

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING AND) Resolution No. 14-4536
UPDATING THE NATURAL AREAS)
IMPLEMENTATION WORK PLAN) Introduced by Chief Operating Officer Martha
) Bennett in concurrence with Council
) President Tom Hughes

WHEREAS, in May 1995 regional voters approved a \$135.6 million Open Spaces, Parks and Streams bond measure (“1995 Open Spaces Bond Measure”);

WHEREAS, In November 2006 regional voters approved a \$227.4 million Natural Areas Bond Measure (“2006 Natural Areas Bond Measure”); and

WHEREAS, in Resolution No. 95-2228A the Metro Council approved the Open Spaces Implementation Work Plan, “For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Open Spaces Implementation Work Plan.” The Open Spaces Implementation Work Plan, as subsequently amended, provided the framework within which implementation activities for the 1995 Open Spaces Bond Measure and preliminary work for the 2006 Natural Areas Bond Measure proceeded; and

WHEREAS, in Resolution No. 07-3766A the Metro Council approved the Natural Areas Implementation Work Plan, “Authorizing the Chief Operating Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan.” The Natural Areas Implementation Work Plan revised certain portions of the Open Spaces Implementation Work Plan to respond to changed market conditions and the goals of the 2006 Natural Areas Bond Measure; and

WHEREAS, Metro staff determined it appropriate to review the applicable portions of both the Open Spaces Implementation Work Plan and the Natural Areas Implementation Work Plan to consider whether the work plans remain relevant, accurate, and reflective of the best practices;

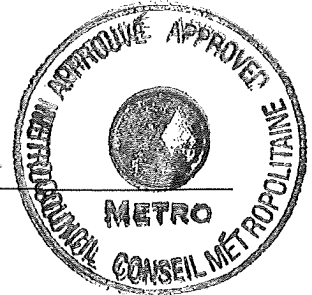
WHEREAS, Metro staff, with the support of the Natural Areas Oversight Committee, now proposes an Amended and Restated Natural Areas Implementation Work Plan, which plan consolidates the previous work plans and provides a more comprehensive framework within which implementation activities for the 2006 Natural Areas Bond Measure should continue; now therefore

BE IT RESOLVED, that the Metro Council hereby adopts the Amended and Restated Natural Areas Implementation Work Plan, a copy of which is attached hereto as Exhibit A.

ADOPTED by the Metro Council this 14th day of August 2014.

Tom Hughes

Tom Hughes, Council President



Approved as to Form:

[Signature]

Alison R. Kean, Metro Attorney



Natural Areas Work Plan

August 2014

About Metro

Clean air and clean water do not stop at city limits or county lines. Neither does the need for jobs, a thriving economy, and sustainable transportation and living choices for people and businesses in the region. Voters have asked Metro to help with the challenges and opportunities that affect the 25 cities and three counties in the Portland metropolitan area.

A regional approach simply makes sense when it comes to providing services, operating venues and making decisions about how the region grows. Metro works with communities to support a resilient economy, keep nature close by and respond to a changing climate. Together we're making a great place, now and for generations to come.

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INTRODUCTION

On November 7, 2006, voters in the metro region approved a \$227.4 million bond measure (“the 2006 Natural Areas Bond Measure”) directing Metro to purchase natural areas, and land for parks and streams. The 2006 Natural Areas Bond Measure is modeled after the \$135.6 million bond measure approved by the region’s voters in 1995 (the “1995 Open Spaces, Parks and Streams Bond Measure”).

The Open Spaces Implementation Work Plan, approved by the Metro Council in 1997, was initially developed to support the 1995 Open Spaces, Parks and Streams Bond Measure. The Open Spaces Implementation Work Plan has since been used to support the 2006 Natural Areas Bond Measure, although the Acquisition Parameters and Due Diligence Guidelines sections were revised in 2006.

Nearly two decades after its adoption, it was appropriate to re-evaluate the Open Spaces Implementation Work Plan. Based on the recommendations of the Natural Areas Oversight Committee, this document provides a revised framework under which 2006 Natural Areas Bond Measure implementation activities shall continue to proceed.

REFINEMENT

Definition

“Refinement” is the public process whereby Metro adopts approximate geographical boundaries and objectives for each target area and trail project, and identifies specific properties for acquisition.

Rationale

A refinement process is necessary for each of the 27 target area sites and trail projects because the amount of land available in each target area exceeds the dollars available for purchase, or in the case of trails, the exact alignment of the trail is not known. In addition, the process allows public comment and involvement in the prioritization of bond monies.

