

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 05-3550
CHIEF OPERATING OFFICER TO PURCHASE)
PROPERTY IN THE FOREST PARK TARGET) Introduced by Michael J. Jordan, Chief Operating
AREA, SUBJECT TO UNUSUAL) Officer with the concurrence of David Bragdon,
CIRCUMSTANCES) Council President

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 to preserve open space for parks, trails and wildlife; and

WHEREAS, on February 15, 1996, via Metro Council Resolution 96-2274A (“For the Purpose of Approving a Refinement Plan for the Forest Park Target Area as Outlined in the Open Space Implementation Work Plan”), the Metro Council adopted a refinement plan for the Forest Park Target Area, which outlined the land protection strategy for the target area, including a confidential tax-lot specific map identifying “Tier I” priority properties for acquisition; and

WHEREAS, on December 7, 2004, The Friends of Forest Park (the “Friends”) entered into a Real Estate Sale Agreement (the “Agreement”) to acquire a 1.4-acre parcel of undeveloped “Tier I” priority property contiguous to Forest Park and located above the community of Linnton, as legally described and depicted in the attached Exhibit A (the “Friends Property”); and

WHEREAS, the Friends have raised approximately 79% of the total purchase price for the Friends Property from private sources, but have requested that Metro contribute the remaining 21% needed to complete the purchase; and

WHEREAS, the Friends have agreed to assign their Agreement to Metro and pay 79% of the purchase price of the Friends Property, if Metro will agree to: 1) contribute the remaining 21% of the purchase price, plus closing costs needed to complete the purchase; 2) acquire the Friends Property; and 3) provide for the management of the Friends Property in a manner consistent with Ballot Measure 26-26; 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

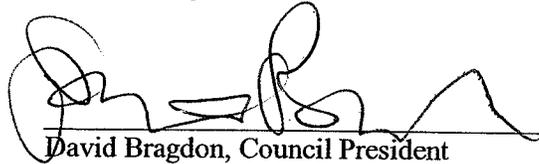
WHEREAS, Metro has exceeded the minimum 320-acre goal established for the Forest Park Target Area, and therefore purchasing the Friends Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

WHEREAS, Metro’s participation in acquisition of the Friends Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: 1) the Friends Property is a key remaining parcel surrounded on three sides by publicly owned natural area and, as such, meets the Forest Park Target Area refinement plan’s specific Tier I objective, and 2) the acquisition of the Friends Property benefits from a significant financial contribution from a local outside partner; and

WHEREAS, because there will be no real estate appraisal completed on the Friends Property and the Agreement provides only for an "as-is" sale, the purchase is subject to "unusual circumstances" requiring the specific approval of the Metro Council, as set forth in the Open Spaces Implementation Work Plan; now therefore

BE IT RESOLVED that the Metro Council authorizes the Metro Chief Operating Officer to purchase the Friends Property described in the attached Exhibit A, subject to the unusual circumstances set forth above herein, said acquisition to be financed using 21% Ballot Measure 26-26 funding and 79% funding from the Friends of Forest Park.

ADOPTED by the Metro Council this 17th day of March, 2005.


David Bragdon, Council President

Approved as to Form:

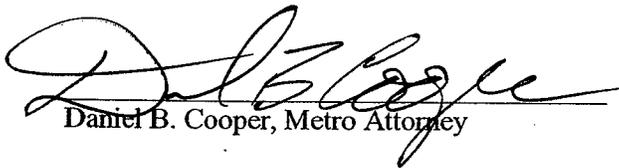

Daniel B. Cooper, Metro Attorney



Exhibit A
Resolution No. 05-3550
Forest Park Property - Legal Description

Exhibit A to Resolution No. 05-3550

Legal Description
Warren James Property

Lots 15, 16, 17, 18, 19, 20, 21 and 22, Block 6, WALDEMERE, in the City of Portland,
Multnomah County, Oregon.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3550 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY IN THE FOREST PARK TARGET AREA, SUBJECT TO UNUSUAL CIRCUMSTANCES

Date: March 2, 2005

Presented by: Nancy Chase

BACKGROUND

Resolution No. 05-3550 requests authorization for the Chief Operating Officer to purchase a 1.4 acre property (the "Friends Property") in the Forest Park Target Area, contiguous to Forest Park.

On December 7, 2004, the Friends of Forest Park entered into a Real Estate Sale Agreement ("Agreement") to purchase the Friends Property. The Friends have committed to raising the majority of the purchase price from private sources and have requested that Metro contribute the remaining funds needed to complete the transaction, which is approximately 21% of the total purchase price. In exchange, the Friends have agreed to assign the Agreement to Metro and pay their portion of the purchase funds into escrow at Closing so that Metro may acquire the Friends Property. The property would be managed in a manner consistent with the 1995 Open Spaces, Parks and Streams Bond Measure by the City of Portland through an existing intergovernmental agreement with Metro.

