

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 04-3473A
CHIEF OPERATING OFFICER TO PURCHASE)	
PROPERTY ON HOGAN BUTTE IN THE EAST)	Introduced by Councilor Rod Park
BUTTES / BORING LAVA DOMES TARGET)	
AREA, SUBJECT TO UNUSUAL)	
CIRCUMSTANCES)	

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, on January 9, 1996, via Resolution No. 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”), the Metro Council established the Open Spaces Acquisition Guidelines, which also provided for Metro Council approval of purchases subject to “unusual circumstances”; and

WHEREAS, on July 25, 1996, via Resolution No. 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 Target Area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Ronald and Cheryl Haggerty are the owners of an approximate 28-acre parcel that lies in Tier I of the East Buttes / Boring Lava Domes Target Area, commonly known as Tax Lots 100 and 101, Section 22B, Township 1 South, Range 3 East, and Tax Lot 400, Section 22A, Township 1 South, Range 3 East (“the Haggerty Property”), more particularly described in the attached Exhibit A, and have entered into an Agreement of Purchase and Sale with the City of Gresham (“Gresham”); and

WHEREAS, Metro wishes to participate with the acquisition of the Haggerty Property, contributing \$250,000 to the purchase price, on condition that Gresham enter into an Intergovernmental Agreement with Metro containing the following terms and conditions: (1) at closing, Gresham shall convey to Metro an undivided 50% interest as a tenant in common in that portion of the Haggerty Property known as Tax Lot 100, Section 22B, Township 1 South, Range 3 East (“Tax Lot 100”); (2) the City of Gresham shall perform a minor partition of Tax Lot 100, within one year of closing, creating a new parcel having a fair market value proportional to Metro’s contribution, such that Metro may receive unencumbered fee title to a portion of Tax Lot 100 as a legal lot of record; (3) the City of Gresham shall grant Metro an open space restrictive covenant over the Haggerty Property and 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”); (4) the City of Gresham shall employ all legal means excepting condemnation to provide or require off-street public trail access from the Haggerty Property through the proposed Deer Glen subdivision, connecting through to the Regner Road Property; and (5) the City of Gresham shall agree to manage the Haggerty Property and Regner Road

Property for the preservation of open space natural area in accord with the Metropolitan Greenspaces Master Plan; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution No. 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 to direct future acquisitions of properties that satisfy specific identified criteria; and

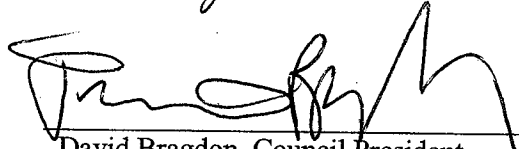
WHEREAS, Metro has already exceeded the minimum 545-acre goal established for the East Buttes / Boring Lava Domes Target Area, therefore contributing toward the purchase of the Haggerty Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

WHEREAS, Metro's participation in acquisition of the Haggerty Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: the Haggerty Property acquisition benefits from a significant 79% financial contribution from the City of Gresham, a local government partner; and

WHEREAS, because no appraisal will be performed on Tax Lot 100 to confirm its value, Metro's acquisition of said portion of the Haggerty Property will be subject to "unusual circumstances" and requires Metro Council approval; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to contribute \$250,000 toward the purchase price of the Haggerty Property as identified in Exhibit A, subject to unusual circumstances and the terms and conditions set forth above herein.

ADOPTED by the Metro Council this 5th day of August, 2004.


David Bragdon, Council President

Approved as to Form:

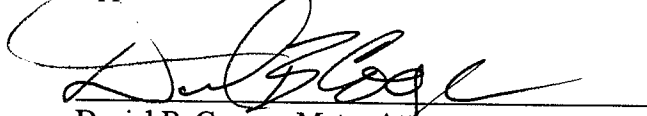

Daniel B. Cooper, Metro Attorney



Exhibit A
Resolution 04-3473A
Legal Description
Haggerty Property

PARCEL I:

Beginning at a point, said point being the Northeast corner of the Northwest quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon; thence West 210 feet; thence South parallel to the North-South center line of said section, a distance of 593 feet; thence West 171.8 feet; thence South parallel to the North-South center line of said section, a distance of 1157 feet; thence East 381.8 feet; thence North along the North-South center line of said section, a distance of 1750 feet to the point of beginning.