Process

As provided in the 2006 Natural Areas Bond Measure, Metro undertook a public refinement process to establish specific acquisition strategies, goals, and objectives, resulting in confidential tax-lot specific acquisition target maps for each of the 27 target areas. Metro’s refinement process included the compilation of available information about each target area; biological field visits and expert analysis of maps; interviews with key stakeholders including natural resource experts, property owners, representatives from state and local government agencies, and advocates from water quality, fish, and wildlife preservation groups; and multiple public open houses where draft refinement plans were made available for public review and participants could share their target-area priorities.

In the fall of 2007, after first reviewing the draft refinement plans and considering information from citizens, scientists, advocates, and state and local governments, the Metro Council adopted individual refinement plans for each of the 27 target areas. The resolution references for each target area refinement plan are set forth in Appendix A.

ACQUISITION PARAMETERS

Definitions

"Acquisition Parameters" are the Council-approved criteria and conditions under which the Metro Chief Operating Officer or his/her designees (hereafter referred to as the "COO") are authorized to negotiate and complete real property acquisitions without further Council review and approval. The COO may complete an acquisition transaction that does not meet all of the acquisition parameters only with prior Council review and approval.

"Real property acquisitions" are Metro's purchase or acceptance of donations (or a combination) of any type of real property interest, including fee title, easements, or conservation easements, among others.

"Trail acquisitions" are real property acquisitions where the ultimate use of the real property interest is intended for construction of an off-street, non-motorized trail.

Rationale

The creation of pre-approved acquisition parameters permits Metro to deal with willing sellers in a timely and business-like manner and allow the Council to focus on policy level issues.

Intent

Metro intends to pay fair market value for property interests it acquires, it being acknowledged, however, that the Metro area real estate market is dynamic and the process of identifying fair market value is not exact. Metro's acquisition process should provide as much flexibility as possible to achieve the goals of the Natural Areas Bond Measure and to reflect the actual market conditions affecting the fair market value of properties targeted for natural areas acquisition.

General Acquisition Parameters

The Metro Council authorizes the COO to negotiate and close real estate acquisition transactions related to the 2006 Natural Areas Bond Measure provided all of the following criteria/conditions are met:

- The owner is a willing seller.
- The property is (a) identified on a Council-adopted target area "confidential refinement map" or (b) contiguous to property owned by Metro or by another public park-providing or conservation agency within the greater Metro region.
- The Real Estate Negotiator and a stabilization team representative have inspected the property, and the Natural Areas Program Director has approved the purchase.
- If the property is identified as Agricultural Resource Land in the Refinement Plan adopted for the applicable target area, then Metro has complied with the Agricultural Resource Land Guidelines, as specifically refined by the applicable Refinement Plan for the target area in which the property is located.
- "Due diligence" has been completed in conformance with the due diligence section of this Work Plan and no unusual circumstances have been found to exist.

- The negotiated purchase price for the property is either:
 - Equal to or less than \$50,000; or
 - Not more than 10% or \$100,000, whichever is greater, above the fair market value as established by the appraisal process described below, and the COO has authorized acquisition of the property at such price after finding that acquisition of the property at the negotiated purchase price is in the “public interest”. In order to conclude that such a purchase is in the public interest, the COO must conclude that:
 - The failure to acquire the property will significantly compromise Metro’s ability to achieve the goals described in the applicable adopted Refinement Plan for that target area; and
 - The purchase will not reduce the amount of funds available to purchase other critical, high priority target properties in a manner that will significantly compromise Metro’s ability to achieve the goals described in the applicable adopted Refinement Plan for that target area.
- In addition, the COO shall also consider the following factors before concluding that such a purchase is in the public interest:
 - Whether there are immediate and known competing offers or other market pressures that put Metro at risk of permanently losing the opportunity to purchase and preserve the property unless Metro agrees to pay the negotiated purchase price; and
 - Whether any other parties are making financial contributions toward the purchase price.
 - With respect to trail acquisitions, whether additional compensation is reasonable to compensate the owner for the impacts of trail development (often related to security and privacy).
- If the property is for a trail acquisition, such acquisition shall be evaluated to determine if future federal funding for design and construction is potentially possible. If federal funding is possible, in order to safeguard eligibility for this funding, Metro staff will adhere to the trail acquisition guidelines as required by the Oregon Department of Transportation, and updated from time to time to ensure compliance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (the “Uniform Act”) and with Oregon law (ORS 35.510). When agreed to by the local jurisdiction in which the trail will be located, built, and maintained, Metro may assign its interest in the trail property (or its interest in the underlying purchase agreement) at closing to such local jurisdiction.

