

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 96-2398
THE EXECUTIVE OFFICER TO PURCHASE) Introduced by Mike Burton
PROPERTY IN THE TUALATIN RIVER ACCESS) Executive Officer
POINTS TARGET AREA

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the 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, The Tualatin River Access Points regional target area was identified as a regionally significant open space in the Greenspaces Master Plan and as a regional target area in the Open Space, Parks and Streams Bond Measure; and

WHEREAS, on July 25, 1996 the Metro Council adopted a refinement plan for the Tualatin River Access Points regional target area, including objectives and a confidential tax lot-specific map identifying priority properties for acquisition; and

WHEREAS, The property owned by Joyce M. Taylor and John W. Richmond, commonly referred to as the Morand property and identified in Exhibit A is in Tier I of the Tualatin River Access Points refinement plan and map; and

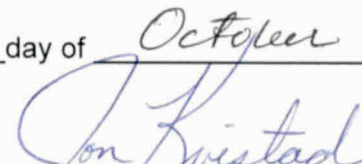
WHEREAS, the Open Spaces Implementation Work Plan adopted in November, 1995 provides that Metro Council approval is required for purchases involving "unusual circumstances" or if the purchase price is more than the fair market value determined by Metro's staff appraiser; and

WHEREAS, the Morand property purchase has unusual circumstances, now therefore

BE IT RESOLVED,


That the Metro Council authorizes the Executive Officer to execute the Purchase and Sale Agreement and purchase the Morand property, identified in Exhibit A, subject to the terms and conditions set forth in the Purchase and Sale Agreement.

ADOPTED by Metro Council this 10th day of October, 1996.



Jon Kvistad, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

Staff Report

CONSIDERATION OF RESOLUTION NO. 96-2398 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE LAND IN THE TUALATIN RIVER ACCESS POINTS TARGET AREA

Date: September 19, 1996

Presented by:

Charles Ciecko
Nancy Chase

PROPOSED ACTION

Resolution No. 96-2398, requests authorization for the Executive Officer to purchase land in the Tualatin River Access Points target area from Joyce M. Taylor and John W. Richmond.

BACKGROUND AND ANALYSIS

The property, known as Morand, is approximately 155 acres and is zoned EFU and AF-20 with floodplain overlay. It is a Tier 1 property as adopted by the Tualatin River Access Points Refinement plan. A small portion of the site is located in the UGB. The majority of the property is in active farm use (potato fields) with a 1,900 square foot house and an assortment of out buildings. The house may have historical significance. The northern boundary of the property fronts the river for over a quarter of a mile. This portion of the site has native vegetation. The site has some marketable timber.

Negotiation History

This property was placed under option by Metro on April 6, 1995. Although it was not on Bond Measure Fact Sheet Four, it was common knowledge that this property had been optioned by Metro and could not be purchased without passage of the Open Spaces Bond Measure 26-26.

The original option contained conditions to closing which related to the need to protect Metro from liability and cleanup cost as a result of an oil leak from a Santa Fe Pacific Pipeline L.P. (SFPPLP) underground pipeline that traverses the property.

These conditions were not met in the time frame set out in the option, and as a result the option expired in the fall of 1995. Because this property is a high-priority acquisition, Metro staff has continued to work with the property owners and SFPPLP to see if the unresolved issues could be satisfied. The property owners have expended a significant amount of money in legal fees towards trying to meet the original option conditions. Recently progress has been made in meeting Metro's cleanup and indemnification goals as follows:

1. SFPPLP has returned an environmental remediation and indemnification agreement to Metro. The environmental remediation is for the petroleum release and the indemnification is from the limited partnership.
2. SFPPLP has promised to provide a letter of credit to Metro for \$1,000,000 at closing. This letter of credit would not be drawn upon unless SFPPLP fails to clean up the site, relating to the pre-existing petroleum release.
3. SFPPLP is now in year three of their voluntary cleanup and it is estimated that the clean up will take 10 years. SFPPLP has also entered into a voluntary Remediation Investigation and Feasibility Study with Oregon Department of Environmental Quality (ODEQ) whereby SFPPLP and ODEQ are investigating the scope of the required cleanup for the pre-existing petroleum spill.
4. ODEQ has preliminarily agreed to issue to Metro a Prospective Purchaser Agreement whereby ODEQ agrees that Metro shall not be liable for the pre-existing oil spill.

