

BEFORE THE METRO COUNCIL

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 NO. 95-2228 ^A

Introduced by Mike Burton
Executive Officer

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, Acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, areas to be acquired by these procedures are designated as a Greenspace of regional significance in the Open Space, Parks and Streams Bond Measure; and

WHEREAS, at the election held on May 16, 1995, the electors of Metro approved Ballot Measure 26-26 which authorizes Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements pursuant to Metro's Open Spaces Program; and

WHEREAS, a pre-approved set of criteria or conditions under which the Executive Officer and his/her designees are authorized to negotiate and complete land acquisition transactions related to the implementation of Measure 26-26 are necessary, now therefore,

BE IT RESOLVED,

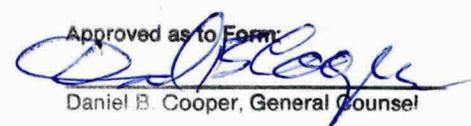
That the Metro Council authorizes the Executive Officer to acquire real property and property interests subject to the requirements of the *Acquisition Parameters* and *Due Diligence* guidelines of the Open Space Implementation Work Plan. A copy of the *Acquisition Parameters* and the *Due Diligence* guidelines are attached as "Attachment A" and are hereby incorporated by reference.

ADOPTED by Metro Council this 2 day of Nov., 1995



J. Ruth McFarland, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

ACQUISITION PARAMETERS

Definition:

“*Acquisition Parameters*” are a pre-approved set of criteria or conditions under which the Executive Officer and his/her designees are authorized to negotiate and complete land acquisition transactions related to the implementation of Measure 26-26.

Rationale:

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

Acquisition Parameters:

The Metro Council authorizes the Executive Officer and his/her designees to negotiate and close real estate transactions related to Measure 26-26 provided the following criteria/conditions are met:

- The landowner is a “willing seller.”
- The property has been identified on the target area “confidential refinement map” as adopted by the council.
- The property owner has agreed to sell at a price which is not above fair market value. Note: Metro will actively solicit donations and bargain sales.
- A full narrative appraisal has been prepared by an independent certified appraiser, reviewed by Metro’s staff appraiser, and the Metro staff appraiser shall make a final determination of the fair market value of the property. Where the Metro staff appraiser determines the fair market value is higher than the amount established by the independent appraiser, the staff appraiser shall prepare a detailed report setting forth the basis for such finding. This report will be addressed to the Executive Officer who shall make the final determination whether to approve the acquisition.
- The purchase price is within the established budget for the specific target area.
- “*Due Diligence*” efforts have been completed and no unusual circumstances have been found to exist. (See following section on *Due Diligence*.)
- The Executive Officer or his/her designees shall notify the Council promptly following the execution of any purchase agreement.

- The Executive Officer or his/her designees shall prepare and present to the Council quarterly updates summarizing acquisition activity in each of the target areas.

Exceptions:

In the event that unusual circumstances are found to exist during the *due diligence* process, or if the cost of the property as determined by Metro's staff appraiser, is more than 5% above the fair market value as determined by an independent certified appraiser, the transaction, prior to being presented to the Executive Officer, shall be referred to an "Acquisition Committee" which shall review the transaction and develop a "confidential" recommendation.

The acquisition committee shall be composed as follows: legal counsel, staff appraiser, Parks Advisory Committee member, Open Space program manager, Regional Parks and Greenspaces Department (RPAG) director, and a member of the Executive Officer's staff.

The acquisition committee's confidential recommendation shall be forwarded to the Executive Officer. The Executive Officer shall review the recommendation and determine whether he/she supports or opposes the recommendation. The Executive Officer shall convey this determination to the Council for review in executive session at its next regularly scheduled meeting. The Council will accept or reject the Executive Officer's recommendation. This information shall remain confidential.

This exception policy will remain in effect until July 1, 1996, at which time it will be returned to the Council for reevaluation.

DUE DILIGENCE

Definition:

“*Due diligence*” is the systematic inspection of the legal title and physical condition of real property before that property is purchased. *Due diligence* should be conducted far enough in advance of closing that resolvable problems can be adequately addressed and that any deal-breaking issues are discovered before too much effort is wasted on a futile transaction.

Rationale:

Due diligence assures protection of public investment in open space.

Components:

The primary areas of *due diligence* are described below. A more detailed list of items examined may be found in the Appendix under “Option Exercise and Closing Checklist.”

- Appraisal: An appraisal of the property must be completed to determine the fair market value and provide other useful information about the property, such as allowable uses, existing structures, and potential management issues.

- Examination of Title:
 1. Metro must satisfy itself that the property is the seller’s to sell, that it understands what rights will be conveyed, that all parties necessary for the conveyance are involved, and that any rights that are not a part of the transaction will not defeat the purpose of the acquisition.
 2. *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, severed interests, water rights, access, taxes, liens, etc.
 3. Other documents which need to be inspected include unrecorded leases with existing tenants or farmers, management agreements, records pertaining to personal property, surveys, and agreements the seller may have entered into that may not be of record.

- Inspection of the Property:
 1. Location of Boundaries - *Due diligence* requires the review of any existing survey of the property. Absent a survey, Metro should identify the known or assumed property boundaries. Additionally Metro must identify that both legal and physical access to the property exist and are usable.

2. Physical Inspection - Metro must physically inspect the property for environmental assessment purposes and to identify possible hazards, unrecorded easements and trespassers, evaluate the condition of any structures and improvements (roads, fences, utilities). "Greenspaces Site Assessment Procedures" are included in the Appendix.