Appraisal Process

Initial Appraisal

An independent certified appraiser has completed an appraisal of the property interest being acquired, stating a conclusion of the fair market value of the property or, if appropriate, a range of value. The appraisal may be in a summary report format. For trail acquisitions, if federal funding is contemplated, the appraisal should generally comply with the federal acquisition appraisal guidelines. The appraisal may not contain any “extraordinary assumptions” that materially influence the conclusion of the property’s fair market value.

Appraisal Review

A certified appraiser has completed a review of the appraisal if either (1) the property's purchase price is \$400,000 or more, (2) the Office of the Metro Attorney determines that such an appraisal review is appropriate under the circumstances of a particular proposed acquisition, or (3) the property is a trail acquisition and an appraisal review is required in order to comply with federal acquisition appraisal guidelines. Such appraisal review shall be completed in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP") or equivalent general appraisal standards (e.g. the Oregon Department of Transportation's or federal yellowbook appraisal guidelines) and may include a determination of an acceptable range of value for the property by the review appraiser. If the review appraiser determines that the appraisal does not meet USPAP or other general appraisal standards, the Office of Metro Attorney may either (a) direct the review appraiser to work with the initial appraiser to correct the deficiencies, (b) direct the review appraiser to make a final determination of an acceptable range of value for the property or (c) order a second appraisal to be completed in accordance with the initial appraisal guidelines set forth above (which second appraisal need not be reviewed).

Appraisal Conflicts

If any appraisal review (or any second appraisal) concludes a fair market value determination below than that of the initial appraisal, the Natural Areas Program Director shall have the discretion to make a reasonable determination of the fair market value. Such determination shall be based on the information in the two conflicting appraisals, which shall not be more than the average of the two appraisals.

Notices and Reports to Council Regarding Completed Transactions

The Natural Areas Program Director shall notify the Council promptly following the closing of any real property acquisition. The COO shall prepare and present to the Council quarterly updates summarizing acquisition activity distinguished by target area.

DUE DILIGENCE

Definition

"Due diligence" is the systematic inspection of the legal title and physical condition of the property being acquired to assure protection of the public investment. Due diligence should be conducted in advance of closing so that resolvable problems can be adequately addressed prior to closing.

Components

The primary areas of due diligence are described below. A more detailed list of items examined may be found in Terramet. The Office of the Metro Attorney may amend the checklist as determined necessary.

The Due Diligence Team for acquisitions is comprised of the Real Estate Negotiator, Metro Attorney staff, Stabilization Scientist, and in the case of a trail acquisition, an assigned planner.

Appraisal

An appraisal of the property must be completed to determine the property's fair market value and provide other useful information about the property. The appraisal shall be in the format described in the previous section regarding acquisition parameters and shall be reviewed in the manner set forth therein. Notwithstanding the foregoing, the Metro Council authorizes the COO to close acquisition transactions without first obtaining an appraisal in situations where the purchase price is equal to or less than \$50,000.

Examination of Title

- Metro must satisfy itself that the seller has the authority to sell the property, understand what rights will be conveyed, ensure that all parties necessary for the conveyance are involved, and make certain that any property interests/rights that are not a part of the transaction will not defeat the purpose of the acquisition.
- Due diligence requires the review and inspection of the title report and related documents, including the deed to the current owner, recorded easements and other encumbrances, water rights, access rights, taxes, liens, etc.
- Other documents that need to be inspected include unrecorded leases with existing tenants or farmers, management agreements, records pertaining to personal property included in the sale, surveys, and any other agreements the seller may have entered into that may not be of record but will bind Metro after closing.

Property Inspections

Location of Boundaries. Due diligence requires the review of any existing survey of the property. Absent a recent survey, Metro should identify the known or assumed property boundaries on site. If such boundary identification is not apparent, a survey will be conducted if deemed necessary by the Due Diligence Team. Additionally, Metro must confirm whether legal and physical access to the property exist and are usable. Legal and physical access by the public will be secured unless the nature of the property is such that access restrictions are acceptable for that property.

Physical Inspection. Metro must physically inspect the property (1) for environmental assessment purposes, (2) to identify possible hazards, unrecorded easements and trespassers, (3) to determine appropriateness of the property for Metro's intended use, and (4) to make a preliminary evaluation of the condition of any structures and improvements (roads, fences, utilities, etc.) that could impact the Stabilization and Long Term Management period. Any encroachments, potential property boundary disputes, or unrecorded uses of the property identified must be resolved prior to closing if deemed necessary by the Property Due Diligence Team.