Even though the property owners and Metro had no legal contract, the original option conditions continued to be a goal of both parties. Metro staff and the property owners have had an understanding that once the cleanup and indemnification agreements have been executed and ODEQ has agreed to waive any cleanup claims against Metro for the pre-existing spill, the transaction would again be brought to the Council for consideration and action.

Unusual Circumstances

- A. The asking price is nine percent over Metro's determination of fair market value. Since the asking price was originally set, the property has been in negotiations for two years, and it is unlikely it will be decreased.
- B. The owners have requested that the property be named Morand Meadows.
- C. The property is the site of a petroleum oil spill.

Program Acquisition Parameters set forth in the Open Spaces Implementation Work Plan, adopted November, 1995, provide that

"... if the cost of the property as determined by the Metro 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."

FINDINGS

- The property is a Tier 1 property as adopted by the Tualatin River Access Points Refinement Map.
- The site has a significant amount of frontage in a natural condition along the Tualatin River.
- Water rights (to irrigate using water from the Tualatin River) are included in the transaction, and are considered a significant property asset. Once future use of the property is determined, some of the water could be used to increase the summer water flow of the Tualatin River.
- The property borders the UGB, and if purchased, could form the eastern-most boundary of the Tualatin River Wildlife Refuge. Acquisition of adjacent lands by the federal government will enhance the biological value of the site.
- Because of its proximity to the UGB and SW Pacific Highway, the property will be easily accessible to a large population base.
- The site abuts on Cipole Road on the south. Cipole road is a frontage road to SW Pacific Highway. If the property were developed as an access to the Tualatin River, the frontage road would allow safe vehicular access off of SW Pacific Highway for the public.
- Significant steps have been taken by ODEQ and SFPPLP to mitigate potential liability to Metro if Metro becomes the property owner.

EXHIBIT A
RESOLUTION NO. 96-2398

Order No: 127736

LEGAL DESCRIPTION

That certain tract which was conveyed to Richard Gordon Scott and Grace E. Scott, husband and wife, by Deed in Book 118, Page 435, Deed Records of Washington County, Oregon, which is bounded as follows:

Beginning at the corner common to Sections 16, 17, 20 and 21, in Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon; thence South on the West line of Section 21, a distance of 414 feet to a point; thence South 80° East 170 feet to a point; thence South 27°1' East 516.4 feet to a point; thence East 901.2 feet to the West line of the right of way hereinafter described; thence North along the said West line of the right of way 903.5 feet to the North line of Section 21; thence West 1303.5 feet along the North line of said Section 21 to the place of beginning.

ALSO that certain tract of land situated in Section 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, and comprising all of the land in said Section 16 on the South side of the Tualatin River and which may also be described as a tract being bounded: On the West by the West line of Section 16; on the South by the South line of Section 16; and on the North and East by the Tualatin River, the said tract is the identical land which was conveyed to Richard Gordon Scott and Grace E. Scott by Deeds in Deed Book 83, Page 571 and Deed Book 109, Page 569.

ALSO that certain tract of land lying and being in Section 21, in Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, which is more particularly described as follows, to-wit:

Beginning at the Northwest corner of the East one-half of the Northwest one-quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian; thence South, along the West line of said East one-half of the Northwest one-quarter of said section, 130 rods, more or less, to the county road, also known as Taylor's Bridge Road and now S.W. Pacific Drive; thence Easterly, along said county road, also known as Taylor's Bridge Road, 1 rod; thence North and parallel with the said West line thereof, 130 rods, more or less, to the South line of Section 16; thence West 1 rod, to the place of beginning.

ALSO that certain tract of land situated in Section 21, Township 2 South, Range 1 West of the Willamette Meridian, and more particularly described as follows:

Beginning at the Southeast corner of the Southwest one-quarter of the Southwest one-quarter of Section 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, running thence West along the South line of said section, 1 rod to a point; thence South to a point in the center line of the Taylor's Bridge Road, also known as County Road; thence Easterly along the center line of said road, 1 rod; thence North to the point of beginning, this identical tract was conveyed to Richard Gordon Scott and Grace E. Scott by Deed Book 83, Page 571.

