

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 97-2542
THE EXECUTIVE OFFICER TO)
PURCHASE PROPERTY IN THE) Introduced by Mike Burton
NEWELL CREEK CANYON) Executive Officer
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 Ballot Measure 26-26 which authorizes Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements pursuant to Metro's Open Spaces Program; and

WHEREAS, the Newell Creek Canyon regional target area was designated as a greenspace of regional significance in the Greenspaces Master Plan and identified as a regional target area in the Open Space, Parks and Streams Bond Measure; and

WHEREAS, on April 11, 1996 the Metro Council adopted a refinement plan for the Newell Creek Canyon regional target area, including a confidential tax-lot-specific map identifying priority properties for acquisition; and

WHEREAS, the property owned by Wells Fargo, as N.A. Trustee, as identified in Exhibit A, is a priority property in Tier I of the Newell Creek Canyon target area and qualifies as a property to be acquired; and

WHEREAS, the amended Open Spaces Implementation Work Plan adopted in January, 1997, provides that Metro Council approval is required for purchases involving "unusual circumstances" or if the purchase price is more than the fair market value determined by Metro's staff appraiser; and

WHEREAS, the Wells Fargo, as N.A. Trustee, property purchase has unusual circumstances, now therefore

BE IT RESOLVED,

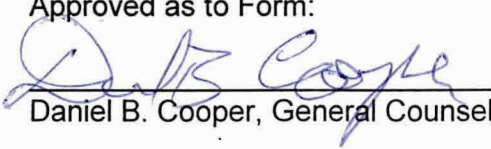
That the Metro Council authorizes the Executive Officer to purchase the Wells Fargo, as N.A. Trustee, property in the Newell Creek Canyon regional target area, subject to the terms and conditions set forth in the Agreement of Purchase and Sale.

ADOPTED by Metro Council this 17th day of July, 1997.



Jon Kvistad, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

RESOLUTION NO. 97-2542

EXHIBIT A

PARCEL I:

A tract of land in the Northwest one-quarter of Section 4, Township 3 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, as conveyed in Deed from Clarissa Hall and M. M. Hall to Willamette Valley Southern Railway Company, in Deed recorded August 13, 1927 in Book 189, Page 595, described as follows:

A strip of land 100 feet wide, being 50 feet on each side of and parallel with and adjoining a line beginning at a point in the North line of the property heretofore described as belonging to Clarissa Hall, described in Book 97, Page 69, a distance of 779 feet East from the Northwest corner of said property; thence in a Southeasterly direction along the located center line of said railway on a curve to the left with a radius of 478 feet through an angle of $38^{\circ} 38'$ to a point of tangent; thence in a Southeasterly direction along the located center line of said railway a distance of 455 feet to a point of curve; thence along the located center line of said railway on a curve to the right with a radius of 819 feet, through an angle of $59^{\circ} 01'$, a distance of 843.1 feet to a point of tangent; thence in a Southerly direction along the located center line of said railway a distance of 550.7 feet to a point of curve; thence in a Southerly direction along the located center line of said railway on a curve to the right with a radius of 383 feet, through an angle of $43^{\circ} 01'$ a distance of 286.8 feet to a point in the South line of said property, a distance of 2130 feet, more or less, East from the Southwest corner of said property.

PARCEL II:

A tract of land in the Southwest one-quarter of Section 4, Township 3 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, as described in Deed from Minnie Mighells to Willamette Valley Southern Railway Company in Deed recorded April 28, 1915 in Book 139, Page 348, described as follows:

A strip of land 60 feet in width being 30 feet in width on each side of and parallel with the center of the railway of the grantee, as now surveyed, located and marked with stakes over, upon and across the land of Minnie Mighells as described in Deed Book 95, Page 115.

Beginning at a point in the North line of said property of grantor as described in Book 95, Page 115, Deed Records of Clackamas County, Oregon which point is 145.6 feet East from the Northeast corner thereof; thence in a Southwesterly direction along the located center line of said railway as now constructed 211.1 feet, more or less, to a point in the West line of said property which is 172.5 feet South from the Northwest corner thereof;

ALSO beginning at the Northwest corner of the above described lands of grantor and running thence Easterly along the North line thereof 115.6 feet to the Westerly line of the right of way above described; thence Southeasterly 30 feet distant from and parallel with the center line of the right of way as above described and on a curve to the right with a radius of 413 feet through an angle of $24^{\circ} 58'$ a distance of 179.6 feet to a point in the West line of said property which is 142.5 feet South from the Northwest corner thereof; thence North 142.5 feet to the point of beginning.

Staff Report

CONSIDERATION OF RESOLUTION NO. 97-2542 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE PROPERTY IN THE NEWELL CREEK CANYON TARGET AREA.

Date: July 9, 1997

Presented by: Charles Ciecko
Jim Desmond

PROPOSED ACTION

Resolution No. 97-2542 requests authorization for the Executive Officer to purchase property in the Newell Creek Canyon Target Area.

BACKGROUND AND ANALYSIS

The property in Oregon City is located in Tier I in the adopted Newell Creek Canyon refinement plan. The 6.11-acre land parcel is a gently-sloping, vacated railroad right-of-way approximately 2,200 feet in length. Aligned east of the Oregon City Bypass, a portion of the corridor lies beneath BPA power lines, with the remainder either forested or open meadow. The forested portion is lined with 25- to 35-year old fir trees, sword ferns, and mostly native herbaceous cover, while open meadow portions are dominated by exotic plants. Acquisition of this portion of the vacated railroad right-of-way will provide the opportunity to establish a trail link to Metro's neighboring acquisitions in the Newell Creek Canyon target area, including other portions of the vacated rail right-of-way.

An unusual circumstance exists because rights to the real Property that are not a part of this transaction may exist. These rights are related to past use of the real property by an adjacent owner, and may ripen into an encumbrance. The uncertainty about the status of the potential encumbrance materially effects the decision whether or not to purchase the Property. The adjoining neighbor has fenced the southern portion of the Property, and is using the southern portion of the property for grazing and access. Staff is investigating the legal status of this use. It is reasonable to believe that the issue may be resolved through negotiation with the adjoining neighbor.

Metro has been negotiating to acquire this parcel for the past year. If acquired, the parcel could serve as a segment of an anticipated "rails-to-trails" line extending from the Environmental Learning Center on the Clackamas County Community College campus, to the Oregon Trail head in Oregon City. The purchase price is 10% below appraised value.

FINDINGS

Acquisition of this property is recommended based on the following:

- The target area description in the Bond Measure Fact Sheet is as follows: "Newell Creek Canyon: Acquire 370 acres for natural park area."

- The property is listed as a Tier I property in the adopted refinement plan for the Newell Creek Canyon target area.
- The site has important scenic, wildlife and potential trail qualities.
- The future use of the property by the adjoining owner will be negotiated subsequent to purchase.

BUDGET IMPACT

Bond funds would supply acquisition money. Land banking costs are expected to be minimal.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends passage of Resolution No. 97-2542.