The Metro Council authorizes the COO to execute and grant easement and/or license agreements for non-park uses or complete minor property line adjustments ("PLA") after closing provided all of the following criteria/conditions have been met:

- The agreement or PLA is for an encroachment or boundary issue that existed at the time Metro acquired the property;
- The easement/license agreement form or PLA has been reviewed and approved by the Office of Metro Attorney; and

- The issue cannot be easily resolved without a formal written agreement or PLA between the parties (such as by removing the encroachment, for example).

Environmental Review

Metro shall contract with an environmental professional to conduct a Phase I Environmental Assessment in accord with the requirements of the federal All Appropriate Inquiries and in accord with applicable state of Oregon law and regulation, for the purpose of establishing the Innocent Landowner Defense pursuant to CERCLA section 101(35) and 107(b)(3). Notwithstanding the foregoing, a Phase I Environmental Assessment is not required for the acquisition of non-possessory real estate interests unless (a) the Office of the Metro Attorney determines that a such assessment is advisable for a particular acquisition based on information learned in the course of its due diligence, or (b) such assessment is required by the local jurisdiction to which Metro will assign its property interest, such as a trail easement, at closing.

If the Phase I Environmental Assessment identifies a “recognized environmental condition,” Metro shall obtain a Phase II Environmental Assessment (which may include soil and groundwater sampling and testing, in accord with ASTM Standards), unless deemed unnecessary by the Office of Metro Attorney after finding such condition presents minimal liability risk to Metro.

The COO may authorize the expenditure of Natural Area Program bond funds to remediate environmental contamination identified on a property by a Phase II Environmental Assessment and such contamination will not be considered an “unusual circumstance” as described in this work plan, provided that the COO has concluded that such expenditure is reasonable in relation to the value of such property, and

- If the clean up occurs prior to closing, such expenditure will result in either receipt of a "No Further Action" letter, or a substantial equivalent, from the Oregon Department of Environmental Quality (“DEQ”), or substantial elimination of the probability of future environmental liability to Metro, based on information provided in the Phase II Environmental Assessment; or
- If the clean up occurs after closing, receipt of a “Prospective Purchaser Agreement”, or its substantial equivalent, from DEQ.

Unusual Circumstances

If, in the course of due diligence, the Due Diligence Team discovers any unusual deed or title restrictions, encumbrances, or environmental conditions that may prohibit or unduly restrict Metro's ability to use the property as a natural area or trail or that may create a liability to Metro, such restrictions, encumbrances, or conditions shall be considered "unusual circumstances." As provided for in the acquisition parameters section of this Work Plan, the COO may not complete acquisition of property with such unusual circumstances without first obtaining the Metro Council's approval.

Document Retention

Documents related to acquisitions shall be retained in accordance with Oregon law and as otherwise determined appropriate by the Office of Metro Attorney.

STABILIZATION

Definition

“Stabilization” consists of the initial actions exercised after the purchase of a property that are required to put the property into the condition for which it was purchased. These actions include preventing further degradation of natural resource values, protecting property security, and minimizing health and safety risks. Stabilization tasks will generally be one-time actions except in cases where conditions require multiple actions to stabilize degrading conditions. Examples of one-time stabilization actions include surveying and posting property boundaries, removing or repairing structures, or replacing damaged culverts. Examples of stabilization tasks requiring multiple actions are those needed to address degrading ecological function on a property, such as weed control and reforestation, or stream bank stabilization.

Components/Process

Preliminary stabilization issues will be identified by the stabilization staff (typically a property management specialist, a natural resources scientist, and a natural resources technician) as part of due diligence prior to acquisition of a property.

A “Desired Future Condition” site walk will be conducted after closing with the stabilization team and the long-term management team. This site walk will confirm the Desired Future Condition and the actions needed to stabilize the property. The stabilization actions are intended to put the property in a condition compatible with the long term management goals for the site so that the Desired Future Condition is reached and the property is not degrading.

The stabilization team will prepare a stabilization plan for each property within six months of acquisition. The plan will be reviewed and approved by a land management team comprised of the Science and Stewardship Manager, the Natural Areas Land Manager, the Finance Manager, and the Natural Areas Program Manager. The stabilization plan will be stored on Terramet or another location easily accessible to staff. Revisions to the stabilization plan necessitated by new information from further property investigations will also be reviewed and approved by the land management team and filed in Terramet.