ALSO a tract described as:

Beginning at an iron pipe on the North line of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, which point of beginning bears North 88°56' East 1,314.0 feet from the Northwest corner of said Section 21, and running thence North 88°56' East along the North line of said Section 21 a distance of 967.9 feet to an iron pipe; thence South 0°15' East 1,539.6 feet to a point in the center of County Road No. 1308, from which point an iron pipe

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LEGAL DESCRIPTION

bears North 0°15' West 34.1 feet; thence South 60°01' West in the center of County Road No. 1308 a distance of 1,112.8 feet to a point on the West line of that certain tract of land conveyed to Herman Krause by Deed as recorded on Page 186, of Deed Book 126; thence North 0°17' West along said West line a distance of 2,077.7 feet to the place of beginning.

EXCEPTING THEREFROM a strip of land which is described as follows:

Beginning at the Northwest corner of the above described tract, and running thence South 0°17' East along the West line thereof a distance of 2,077.7 feet to a point in the center of County Road No. 1308; thence North 60°01' East in the center of said road 19.0 feet to a point; thence North 0°17' West 2,068.5 feet to a point on the North line of the above described tract; thence South 88°56' West 16.5 feet to the place of beginning.

EXCEPT from the above described tracts those portions thereof conveyed by Deeds in Deed Book 220, Page 19, and Deed Book 308, Page 326 and any portion thereof South of S.W. Kammrow Avenue.

ALSO EXCEPTING THEREFROM that portion lying within the Bonneville Power Administration Right of Way, being more particularly described in Declaration of Taking, recorded May 22, 1939, in Deed Book 180, Page 501.

TOGETHER WITH a perpetual easement over and upon the following described land for ingress and egress over, across and upon said parcel of land; for use thereof for customary agricultural purposes, except as herein limited; for the use of any well or natural springs or water courses thereon and the water therefrom; and for laying and maintaining water pipes under, upon and across said parcel of land; all in such manner as in the opinion of the United States Bonneville Power Administration will not interfere with the use and occupancy of said parcel of land by said Power Administration for the present or future construction, operation and maintenance of an electric power transmission and distribution system thereon with wires and appurtenances convenient thereto, said land being described as:

PARCEL I:

A parcel of land containing 1.93 acres and being all that portion of the Southwest one-quarter of Section 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, lying South of the center line of the Tualatin River, which lies within a strip of land 100 feet in width of which 75.0 feet lie on the Westerly side of a 25.0 foot line on the Easterly side of the Vancouver-Eugene Transmission Line Survey; said survey line being located as follows:

Beginning at a point which is the intersection of said survey line with the North line of the Northwest one-quarter of said Section 16, said point being South 89°38'04" West along said North line a distance of 826.82 feet from the one-quarter section corner common to Sections 9 and 16, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon; thence running South 33°15'00" East a distance of 365.50 feet to an angle point; thence South 0°31'30" East a distance of 4,957.41 feet to a point on the South line of the Southwest one-quarter of said Section 16, said point being North 89°14'26" East, a distance of 2,029.58 feet from the section corner common to Sections 16, 17, 20 and 21, Township 2 South, Range 1 West of the Willamette Meridian.

