

BEFORE THE METRO COUNCIL

AUTHORIZING THE ACTING CHIEF	)	RESOLUTION NO. 11-4258
OPERATING OFFICER TO PURCHASE A	)	
CONSERVATION EASEMENT OVER	)	Introduced by Acting Chief Operating Officer
PROPERTY IN THE WILLAMETTE RIVER	)	Daniel B. Cooper with the concurrence of
GREENWAY TARGET AREA UNDER THE 2006	)	Council President Tom Hughes.
NATURAL AREAS BOND MEASURE	)	

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 “Bond Measure”);

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”);

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 Area Bond Measure (1) an initial appraisal and a review appraisal of the property interest being acquired must be obtained and (2) the purchase price for the property interest be equal to or less than the fair market value of that property interest as established by such appraisal and appraisal review processes;

WHEREAS, Metro staff has identified an opportunity to partner with the City of Portland, acting by and through both its Bureau of Environmental Services and its Department of Parks and Recreation (the “City”), to jointly contribute towards the protection of a specific property in the Willamette River Greenway Target Area, which property is identified and further described in Exhibit A to this resolution (the “Property”);

WHEREAS, the City will be purchasing the Property in fee from the Trust for Public Land (“TPL”), who has an option to purchase the Property from the current owner;

WHEREAS, simultaneously with the City’s acquisition of the Property from TPL, Metro will be purchasing from the City a conservation easement over the Property, which conservation easement will prohibit all future development on the Property and ensure that it remains a natural area in perpetuity;

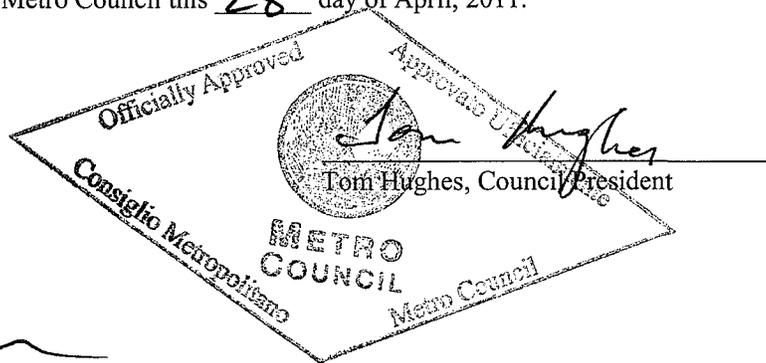
WHEREAS, the City has obtained an appraisal of the fee value of the Property (the “Fee Appraisal”), and the Fee Appraisal supports the City’s purchase price negotiated with TPL;

WHEREAS, the majority of the value set forth in the Fee Appraisal is attributed to the residential development potential of the Property;

WHEREAS, due to the fact that Metro's negotiated purchase price for its conservation easement is equal to less than 20 percent of the price the City will pay for fee title to the Property from TPL, it is in the best interest of Metro to acquire the conservation easement without obtaining a separate appraisal and appraisal review of the conservation easement; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Acting Chief Operating Officer to acquire a conservation easement over the Property identified in Exhibit A without obtaining an appraisal and appraisal review of such conservation easement, provided that (1) the purchase price for the conservation easement acquisition is less than 20 percent of the value of the Property, as established by the City's Fee Appraisal, (2) Metro's form of conservation easement will prohibit all future residential development on the Property, and (3) the acquisition is otherwise in accord with the Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan.

ADOPTED by the Metro Council this 28 day of April, 2011.



Approved as to Form:

  
Alison Kean Campbell, Acting Metro Attorney

Project No. 035548

### LEGAL DESCRIPTION

The purpose of this legal description is to describe a portion of Tax Lot 100 as shown on Tax Map 1S 1E 27 PORTLAND, Tax Lot 200 as shown on Tax Map 1S 1E 27DA PORTLAND and Tax Lot 200 as shown on Tax Map 1S 1E 22 PORTLAND, lying in the Southeast quarter of Section 22, the Southwest Quarter of Section 26, and in Section 27, Township 1 South, Range 1 East, Willamette Meridian, City of Portland, Multnomah County, State of Oregon, also being a portion of that land described in Deed Book 68, Page 93, recorded June 29, 1883, in Multnomah County, State of Oregon; being more particularly described as follows:

Commencing at a found monument at the Southwest Corner of Section 22, Township 1 South, Range 1 East, Willamette Meridian; thence along the South line of said Section 22, South 88° 28' 53" East 284.76 feet to the Southeast corner of Plot 1 of "Carson Heights", recorded in Book 151, Page 55, Multnomah County; thence continuing along said Section line South 88° 28' 53" East 1591.94 feet to the West line of the Hector B. Campbell DLC 44, as described in Deed Book 68, Page 93, recorded June 29, 1883, Multnomah County; thence along said DLC line, South 03° 12' 31" West 1578.53 feet to the North Right-of-Way line of S.W. Palatine Hill Road; thence running on said Right-of-Way line South 86° 47' 29" East 25.00 feet; thence South 03° 12' 31" West 329.06 feet to **THE TRUE POINT OF BEGINNING** of the tract to be described; thence departing said Right-of-way line, South 86° 46' 36" East 285.41 feet to a point; thence North 20° 39' 07" East 301.05 feet to a point; thence North 58° 10' 01" East 399.46 feet to a point; thence North 77° 56' 52" East 332.14 feet to a point; thence North 45° 25' 25" East 197.29 feet to a point; thence North 72° 46' 22" West 90.27 feet to a point; thence South 87° 41' 15" West 142.09 feet to a point; thence South 50° 01' 31" West 173.35 feet to a point; thence North 65° 32' 36" West 66.03 feet to a point; thence North 07° 01' 39" East 45.74 feet to a point; thence North 45° 32' 58" East 395.12 feet to a point; thence North 43° 35' 25" East 436.16 feet to a point; thence North 13° 24' 33" West 159.65 feet to a point; thence North 15° 13' 12" East 197.44 feet to a point; thence North 07° 44' 06" West 461.05 feet to a point; thence North 51° 36' 19" East 344.77 feet to a point on the Westerly Right-of-Way of S.W. Macadam Avenue (Road 680); thence along said Westerly Right-of-Way the following seven courses; South 11° 13' 23" East 121.27 feet to a point of curvature; thence on the arc of a 1949.86 foot radius curve, to the left, through a central angle of 15° 38' 30" ( the long chord bears South 20° 29' 14" East 530.66 feet) and arc length of 532.31 feet to a point; thence South 30° 18' 10" East 202.07 feet to a point; thence South 31° 18' 29" East 2009.71 feet to a point; thence South 31° 28' 30" East 100.35

feet to a point of curvature; thence on the arc of a 5769.58 foot radius curve, to the left, through a central angle of 02° 32' 21" ( the long chord bears South 33° 04' 39" East 255.68 feet) and arc length of 255.70 feet to a point of reverse curvature; thence on the arc of a 5689.58 foot radius curve, to the right, through a central angle of 02° 50' 16" ( the long chord bears South 33° 25' 42" East 281.76 feet) an arc length of 281.79 feet to the Northeasterly corner of that tract of land described in Book 2171, Page 114, recorded June 15, 1963, Multnomah County Deed Records; thence departing said Westerly Right-of-Way and running along the Northerly line of said deed, South 58° 31' 32" West 50.00 feet to the Northwest corner of said Deed; thence along the Westerly line of said deed, South 31° 28' 28" East 80.00 feet to the southwest corner of said deed; thence North 58° 31' 32" East 50.25 feet to said Westerly Right-of-Way of S.W. Macadam Avenue ; thence along said Westerly Right-of-Way the following four courses; thence along the chord of a spiral curve, South 31° 20' 04" East 39.66 feet; thence South 31° 18' 29" East 51.63 feet; thence along the chord of a spiral curve, South 30° 58' 33" East 99.30 feet to a point of curvature; thence on the arc of a 2824.81 foot radius curve, to the right, through a central angle of 00° 57' 57" ( the long chord bears South 29° 49' 29" East 47.62 feet) and arc length of 47.62 feet to a point; thence leaving said Right-of-Way South 52° 40' 06" West, 307.13 feet to an angle point on the North line of the tract recorded in Book 388, Page 413, of the Multnomah County Deed Records; thence continuing along said North line and its Westerly extension also being on the North line of that property conveyed to Lewis and Clark College in Book 691, Page 572 Multnomah County deed records, South 89° 48' 36" West 3248.48 feet to a point on the North Right-of-Way of S.W. Palatine Road; thence along said Northerly Right-of-Way, North 40° 01' 50" West 43.33 feet; thence continuing on said Right-of-Way line, North 03° 12' 31" East 1204.92 feet to **THE TRUE POINT OF BEGINNING.**

Area = 6,325,941 square feet or 145.223 acres more or less.



## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 11-4258, AUTHORIZING THE ACTING CHIEF OPERATING OFFICER TO PURCHASE A CONSERVATION EASEMENT OVER PROPERTY IN THE WILLAMETTE RIVER GREENWAY TARGET AREA UNDER THE 2006 NATURAL AREAS BOND MEASURE**

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Date: April 28, 2011

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

#### **BACKGROUND**

Metro staff has entered into an agreement with the City of Portland (the “City”) to purchase a conservation easement over certain property in the Willamette River Greenway Target Area (the “Property”). The Property is approximately 145 acres and is one of the last remaining privately-owned forested tracts of this size within the City of Portland. The Property is legally described in Exhibit A, attached to the proposed resolution.

In September 2007, the Metro Council adopted the Refinement Plan for the Willamette River Greenway Target Area and the Property meets the following Tier I objective for the target area:

Secure remaining unique and rare habitats. These include Multnomah Channel, the large forested area west of the Sellwood Bridge and lands near Elk Rock Island.

The Property is extraordinary due to its large size. Protecting such a large contiguous area will have a great benefit to water quality and wildlife in the area, and will provide habitat connectivity. It also presents a potential public recreation opportunity not feasible on smaller sites.

The Property is an unmanaged forest stand, approximately 50 percent deciduous and 50 percent coniferous tree types. Tree species include Douglas fir, Western red cedar, Western hemlock, grand fir, big leaf maple, red alder, Oregon ash and black cottonwood. Seven unnamed streams, some with small tributaries, flow through the site to the Willamette River. These streams all have steep gradients, with some reaches exceeding 6 percent. The streams are relatively unaltered and occupy their historic channels until flowing through a series of culverts near their confluence with the Willamette River. Three of the streams supply year-round cold water to the Willamette River.

Trust for Public Lands (“TPL”) currently holds an option to purchase the Property from the existing private owner, and the City has entered into an agreement to buy the property in fee from TPL. The City’s obligation to purchase the Property is subject to various conditions, one of which is that Metro purchase a conservation easement from the City at closing. The compensation the City receives from Metro for the conservation easement will be used by the City to partially fund its fee acquisition of the Property from TPL.

Resolution 11-4258 requests authorization for the Acting Chief Operating Officer to purchase a conservation easement over the Property without first obtaining an independent MAI appraisal of such easement as required by the accepted Acquisition Guidelines as outlined in the Natural Areas Implementation Work Plan. The City has obtained an appraisal of the Property, and that appraisal supports the City’s negotiated fee purchase price of \$11,500,000. The appraisal firm that completed such appraisal is a reputable firm, frequently used by Metro on various other property acquisitions. Metro’s purchase price for its conservation easement is equal to less than 20 percent of the price the City has negotiated to purchase fee title to the Property from TPL. After reviewing the City’s appraisal, Metro staff are satisfied that the value of the conservation easement interest would be supported by a market appraisal

at the negotiated price. As the City's appraisal confirms, a significant portion of the fee value of the Property is due to the Property's residential development potential. Because Metro's conservation easement will prohibit all residential development in perpetuity, staff believe it is reasonable to conclude that an appraisal of the easement would confirm Metro's purchase price negotiated with the City.

Due to the extraordinary opportunity to achieve goals identified in the 2006 Natural Areas Bond Measure, and because an independent market appraisal of a conservation easement over the Property of this complexity would be a costly and time-consuming endeavor, Metro staff recommend proceeding with acquisition without requiring Metro to obtain an appraisal of the conservation easement interest.

## **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 Acquisition 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 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. 07-3851, "Approving the Natural Areas Acquisition Refinement Plan for the Willamette River Greenway Target Area," was adopted by the Metro Council on September 27, 2007.

Metro Code Chapter 10.03.01 provides that "Metro may acquire conservation easements in accordance with law."

### **3. Anticipated Effects**

Metro will purchase a conservation easement over the Property, protecting the natural, scenic and open space values of the Property and prohibiting activities on the Property that are inconsistent with or materially interfere with such values. The City of Portland, as the fee owner of the Property, will be solely responsible for restoration and management of the Property. In the event the City of Portland does not comply with the stabilization obligations set forth in the conservation easement, Metro has the option (but not the obligation) to perform such obligations at the City's cost and expense.

### **4. Budget Impacts**

Metro's conservation easement will be purchased utilizing 2006 Natural Areas Bond Measure proceeds. Future stabilization, restoration and management costs will be borne by the City of Portland. Annual monitoring costs for the Conservation Easement will be borne by Metro.

## **RECOMMENDED ACTION**

The Acting Chief Operating Officer recommends passage of Resolution No. 11-4258.