The purchase of the Friends Property requires Metro Council authorization pursuant to 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 Acquisitions of Properties That Satisfy Specific Identified Criteria") because Metro has previously exceeded the minimum 320-acre goal established for the target area. Additionally, no real estate appraisal will be done on the Friends Property, and the Agreement provides for an "as-is" sale. Each of these conditions constitutes an "unusual circumstance" that requires the specific approval of the Metro Council.

The Friends Property is a Tier I Forest Park that is located above the Community of Linnton near the foot of Firelane 9 and is virtually enclosed on three sides by Forest Park. Part of the adjacent parkland is the 17.23-acre "Clark & Wilson" tract that was donated to the City in 1927 by O. M. Clark. This tract was given to the City because Clark recognized its public value as one of the last uncut parcels of forestland in the Portland area. This donation predated the creation of Forest Park by 20 years.

The Friends Property is vacant and contains vegetation similar to the adjacent park, including mature evergreen and deciduous trees and a healthy under story of native plants. It is zoned for up to eight single-family residential lots. Because of the significance and beauty of this portion of the adjacent park, the development of this property with single-family residential units would have a substantial negative impact on the surrounding public land.

Acquisition of the Friends Property is recommended because:

- (a) The acquisition would meet two of the criteria set forth in Resolution 01-3106:

- Parcels “are adjacent to existing Metro or other public ownership or conservation group-owned properties, and are key remaining parcels necessary to accomplish the assemblage of a regional scale natural area, consistent with specific Target Area goals and objectives as set forth in existing approved Refinement Plans for that target area”. The Friends 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 Forest Park Target Area, which outlined the land protection strategy for the target area, all pursuant to Resolution 96-2274A (“For the Purpose Of Approving A Refinement Plan for the Forest Park Target Area, as Outlined in the Open Space Implementation Work Plan”). Acquiring the Friends Property meets the target area goal of “Outright purchase of key in holdings, adjacent holdings, and “pinch points”. The site is bordered on three sides by parkland and is desirable from a regional perspective because it serves as an important buffer to protect the adjacent 17.23-acre Clark & Wilson tract that was donated to the City in 1927 by O. M. Clark. The property is threatened by development with up to eight residential lots; if developed, this parcel would represent a significant "intrusion" into the park.
 - “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 ...” The public/private acquisition partnership between Metro and The Friends of Forest Park is a groundbreaking, achievement. Metro is being asked to contribute 21% of the purchase price and will receive fee title to the entire Friends Property. The City of Portland will assume ongoing management responsibility for the Friends Property.
- (b) Although no real estate appraisal will be completed, Metro is only being asked to contribute 21% of the total purchase price while acquiring fee title to 100% of the Friends Property. The property is zoned for eight single-family residential lots, indicating a value well in excess of the funds being contributed by Metro.
- (c) While the Friends Property is being purchased on an “as-is” basis with no representations and warranties as to the property’s condition, a Phase 1 Environmental Assessment performed on the Friends Property found no environmental concerns present on the property and recommended that no additional investigation be conducted on the property.

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”) established acquisition parameters that authorized the Chief Operating Officer to purchase property

within the Council-approved target area refinement plan maps. Via Resolution 96-2274A (“For the Purpose of Approving a Refinement Plan for the Forest Park 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 Forest Park. Through that resolution, the Metro Council also approved the target area refinement plan tax-lot specific map, which includes the subject Property as a Tier I priority.

On September 27, 2001, the Metro Council adopted 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 Acquisitions of Properties That Satisfy Specific Identified Criteria”), 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 have been met.

The proposed acquisition satisfies more than one of the listed criteria set forth in Section A of 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 Acquisitions of Properties That Satisfy Specific Identified Criteria”), but because Metro has exceeded the minimum 20-acre goal established for the target area, Resolution No. 01-3106 requires that the purchase of the Friends Property be authorized by the Metro Council prior to acquisition.

Unusual circumstances as defined in The Open Spaces Implementation Work Plan, adopted by the Metro Council via 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”), as amended by Resolution 96-2424 require Council approval prior to acquisition.

3. Anticipated Effects

Acquisition of the Friends Property will help preserve the natural area and recreation values of Forest Park.

4. Budget Impacts

There are sufficient bond funds remaining to allow for this partnership. Land banking and future management costs will be undertaken by the City of Portland through a pre-existing Intergovernmental Agreement.

RECOMMENDED ACTION

Chief Operating Officer Michael Jordan recommends passage of Resolution No. 05-3550.