A template for the stabilization plan, listing all routine stabilization actions, is included in the Appendix. The land management team may amend the stabilization plan template as determined necessary or appropriate, in their discretion.

Stabilization actions identified in the stabilization plan shall be implemented as soon as possible relative to the conditions on the ground. For example, gates and property boundary surveys that are not dependent on time of year, weather, or deeper understanding of ecological conditions, should generally be implemented within 60 days of acquisition. Actions needed to address the degradation of water quality or wildlife habitat shall be implemented after further investigation of the physical conditions of the property, but generally will be initiated within six months of acquisition. Each stabilization action should have a benchmark for determining when stabilization has been met. Most stabilization actions will be completed within two years. However, actions such as reforestation may generally require three to five years to complete.

Upon completion of the stabilization work, the property will move from the stabilization stage to long term management stage. The stabilization team and the long term management team shall review the property when it moves to long term management to identify any on-going needs or unusual property conditions. Properties will generally move to the long term management stage only after all stabilization activities are complete. A minor amount of stabilization work related to ensuring re-planted areas are stable may continue but under the management of the long term management team.

Cost estimates

Stabilization costs will vary from property to property, depending on property conditions at the time of acquisition or the provisions of the site specific purchase agreement. The rationale for all costs shall be documented in a stabilization plan and shall be covered by Natural Areas Bond Measure funds.

LONG TERM MANAGEMENT

Definition

“Long term management” is the set of activities intended to maintain a given property in a stable condition. Long term management costs are influenced by a variety of factors which include:

- Size of parcels
- Geographical distribution of parcels
- Surrounding land uses
- Traditional or “informal” uses
- Type of structure(s) (if any) on sites
- Interim public use policy
- Historical land use practices (e.g. agriculture or timber)

Components

The long term management team includes the assigned Natural Resources Scientist and the Natural Resources Technician for each property, with oversight from the Land Manager and Science and Stewardship Manager. Long term management activities reasonably expected for newly acquired lands include:

- Enforcement of park related rules and regulations
- Maintenance of fencing, gates, and signs
- Hazard mitigation
- Nuisance abatement
- Resource monitoring
- Monitoring structures
- Contract administration (potential life estates or other interim use arrangements, such as agricultural leases)
- Vegetation management (e.g. maintenance of invasive plants)
- Resolution of encroachments
- Resolution of property line disputes

Agricultural Leases

Agricultural leases are an effective interim management tool and can provide many benefits to Metro beyond generating rental income. Perhaps most notably, agricultural leases ensure that the farmland will be continually cultivated, which corresponds with good farmland management. Long term leases (defined as those with a duration of more than one year) are often necessary for a lessee to implement sustainable farming practices. A long term lease is often required for a lessee to realize a return on its investment and have security about its ongoing operations. Long term lease commitments also reinforce Metro's support of the local agricultural community while providing stable tenants and rental income for Metro.

The Metro Council authorizes the COO to execute agricultural leases of more than one year provided all of the following criteria/conditions have been met:

- The proposed lease complements Metro's natural resources stewardship management goals and objectives;
- The proposed lease does not conflict with anticipated future uses of the property;
- The proposed lease term, including options to renew, does not exceed a total of 10 years.
- The Natural Areas Program Director has approved the lease, and the Office of Metro Attorney has reviewed and approved the lease form.

LOCAL SHARE

Definition

"Local Share" is the portion of 2006 Bond Measure funds to be passed through to local park providers for neighborhood and community scale greenspace projects as described in the bond measure. The local share program allows flexibility for each community to meet its own needs, and offers citizens improved access to nature in neighborhoods all across the region.

Components

Twenty-eight (28) local park providers in the region are eligible to receive funds from Metro's 2006 Natural Areas Bond Measure to carry out local greenspace and trails projects. A list of local share projects approved by the governing board of each jurisdiction is set forth in the 2006 Bond Measure. The Metro Council may establish a formal process providing for the substation of new projects where appropriate as long as the proposed new project is consistent with the Bond Measure.

Intergovernmental Agreements

Pursuant to the Metro Council's direction as set forth in Resolution No. 07-3780, each local park provider has entered into an Intergovernmental Agreement (IGA) with Metro outlining the local share bond measure requirements and maximum amount of local share funds allocated to each jurisdiction.