TOGETHER WITH a 50 foot wide easement for road purposes described as follows:

Beginning at the North one-quarter corner of said Section 22; thence South 1°09' West along the one-half section line 693.00 feet; thence North 88°51' West at right angles to the last mentioned course 90.36 feet to the true point of beginning of the tract herein to be described; thence from the above described true point of beginning continuing North 88°51' West 71.39 feet; thence North 44°23'30" West, 112.23 feet to a point of curvature; thence along the arc of a 45.12 foot radius curve to the left (the long chord of which bears North 76°46'30" West 48.33 feet) an arc distance of 51.00 feet to a point of reverse curvature; thence along the arc of a 167.15 foot radius curve to the right (the long chord of which bears South 88°13' West, 99.83 feet) an arc distance of 101.37 feet to a point of tangency; thence North 74°24'30" West 283.89 feet to a point of curvature; thence along the arc of a 68.00 foot radius curve to the left (the long chord of which bears South 89°02'37" West 38.73 feet) an arc distance of 39.28 feet to a point of tangency; thence South 72°29'45" West 65.68 feet to a point of curvature; thence along the arc of a 790.00 foot radius curve to the left (the long chord of which bears South 63°08'15" West 256.92 feet) an arc distance 258.06 feet to a point of tangency; thence South 53°46'46" West 298.88 feet to a point of curvature; thence along the arc of 1754.00 foot radius curve to the left (the long chord of which bears South 50°27'15" West 203.46 feet) an arc distance of 203.58 feet to a point of tangency; thence South 47°07'45" West 65.01 feet to a point of curvature; thence along the arc of a 501.00 foot radius curve to the right (the long chord of which bears South 57°33'30" West 181.38 feet) an arc distance of 182.39 feet to a point of tangency; thence South 67°59'15" West 251.06 feet to a point in the Easterly line of Regner Road No. 1275; thence North 3°44'15" East along said Easterly line 55.52 feet; thence North 67°59'15" East 226.94 feet to a point of curvature; thence along the arc of a 451.00 foot radius curve to the left (the long chord of which bears North 57°33'30" East 163.28 feet) an arc distance of 164.19 feet to a point of tangency; thence North 47°07'45" East 65.01 feet to a point of curvature; thence along the arc of a 1804.00 foot radius curve to the right (the long chord of which bears North 50°27'15" East 209.26 feet) an arc distance of 209.38 feet to a point of tangency; thence North 53°46'45" East 298.88 feet to a point of curvature; thence along the arc of an 840.00 foot radius curve to the right (the long chord of which bears North 63°08'15" East 273.18 feet) an arc distance of 274.40 feet to a point of tangency; thence North 72°29'45" East 65.68 feet to a point of curvature; thence along the arc of a 118.00 foot radius curve to the right (the long chord of which bears North 89°02'37" East 67.22 feet) an arc distance of 68.16 feet to a point of tangency; thence South 74°24'30" East 283.89 feet to a point of curvature; thence along the arc of a 117.15 foot radius curve to the left (the long chord of which bears North 88°13' East 69.97 feet) an arc distance of 71.05 feet to a point of reverse curvature; thence along the arc of a 95.12 foot radius curve to the right (the long chord of which bears South 76°46'30" East 101.89 feet) an arc distance of 107.52 feet to a point of tangency; thence South 44°23'30" East 163.20 feet to the true point of

(Continued)

LEGAL DESCRIPTION

beginning and evidenced by a Survey Map by Marx & Chase Surveyors, Inc., dated January 4, 1966 and referenced by Drawing No. 64-423.

