authorization to enter into real estate options to purchase real property satisfying the selection criteria. This will allow Metro to secure site-control and thereafter research conformance to secondary site requirements, continue financial feasibility planning and initiate a fundraising campaign for capital costs and operating expenses with the assistance of The Oregon Zoo Foundation. More than one option contract may be necessary if an assemblage of properties from separate landowners is necessary to create a sufficient acreage for the facility. The options would provide for the future acquisition of property from willing sellers only and said acquisition would be subject to the approval of the Metro Council prior to closing. Any option fee required by owners will be applied to the purchase price if Metro exercises the option and acquires the property, but will be forfeited if Metro elects not to acquire the property.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

There is no known opposition to this resolution.

### **2. Legal Antecedents**

On May 8, 2008, the Metro Council adopted Resolution No. 08-3945, "For the Purpose of Submitting to the Metro Area Voters a General Obligation Bond Indebtedness In the Amount of \$125 Million to Fund Oregon Zoo Capital Projects to Protect Animal Health and Safety, Conserve and Recycle Water, and Improve Access to Conservation Education; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Said Bonds Upon Issuance," approving, certifying and referring to the Metro Area voters at the General Election held on November 4, 2008 Ballot Measure 26-96 (the "Oregon Zoo Bond Measure 26-96"). On November 4, 2008, the voters of the Metro Area approved Oregon Zoo Bond Measure 26-96.

Exhibit A to Resolution No. 08-3945 generally set forth the details of Oregon Zoo Bond Measure 26-96, stating that "the zoo is exploring the feasibility of providing an off-site area for elephants, and "funds are set aside for potential capital needs of off-site space."

State statutory authority: Under Oregon Revised Statute 268.310, Metro may acquire, construct, alter, maintain, administer and operate metropolitan zoo facilities.

Metro Code section 2.04.026(a)(2) requires that the Chief Operating Officer obtain the authorization of the Metro Council to acquire real property for Metro.

### **3. Anticipated Effects**

Metro will identify eligible properties for an off-site elephant facility using the selection criteria and enter into negotiations with willing landowners to acquire an option or options on a selected property(ies). After procuring the rights to acquire the site, Metro and The Oregon Zoo Foundation will undertake the research and planning necessary before moving forward to exercise Metro's option or options and close on the selected property(ies). The acquired property will be used for the Oregon Zoo's off-site elephant facility.

### **4. Budget Impacts**

The Zoo anticipates funding an option or options using existing Oregon Zoo operating funds.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends passage of Resolution No. 11-4230.