NATURE IN NEIGHBORHOODS CAPITAL GRANTS PROGRAM

Definition

The "Nature in Neighborhoods Capital Grants Program" is the portion of 2006 Bond Measure funds allocated to fund a grant program intended to increase the natural features and the ecological function and water quality of public lands in neighborhoods. The Nature in Neighborhoods Capital Grants Program provides local organizations and public entities with additional funds for land acquisition and projects that protect and enhance natural resources in the urban environment.

Components

The Nature in Neighborhoods Capital Grant Program Detail, attached as Exhibit C to the 2006 Bond Measure (Resolution No. 06-3672B), sets forth certain criteria intended to provide guidance to the grant selection committee appointed by the Metro Council. The Nature in Neighborhoods Capital Grant Handbook, as updated from time to time, provides additional guidance.

APPENDIX A

2006 Bond Measure Target Areas & Resolutions List

- 07-3833 Forest Park Connections
- 07-3834 Rock Creek Headwaters and Greenway
- 07-3835 Westside Trail
- 07-3836 Cooper Mountain
- 07-3837 Fanno Creek Linkages
- 07-3838 Tryon Creek Linkages
- 07-3839 Stafford Basin
- 07-3840 Columbia Slough
- 07-3841 Springwater Corridor
- 07-3842 Sandy River Gorge
- 07-3843 Clear Creek
- 07-3844 Killin Wetlands
- 07-3845 Gresham-Fairview Trail
- 07-3846 Clackamas River Bluffs and Greenway
- 07-3847 Abernethy and Newell Creeks
- 07-3848 Lower Tualatin River Headwaters
- 07-3849 Tualatin River Greenway
- 07-3850 Tonquin Geologic Area
- 07-3851 Johnson Creek and Watershed
- 07-3852 East Buttes
- 07-3853 Deep Creek and Tributaries
- 07-3854 Cazadero Trail
- 07-3855 Dairy and McKay Creeks Confluence
- 07-3856 Wapato Lake
- 07-3857 Chehalem Ridgetop to Refuge
- 07-3858 Willamette Narrows and Canemah Bluffs
- 07-3859 Willamette River Greenway

APPENDIX B

Stabilization Plan Template

Template for Stabilization Plan
Prepared by XX
Date

Example: Preliminary identification of conservation targets, critical KEAs and significant threats:

Target	Critical KEAs	Threats	Comments
Upland forest-minor component of oak.	Standing dead and down trees	Competition from native vegetation	This is a dry-site Douglas-fir stand with a minor component of oak. Forest health could be enhanced with strategic thinning to benefit larger Douglas fir, create gaps, release Oregon white oak on edges, and create snags and down wood
Oregon white oak woodland habitat	xx	xx	xx
Tualatin River bottomland ash/pacific willow forest	xx	xx	xx

Example: Stewardship classifications

- 1. Oak woodland 1 (OW1):
- 2. Wetland (bottomland hardwood forest) 3: (W3)
- 3. Upland forest 3 (UF3):

Example: Invasive species

Invasive species if left uncontrolled can significantly reduce habitat quality by decreasing diversity, reducing food and cover for native fauna. Invasive plants are most economically treated before they become the dominant species on a site.

Invasive species	Acres	Treatment type	Initiate treatment	Re-treat date*	Re-veg date	Stabilization Benchmark
Blackberry	20	Mow, cut, and spray	2013	2013-2015	2013-2014	<1 % cover of blackberry
Weed XX						

*Species specific treatments, only as needed

Example: Property and infrastructure stabilization actions

Property and Infrastructure	Description	Action	Benchmark
Gates	None present	Install gate to control access on new access road.	Functioning gate
Fences	Boundary fences exist, some in degraded condition.	Remove fences where not needed for access control to improve wildlife movement. Repair fences as needed for access control.	Fences removed or repaired.
Structures			
Roads			
Culverts			
Boundaries			
Hazard trees			
Developed spring			
Encroachments			
Dumping issues			

Example: Water quality and habitat conservation

Habitat	Acres	Description	Action	Date	Stabilization Benchmark
Oregon white oak woodland	10	This unit is composed of a remnant Oregon white oak savanna overgrown with Armenian blackberries and scattered fruit trees. Although there are a few large Douglas fir trees competing with the oaks, the dense blackberry layer limited Douglas fir establishment.	Control non-native plants. Release strategic oaks. Continue weed control until seedlings are free to grow. Douglas-fir will continue to re-establish. Over time, stand will become more dominated Douglas-fir	2013-2017	Native plant community effectively occupying 98% or more of the unit
Bottomland Oregon ash/Pacific willow	xx	This habitat is in fair condition but due to significant reed canarygrass levels recruitment of seedlings is essentially zero, shrub diversity is low, and conditions are deteriorating.	Implement targeted control of RCG through mowing and spraying. Plant ash and shrubs in patches at high densities.	2013-2017	Seedlings are free-to-grow*
Douglas-fir upland forest	xx				

* Re-vegetation work is necessary on any areas currently dominated by non-native plants or disturbed sites. Re-vegetation sites routinely require 3-5 years to reach free-to-grow condition. Free-to-grow means the native plant are no longer threatened by non-native plant competition (assuming routine maintenance).