EXCEPTING THEREFROM that portion conveyed to the City of Gresham by Warranty Deed recorded September 26, 1994 as Fee No. 94 142942, described as follows:

A tract of land situated in the Northeast quarter of the Northwest quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, said tract being a portion of the tract of land conveyed to Louis E. Nelson and Jessie I. Nelson by Deed recorded September 9, 1966 in Book 525, Page 396, Records of Multnomah County, and a portion of the tract of land conveyed to Marshall F. Brown by Deed recorded July 22, 1988 in Book 2122, Page 366, Records of Multnomah County; said tract of land being more particularly described as follows:

Commencing at an iron rod set in the East line of said Northwest quarter of Section 22; said iron rod bears South along the North and South center line of said Section 22, a distance of 693.00 feet and is the Northeast corner of said Nelson Tract; thence South along said North and South center line and along the East line of said Nelson Tract, a distance of 249 feet, more or less, to the true point of beginning, from which the Southeast corner of the Nelson Tract bears South along said North and South center line, a distance of 168.00 feet; thence from said true point of beginning, Northwesterly a distance of 186 feet, more or less, to a point of 60 feet Easterly of, when measured at right angles to, the West line of said Nelson Tract; said point also lying 280 feet Northerly of, when measured at right angles to, the South line of said Nelson Tract; thence West at right angles to the North and South center line of Section 22 and parallel with the South line of the Nelson Tract, a distance of 233 feet, more or less, to a point in the West line of said Brown Tract; thence South along said West line of the Brown Tract 280 feet, more or less, to the point of intersection of said West line with the Westerly projected South line of said Nelson Tract; thence East along said Westerly projected South line and along said South line a distance of 381.8 feet, more or less, to a point in the North and South center line of Section 22, said point being the Southeast corner of said Nelson Tract; thence North along said North and South center line and along the East line of said Nelson Tract a distance of 168.00 feet to the true point of beginning.

PARCEL II:

A tract of land situated in the Northeast one-quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, being more particularly described as follows:

Commencing at the Northeast corner of said Section 22; thence South $88^{\circ}22'57''$ West along the North line thereof, a distance of 25.00 feet to a point in the West right of way line of Hogan Road; thence South $0^{\circ}03'30''$ East along said right of way line, a distance of 792.44 feet to a point; thence South $89^{\circ}56'30''$ West, at right angles to said right of way line, a distance of 5.00 feet to the point of beginning of the tract of land herein to be described; thence South $0^{\circ}03'30''$ East parallel with said right of way line, a distance of 87.17 feet to a point; thence South $89^{\circ}56'30''$ West at right angles to said right of way line, a distance of 482.00 feet to a inch diameter iron rod; thence South $77^{\circ}36'48''$ West, a distance of 436.30 feet to a inch diameter iron rod; thence South $67^{\circ}17'49''$ West, a distance of 128.05 feet to a inch diameter iron rod; thence South $78^{\circ}24'35''$ West, a distance of 1650.80 feet to a point in the West line of said legal subdivision that bears South $0^{\circ}01'59''$ East 1280.00 feet from the

(Continued)

LEGAL DESCRIPTION

Northwest corner thereof; thence North 0°01'59" West along said West line, a distance of 884.00 feet to a point that bears South 0°01'59" East a distance of 396.00 feet from the Northwest corner of said legal subdivision; thence North 87°30'08" East a distance of 1804.61 feet to a inch diameter iron rod; thence North 29°59'27" East, a distance of 62.62 feet to a inch diameter iron rod; thence North 63°23'56" East, a distance of 288.94 feet to a inch diameter iron rod; thence South 65°37'57" East, a distance of 124.75 feet to a inch diameter iron rod; thence South 2°10'31" West, a distance of 481.48 feet to a point of tangent curvature; thence Southeasterly along the arc of a 50.00 foot radius curve to the left, through a central of 92°14'01", an arc distance of 80.49 feet (the chord bears South 43°56'30" East a distance of 72.08 feet) to a inch diameter iron rod at a point tangency that bears South 89°56'30" West at right angles to said West right of way line, a distance of 405.90 feet from the point of beginning; thence North 89°56'30" East a distance of 405.90 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to Jerry and Nancy Jaksich by Warranty Deed recorded June 28, 1988 in Book 2116, Page 298, described as follows:

A tract of land situated in the Northeast one-quarter of Section 22, Township 1 South, Range 3 East, of the Willamette Meridian, in the City of Gresham, County of Multnomah and State of Oregon, being more particularly described as follows:

Commencing at the Northeast corner of said Section 22; thence South 88°22'57" West along the North line of Section 22, a distance of 25.00 feet to a point on the West right of way line of Hogan Road; thence South 00°03'30" East along said right of way line, a distance of 792.44 feet to the Southeast corner of that tract of land conveyed to Helen Wall and E. Stanley Wall recorded on March 24, 1987 in Book 1989, Page 1398, Multnomah County Deed Records, and the true point of beginning of the description; thence South 00°03'30" East along said right of way, a distance of 87.00 feet to the Southeast corner of that tract of land conveyed to Ronald E. Haggerty and Cheryl A. Haggerty recorded on December 21, 1978 in Book 1318, Page 748, Multnomah County Deed Records; thence South 89°56'30" West at right angles to said right of way line, a distance of 487.00 feet to a inch diameter iron rod; thence South 77°36'48" West a distance of 436.00 feet to a inch diameter iron rod; thence South 67°17'49" West a distance of 128.05 feet to a inch diameter iron rod; thence South 78°24'35" West a distance of 688.47 feet; thence North 02°29'52" West at right angles to the most Northerly South line of the said Wall Tract a distance of 730.82 feet to said Northerly South line; thence North 87°30'08" East along said line a distance of 892.38 feet to a inch diameter iron rod; thence North 29°59'27" East along said Wall Tract, a distance of 62.62 feet to a inch diameter iron rod; thence North 63°23'58" East along said Wall Tract, a distance of 288.94 feet to a inch diameter iron rod; thence South 65°37'57" East along said Wall Tract, a distance of 124.75 feet to a inch diameter iron rod; thence South 02°10'31" West along said Wall Tract, a distance of 481.48 feet to a point of tangent curvature; thence Southeasterly 80.49 feet along the arc of a 50.00 foot radius circular curve to the left through a central angel of 92°14'01" (long chord bears South 43°56'30" East a distance of 72.08 feet) to a point of tangency; thence North 89°56'30" East a distance of 410.90 feet to the true point of beginning of the description.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3473A, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY ON HOGAN BUTTE IN THE EAST BUTTES / BORING LAVA DOMES TARGET AREA, SUBJECT TO UNUSUAL CIRCUMSTANCES

Date: August 4, 2004

Prepared by: Nancy Chase
William Eadie

BACKGROUND

Resolution No. 04-3473A (“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 participate with the City of Gresham in the acquisition of the 28-acre Haggerty property (hereafter referred to as “the Haggerty Property”) in the East Buttes / Boring Lava Domes Target Area.

The Haggerty 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/ and Boring Lava Domes Target Area, as Outlined In the Open Space Implementation Work Plan”), adopted on July 25, 1996.

The Haggerty Property consists of 28-forested acres spanning the top of Hogan Butte and located directly adjacent to the developing area north of the Persimmon Golf Club. The scenic value of the Haggerty Property is high due to its panoramic and commanding views of Mount Jefferson, Mount Hood, Mount Adams, and Mount St. Helens. A potential trail connecting to public lands to the north would afford regional access to this rare vista. The view afforded by the Haggerty Property will attract users both locally and from throughout the Metro Area. Protecting the Haggerty Property from development will also provide an attractive natural visual backdrop, easily seen from Highway 26. Motorists looking up as they are driving into the City of Gresham from Mt. Hood will see the undeveloped slope and hilltop of the Haggerty Property. Blanketing this hillside with housing would change the impression as one approaches the City of Gresham. The Haggerty Property is comprised of three tax lots, Tax Lots 100 and 101, Section 22B, Township 1 South, Range 3 East, and Tax Lot 400, Section 22A, Township 1 South, Range 3 East. The City of Gresham will perform a minor partition of Tax Lot 100, Section 22B, Township 1 South, Range 3 East (“Tax Lot 100”), creating a new parcel having a fair market value roughly proportional to Metro’s contribution, so that a legal lot of record may be conveyed to Metro in exchange for Metro’s cash contribution to the Haggerty Property acquisition.