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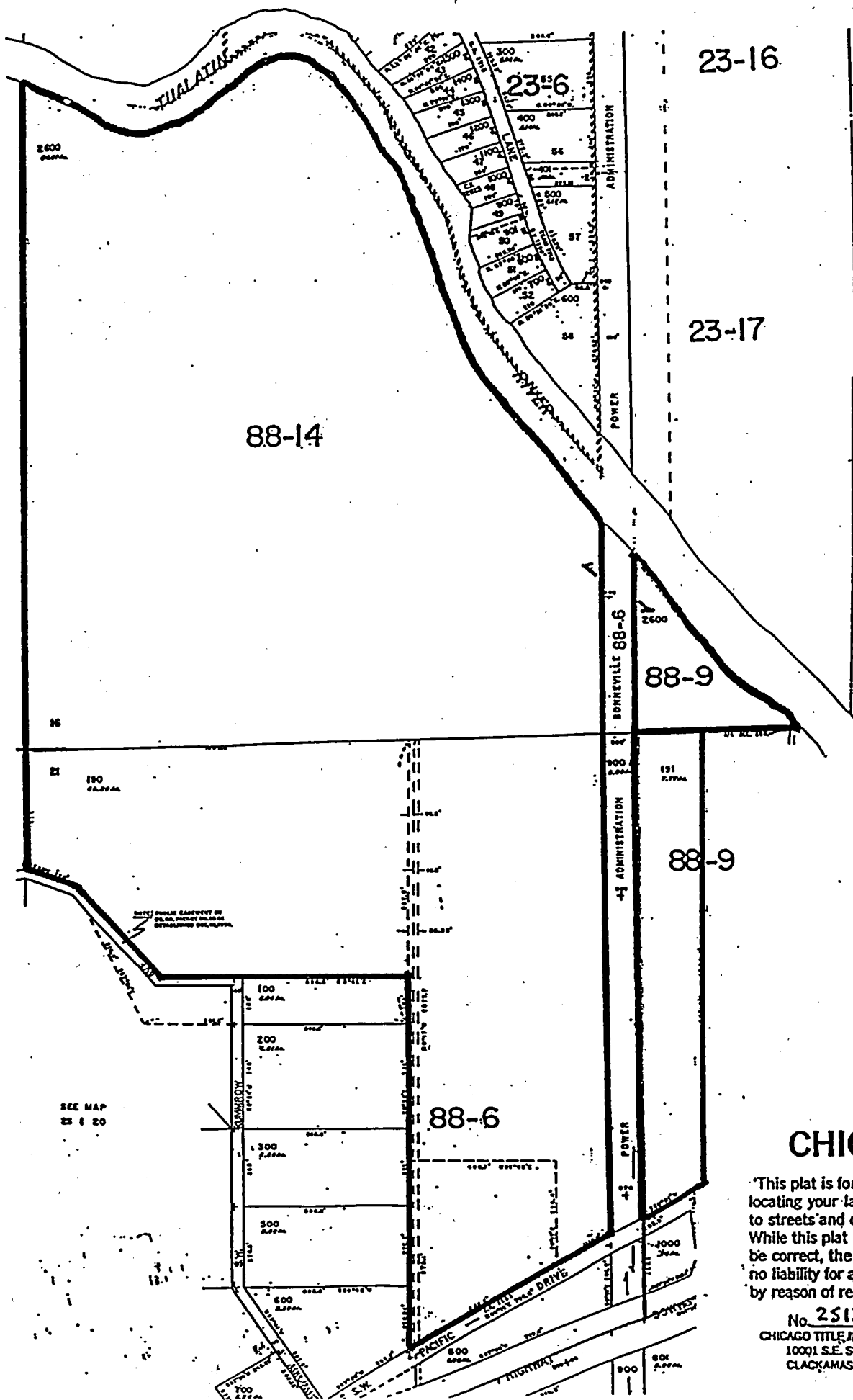
LEGAL DESCRIPTION

PARCEL II:

A parcel of land containing 3.86 acres and being all that portion of that property lying in the Northwest one-quarter of Section 21, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon, described as beginning at an iron pipe on the North line of said Section 21, a distance of 1,314 feet East of the Northwest corner of said section; thence East along the North line of said Section 21 a distance of 967.9 feet to an iron pipe; thence South $0^{\circ}15'$ East 1,539.6 feet to a point in the center of County Road No. 1308; thence South $60^{\circ}01'$ West in the center of said road a distance of 1,112.8 feet to a point on the West line of that tract of land conveyed to Herman Krause by Deed recorded in Deed Book 126, Page 186; thence North $0^{\circ}17'$ West along said West line a distance of 2,077.7 feet to the place of beginning, which lies within a strip of land 100 feet in width, of which 75.0 feet lie on the Westerly side and 25.0 feet lie on the Easterly side of the Vancouver-Eugene Transmission Line Survey, said survey line being located as follows:

Beginning at a point which is the intersection of said survey line within the North line of the Northwest one-quarter of said Section 21, said point being North $89^{\circ}14'26''$ East a distance of 2,029.58 feet from the section corner common to Sections 16, 17, 20 and 21, Township 2 South, Range 1 West of the Willamette Meridian, in the County of Washington and State of Oregon; thence running South $0^{\circ}31'30''$ East, a distance of 5,283.90 feet to a point on the South line of the Southwest one-quarter of said Section 21, said point being South $89^{\circ}30'30''$ West along said South line a distance of 524.12 feet from the one-quarter section corner common to Sections 21 and 28, Township 2 South, Range 1 West of the Willamette Meridian.

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CHICAGO



This plat is for your aid in locating your land with reference to streets and other parcels. While this plat is believed to be correct, the company assumes no liability for any loss occurring by reason of reliance thereon.

No. 25121B & 25116C
CHICAGO TITLE INSURANCE COMPANY
1001 S.E. SUNNYSIDE ROAD
CLACKAMAS, OREGON 97015