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 14-4536, FOR THE PURPOSE OF AMENDING AND UPDATING THE NATURAL AREAS WORK PLAN

Date: August 7, 2014

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

BACKGROUND

Nearly 20 years ago, voters passed the 1995 Open Spaces, Parks and Streams Bond Measure (“1995 Bond Measure”), which authorized Metro to issue up to \$135.6 million in general obligation bonds for the protection of open spaces, parks, and streams. The Open Spaces Implementation Work Plan (“Open Spaces Work Plan”) provided the framework for implementation of the 1995 Bond Measure activities.

In 2006, voters again directed Metro to acquire property through the 2006 Natural Areas Bond Measure (“2006 Bond Measure”) for the protection of natural areas, to improve water quality, and protect fish and wildlife habitat. The Open Spaces Work Plan has continued to support the 2006 Bond Measure, although the *Acquisition Parameters* and *Due Diligence Guidelines* sections were replaced in 2007 by the Natural Areas Implementation Work Plan (“Natural Areas Work Plan”), and the Metro Council has approved various Natural Areas resolutions over the past eight years, essentially, updating and amending the Work Plan in pieces. As of July 2014, Metro has acquired approximately 136 properties with 2006 Bond Measure funds. All such acquisitions have been made in accordance with the directives set forth in the Open Spaces Work Plan and the Natural Areas Work Plan (together referred to herein as the “Work Plan”).

At this time, Metro staff decided to review the entirety of the Work Plan, including the additional resolutions, and consider whether it remains relevant, accurate, and reflective of the best practices Metro is using on the ground today, or if improvements could be made. Staff consulted not only with the Office of Metro Attorney but also with the Natural Areas Oversight Committee on several occasions for recommendations and feedback. The Oversight Committee felt strongly that it is important to give the program a bit more negotiating flexibility in order to achieve the acquisition and stabilization goals of the 2006 Bond Measure.

As a result of that review, Metro staff, with the support of the Natural Areas Oversight Committee, now proposes global revisions to the Work Plan, which revisions are intended to (1) integrate the Open Spaces Work Plan and the Natural Areas Work Plan into one document, and (2) incorporate in the various amendments made by Council Resolutions over the last eight years, and (3) amend and update the Work Plan to reflect changed market conditions. The proposed Amended and Restated Natural Areas Implementation Work Plan (the “Amended and Restated Work Plan”) is attached as Exhibit A to the Resolution.

A summary of the updates contained in the Amended and Restated Work Plan is set forth below:

- 1) Acquisition of Properties not on Refinement Map: Currently the Work Plan allows the COO to acquire properties not on the refinement map, provided such properties (a) are adjacent to property owned by Metro or another public parks-providing or conservation agency and (b) have a purchase price of \$5,000 or less. The Amended and Restated Work Plan would remove the \$5,000 acquisition price cap.
- 2) Purchases Not Requiring an Appraisal: Currently the Work Plan allows the COO to purchase properties for \$5,000 or less without obtaining an appraisal. The Amended and Restated Work Plan would allow the COO to purchase properties for \$50,000 or less without obtaining an appraisal.