Metro’s participation with the City of Gresham in the Haggerty Property acquisition would be conditioned on Gresham’s entry into an Intergovernmental Agreement with Metro containing the following terms and conditions:

- 1) The City of Gresham must provide sufficient additional funding to acquire the remainder of the 28-acre Haggerty Property;
- 2) At closing, the City of Gresham shall convey to Metro an undivided 50% interest in Tax Lot 100, as a tenant in common with the City of Gresham, subject only to encumbrances approved by Metro.

Within a year thereafter, the City of Gresham shall perform a partition of Tax Lot 100, creating and conveying to Metro a new parcel having a fair market value roughly proportional to Metro's contribution, subject only to encumbrances approved by Metro;

3) The City of Gresham shall grant to Metro an open space restrictive covenant over the Haggerty Property and title or preservation rights to Metro of the 29-acre piece of the City of Gresham property, commonly known as Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East (the "Regner Road Property"), it owns located near the Freeman Haggerty site across and directly west of Regner Road; to be managed and maintained held for open space and park purposes;

4) Gresham shall employ all legal means available excepting condemnation to obtain off street public trail access through the tentatively approved Deer Glen subdivision, to connect and allow reasonable and feasible trail access between the Haggerty Property and the 29-acre Regner Road Property;

5) The City of Gresham shall commit to manage the Haggerty Property and the Regner Road Property for open space-natural area park purposes, consistent with the Greenspaces Master Plans and Open Spaces Bond Measure 26-26.

The purchase of the Haggerty Property requires Metro Council authorization pursuant to Resolution No. 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"), adopted on September 27, 2001, because Metro has previously exceeded the minimum 545-acre goal established for the target area.

Acquisition of the Haggerty Property is recommended because the acquisition of the Haggerty Property would meet one of the criteria set forth in Resolution No. 01-3106:

"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 only 21% of the purchase price.

Additionally, Metro's participation with the City of Gresham in the Haggerty Property acquisition requires Metro Council authorization due to unusual circumstances, as Metro will not be performing a separate appraisal report for Tax Lot 100 to independently confirm its value. Metro's share of the overall purchase price for the entire Haggerty Property is 21%. A real estate appraisal of the Haggerty Property has previously been performed and has been reviewed and accepted by the City of Gresham. The Property is currently being acquired for an overall purchase price substantially below the market value estimated by the previous appraisal. This authorization assumes that the purchase will meet all other Acquisition Parameters of the Open Spaces Implementation Work Plan on issues such as environmental audit and title matters. This authorization does not cover any other "unusual circumstances" and to the extent any other "unusual circumstances" arise during the negotiation of a Purchase and Sale Agreement or during Metro's due diligence process, it is acknowledged that further Council review and authorization will be necessary.

The City of Gresham strongly supports this acquisition.

ANALYSIS/INFORMATION

Known Opposition: None.

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 Chief Operating 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”), adopted on January 9, 1996, established acquisition parameters that authorize the Executive Officer to purchase property within the Council-approved target area refinement plan maps but requires further Metro Council approval of acquisition subject to “unusual circumstances.”

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 Haggerty 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.

Anticipated Effects: Metro will receive a one half interest in the title to a 5 acre lot as a tenant in common with the City of Gresham, which will later be converted into a fee interest in a 2.50-acre lot. Metro will receive title or a conservation easement protecting the Regner Road Property, and the City of Gresham’s best efforts to obtain a trail right of way connecting the two. Metro’s participation will serve as a catalyst to the acquisition of the remainder of the Haggerty Property under a contract of sale.

Acquisition of the Haggerty Property will protect an important forested butte in the East Buttes / Boring Lava Domes Target Area and leverage a significant amount of non-Metro funding.

Budget Impacts: Metro is being asked to contribute 21% (\$250,000) of the Haggerty Property purchase price, for which there are sufficient unrestricted regional bond funds available.

Stabilization, land banking and restoration costs will not be borne by Metro, as the Haggerty Property and Regner Road Property will be managed by the City of Gresham under an Intergovernmental Agreement with Metro.

RECOMMENDED ACTION

Councilor Rod Park and Chief Operating Officer Michael J. Jordan, with the concurrence of the Council President David Bragdon, recommend the adoption of Resolution No. 04-3473A.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 04-3473
CHIEF OPERATING OFFICER TO PURCHASE)
PROPERTY ON HOGAN BUTTE IN THE EAST) Introduced by Councilor Rod Park
BUTTES / BORING LAVA DOMES TARGET)
AREA, SUBJECT TO UNUSUAL)
CIRCUMSTANCES)

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, on January 9, 1996, via Resolution No. 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”), the Metro Council established the Open Spaces Acquisition Guidelines, which also provided for Metro Council approval of purchases subject to “unusual circumstances”; and

WHEREAS, on July 25, 1996, via Resolution No. 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 Target Area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Ronald and Cheryl Haggerty are the owners of an approximate 28-acre parcel that lies in Tier I of the East Buttes / Boring Lava Domes Target Area (“the Haggerty Property”), as described in the attached Exhibit A, and have entered into an Agreement of Purchase and Sale with the City of Gresham; and

WHEREAS, Metro wishes to participate with the acquisition of the Haggerty Property contributing \$250,000 to the purchase price, subject to the following terms and conditions: (1) Metro shall receive unencumbered fee title to a 5.80-acre portion of the Haggerty Property currently known as Tax Lot 101, Section 22B, Township 1 South Range 3 East (“Tax Lot 101”); (2) the City of Gresham shall grant Metro an open space restrictive covenant over the Haggerty Property and 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”); (3) the City of Gresham shall make a good faith effort to provide or require off-street public trail access from the Haggerty Property through the proposed Deer Glen subdivision, connecting through to the Regner Road Property; and (4) the City of Gresham shall agree to manage the Haggerty Property and Regner Road Property for the preservation of open space natural area in accord with the Metropolitan Greenspaces Master Plan pursuant to an Intergovernmental Agreement with Metro; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution No. 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 to direct future acquisitions of properties that satisfy specific identified criteria; and

WHEREAS, Metro has already exceeded the minimum 545-acre goal established for the East Buttes / Boring Lava Domes Target Area, therefore contributing toward the purchase of the Haggerty Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

WHEREAS, Metro’s participation in acquisition of the Haggerty Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: 1) the acquisition of the Haggerty 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 Haggerty Property benefits from a significant financial contribution from a local government or other outside partner; and

WHEREAS, because no appraisal will be performed on Tax Lot 101 to confirm its value, Metro’s acquisition of said portion of the Haggerty Property will be subject to “unusual circumstances” and requires Metro Council approval; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to contribute \$250,000 toward the purchase price of the Haggerty Property as identified in Exhibit A, subject to the terms and conditions set forth above herein.

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Resolution No. 04-3473

Property Description

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3473, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY ON HOGAN BUTTE IN THE EAST BUTTES / BORING LAVA DOMES TARGET AREA, SUBJECT TO UNUSUAL CIRCUMSTANCES

Date: June 21, 2004

Prepared by: Nancy Chase
William Eadie

BACKGROUND

Resolution No. 04-3473 (“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 participate with the City of Gresham in the acquisition of the 28-acre Haggerty property (hereafter referred to as “the Haggerty Property”) in the East Buttes / Boring Lava Domes Target Area.

The Haggerty 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 and Boring Lava Domes Target Areas Outlined in the Open Space Implementation Work Plan”), adopted on July 25, 1996.