- 3) Acquisitions that Require an Appraisal Review: Currently the Work Plan requires an appraisal review be obtained if the purchase price is over \$250,000. The Amended and Restated Work Plan would only require an appraisal review if the purchase price is over \$400,000.
- 4) Appraisal Conflicts: Currently the Work Plan states that in the event the review appraisal concluded a different fair market value than the initial appraisal, the review appraisal value conclusion will be used. The Amended and Restated Work Plan would authorize the Natural Areas Program Director to conclude the fair market value based on the information provided in the two appraisals, provided that the value concluded could not exceed the average of the two appraisal reports.
- 5) When Purchase Price Exceeds Appraised Value: Currently the Work Plan authorizes the COO to acquire a property at a price up to 10% above appraised value, or \$100,000 above appraised value, whichever is less. The Amended and Restated Work Plan would authorize the COO to acquire property at a price up to 10% above appraised value, or \$100,000 above appraised value, whichever is more.
- 6) Encroachments and Boundary Issues: The Amended and Restated Work Plan would authorize the COO to execute and grant easements or license agreements for non-park uses after closing if the agreement is for an encroachment or boundary issue that (a) existed at the time Metro purchased the property, (b) the easement form and agreement have been reviewed and approved by the Office of Metro Attorney, and (c) the issue cannot be easily resolved without a formal written agreement between the parties.
- 7) Situations Requiring a Phase II Environmental Assessment: The current Work Plan requires Metro to obtain a Phase II environmental assessment if the Phase I environmental assessment identifies any “recognized environmental conditions”. The Amended and Restated Work Plan keeps this language but adds that a Phase II shall not be required if the Office of Metro Attorney deems it unnecessary after finding that such identified condition presents minimal liability risk to Metro.
- 8) Expenditure of Bond Funds on Environmental Cleanup: The Amended and Restated Work Plan clarifies the existing Work Plan. The Amended and Restated Work Plan states that the COO may authorize the expenditure of bond funds to remediate environmental contamination identified on a property by a Phase II environmental assessment, provided the COO has concluded such expenditure is reasonable in relation to the value of such property, and (i) if the cleanup is completed prior to closing, such expenditure will result in either the receipt of a No Further Action letter from Oregon Department of Environmental Quality (“DEQ”) or substantial elimination of the probability of future environmental liability to Metro, or (ii) if the cleanup occurs after closing, it results in the receipt of a “Prospective Purchaser Agreement” or equivalent from DEQ. The Amended and Restated Work Plan also clarifies that in these situations, such contamination will not be considered an “unusual circumstance” as described in the Work Plan.
- 9) Long Term Management: Although the current Work Plan briefly addresses the concept of “land banking”, the program has evolved and land banking has been replaced with active land management. The Amended and Restated Work Plan would replace the “land banking” section with a “long term management” section, and specifically authorize the COO to enter into agricultural leases of up to 10 years, provided certain criteria are met.
- 10) Stabilization: The Amended and Restated Work Plan updates the Stabilization section to include current stabilization components, processes and best practices.

Staff proposes the Metro Council adopt the Amended and Restated Natural Areas Implementation Work Plan. Adoption of the Amended and Restated Natural Areas Implementation Work Plan will allow staff to more effectively and efficiently protect of natural areas, improve water quality, and protect fish and wildlife habitat, in accordance with the goals of the 2006 Natural Areas Bond Measure.

ANALYSIS/INFORMATION

1. Known Opposition

None known.

2. Legal Antecedents

Resolution 94-2011A: “For the Purpose of Submitting to the Voters a General Obligation Bond Indebtedness in the Amount of \$138.80 million to Proceed with the Acquisition of Land for a Regional System of Greenspaces.”

Resolution 95-2228A: “For the Purpose of Authorizing the Executive Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Open Space Implementation Work Plan.”

Resolution 96-2424: “For the Purpose of Authorizing the Executive Officer to Purchase Property With Accepted Acquisition Guidelines As Outlined in the Amended Open Space Implementation Work Plan.”

Resolution 97-2483: “For the Purpose of Authorizing the Executive Officer to Execute Current and Future Leases Related to Metro’s Open Spaces Property Acquisitions”

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 Acquisition of Properties that Satisfy Specific Identified Criteria.”

Resolution 06-3627B: “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.”

Resolution 07-3766A: “Authorizing the Chief Operating Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Natural Area Implementation Work Plan.”

Resolution 08-3963: “Amending the Natural Areas Implementation Work Plan to Authorize the Chief Operating Officer to Acquire Certain Properties When the Purchase Price is Equal to Or Less Than \$5,000.”

Resolution 10-4122: “For the Purpose of Amending the Natural Areas Implementation Work Plan to Authorize the Chief Operating Officer to More Efficiently Acquire and Assign Trail Easements.”

3. Anticipated Effects

Authority has previously been provided to the Chief Operating Officer to purchase real property within accepted guidelines of the Open Spaces Implementation Work Plan and the Natural Areas Implementation Work Plan. The proposed Resolution recommends the adoption of an Amended and Restated Natural Areas Implementation Work Plan, which is very similar to the Work Plans currently being used, such that the anticipated effects of this action shall mostly involve minor adjustments in staff action but shall not represent a substantial change in procedure.

4. Budget Impacts

All acquisitions have been and will continue to be completed using 2006 Bond Measure funds and the small remaining amount of 1995 bond measure funds.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 14-4536.