The Haggerty Property consists of 28 acres spanning the top of Hogan Butte and located directly adjacent to the developing area north of the Persimmon Golf Club. The scenic value of the Haggerty Property is high due to its panoramic and commanding views of Mount Jefferson, Mount Hood, Mount Adams, and Mount St. Helens. A potential trail connecting to public lands to the north would afford regional access to this rare vista. The view afforded by the Haggerty Property will attract users both locally and from throughout the Metro Area. Protecting the Haggerty Property from development will also provide an attractive natural visual backdrop, easily seen from Highway 26. Motorists looking up as they are driving into the City of Gresham from Mt. Hood will see the undeveloped slope and hilltop of the Haggerty Property. Blanketing this hillside with housing would change the impression as one approaches the City of Gresham. The Haggerty Property is comprised of three tax lots, one of which, Tax Lot 101, will be conveyed to Metro in exchange for Metro’s cash contribution to the Haggerty Property acquisition.

The conditions of Metro’s participation with the City of Gresham in the Haggerty Property acquisition are as follows:

- 1) The City of Gresham must provide sufficient additional funding to acquire the remainder of the 28-acre parcel.
- 2) The City of Gresham shall grant Metro an open space restrictive covenant over the Haggerty Property and a 29-acre piece of the City of Gresham property, commonly known as Tax Lots 00800 and 00900, Section 15C, Township 1 South, Range 3 East (the “Regner Road Property”), located near the Haggerty site across Regner Road.

- 3) As part of its land use and development approval of the proposed Deer Glen subdivision on natural area 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 Haggerty Property parcel (north edge of parcel) through the Deer Glen parcel to connect to and allow reasonable and feasible trail access to the 29-acre parcel currently owned by the City west of Regner Road Property.
- 4) The City of Gresham shall agree to manage the Haggerty Property and the Regner Road Property for open space and park purposes pursuant to an Intergovernmental Agreement with Metro.

The purchase of the Haggerty Property requires Metro Council authorization pursuant to Resolution No. 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”), adopted on September 27, 2001, because Metro has previously exceeded the minimum 545-acre goal established for the target area.

Acquisition of the Haggerty Property is recommended because the acquisition of the Haggerty Property would meet two of the criteria set forth in Resolution No. 01-3106:

- 1) “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.
- 2) “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 21% of the purchase price.

Additionally, Metro’s participation with the City of Gresham in the Haggerty Property acquisition requires Metro Council authorization due to unusual circumstances, as Metro will not be performing an appraisal report for Tax Lot 101 to confirm its value. Metro’s share of the overall purchase price for the whole Haggerty Property is 21%, and the amount of land that Metro will take title to represents 21% of the total Haggerty Property acreage. A real estate appraisal of the whole Haggerty Property has previously been performed and has been reviewed and accepted by the City of Gresham. The Property is currently being acquired for an overall purchase price substantially below the market value estimated by the previous appraisal. This authorization assumes that the purchase will meet all other Acquisition Parameters of the Open Spaces Implementation Work Plan on issues such as environmental audit and title matters. This authorization does not cover any other “unusual circumstances” and to the extent any other “unusual circumstances” arise during the negotiation of a Purchase and Sale Agreement or during Metro’s due diligence process, it is acknowledged that further Council review and authorization will be necessary.

The City of Gresham strongly supports this acquisition.

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 Chief Operating 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”), adopted on January 9, 1996, established acquisition parameters that authorize the Executive Officer to purchase property within the Council-approved target area refinement plan maps but requires further Metro Council approval of acquisition subject to “unusual circumstances.”

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 Haggerty 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.

3. **Anticipated Effects:** Metro will receive title to at least a 5.80-acre lot and Metro will receive title or a conservation easement over the Regner Road Property.

Acquisition of the Haggerty Property will protect an important forested butte in the East Buttes / Boring Lava Domes Target Area and leverage a significant amount of non-Metro funding.

4. **Budget Impacts:** Metro is being asked to contribute 21% (\$250,000) of the purchase price of which there are sufficient unrestricted regional bond funds available.

Stabilization, land banking and restoration costs will not be borne by Metro, as the Haggerty Property and Regner Road Property will be managed by the City of Gresham under an Intergovernmental Agreement with Metro.

RECOMMENDED ACTION

Chief Operating Officer Michael J. Jordan, with the concurrence of the Council President David Bragdon, recommends the adoption of Resolution No. 04-3473.