

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE CERTAIN PROPERTY IN THE TONQUIN GEOLOGIC AREA TARGET AREA UNDER THE 2006 NATURAL AREAS BOND MEASURE

RESOLUTION NO. 16-4715

Introduced by Metro Councilor Craig Dirksen, District 3

WHEREAS, at the general election held on November 7, 2006, voters of the Metro region approved Measure 26-80, the 2006 Natural Areas Bond Measure to preserve natural areas and clean water and protect fish and wildlife (the “Measure”);

WHEREAS, on March 1, 2007, the Council approved Resolution No. 07-3766A, “Authorizing the Chief Operating Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan,” (the “Acquisition Parameters and Due Diligence Guidelines”);

WHEREAS, on September 27, 2007, the Council approved Resolution No. 07-3850, “Approving the Natural Areas Acquisition Refinement Plan for the Tonquin Geologic Area Target Area” with the goal of protecting “unique geologic features that provide valuable wildlife habitat” (the “Refinement Plan”); and Resolution No. 07-3850 that established a Tier I Objective to acquire lands within Coffee Lake Creek and Rock Creek for completing restoration on Coffee Lake Creek and for permanent protection of unique geologic features;

WHEREAS, on August 14, 2014, the Council approved Resolution No. 14-4536, “For the Purpose of Amending and Updating the Natural Areas Implementation Work Plan,” which consolidated and revised modifications to the Natural Areas Implementation Work Plan;

WHEREAS, Metro has entered into a purchase and sale agreement with a landowner (the “Seller”) to purchase 51 acres containing excellent examples of the desired geologic features of the target area, as more particularly identified and described on Exhibit A to this resolution (the “Property”);

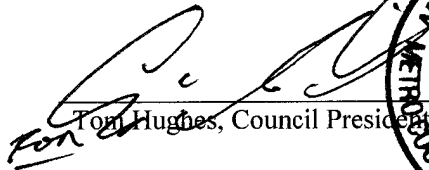
WHEREAS, the Property is identified as a Tier I property according to the Refinement Plan and acquisition of the Property is in the public benefit as it also builds on adjacent Metro properties to provide a larger habitat area in an urbanizing part of the region;

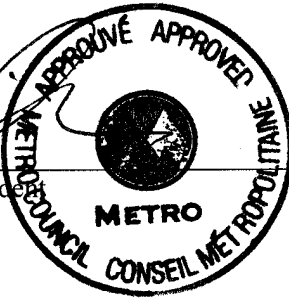
WHEREAS, the appraisal of the Property contracted by Metro does not support the purchase price agreed to by Metro and the Seller, and therefore the transaction fails to meet all of the Acquisition Parameters and Due Diligence Guidelines; and

WHEREAS, the 2014 Natural Areas Implementation Work Plan states that “the COO may complete an acquisition transaction that does not meet all of the acquisition parameters only with prior Council review and approval”; now therefore

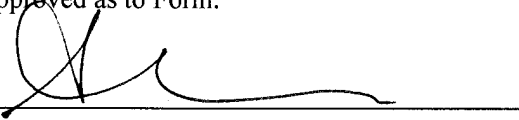
BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to acquire the Property identified in Exhibit A, and as discussed in the executive session on June 21, 2016, at the negotiated purchase price, provided that the acquisition is otherwise in accord with all of the other Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan.

ADOPTED by the Metro Council this 21st day of July, 2016.

  
Tom Hughes, Council President



Approved as to Form:

  
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Alison R. Kean, Metro Attorney

**Exhibit A**  
**Legal Description of the “Property”**

A tract of land situated in Section 10, Township 3 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the center of said Section 10, which center point is the initial point of Wilson Acres; thence North 89°45' East along the East-West centerline of said Section 10, 190 feet, more or less, to the centerline of Graham Ferry Road, as now travelled; thence North 10°46' East along said centerline, 964.2 feet to the true point of beginning of the tract herein to be described; thence leaving said centerline, South 89°45' West parallel with said East-West centerline of said Section 10, 1026 feet, more or less, to a point on the East line of that tract conveyed by Memorandum of Contract to Halvorson-Mason Corporation by Deed recorded in Deed Book 686, page 641, said line being 600 feet Easterly of the East line of the Southwest quarter of the Northwest quarter of section; thence North along the East line of the Halvorson-Mason Tract, 360 feet, more or less, to the Northeast corner thereof, said point being on the North line of the Southeast one-quarter of the Northwest one-quarter of Section 10; thence West along said North line 660 feet to the Northwest corner of said legal subdivision; thence North along the West line of the Northeast one-quarter of the Northwest one-quarter of Section 10, a distance of 1320 feet to the North line of Section 10; thence North 89°45' East along said North line, 920 feet to the Northwest corner of that tract conveyed to Thaddeus Wheaton, et ux, by Deed recorded in Deed Book 111, page 628, said point being South 89°45' West 3042.64 feet from the corners common to Section 2, 3, 10 and 11; thence South 21°47' West along said Wheaton Tract 231 feet; thence South 63°30' East 494.72 feet; thence South 35°57' East 544.50 feet; thence South 51°11' East 192.06 feet; thence South 82°15' East 120 feet, more or less, to a point in the center line of the Graham Ferry Road, as travelled; thence Southerly along said centerline, as travelled, 700 feet more or less, to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to Clackamas County, a political subdivision of the State of Oregon in Deed recorded April 18, 1940 in Book 267 page 712, Clackamas County Records.

SUBJECT TO AND TOGETHER WITH that Road Easement described in Book 117 page 451, recorded September 22, 1910, Deed Records of Clackamas County, Oregon and as clarified by Stipulated Settlement and Order of Dismissal filed April 27, 1981 in Clackamas County Circuit Court Case No. 78-7-200 (Consolidated with Case No. 78-11-189), as Modified by Amended and Supplemental Stipulation filed July 13, 1981 in said case, being described as follows:

A tract of land for road easement purposes, situated in Section 10, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon, said tract being 25 feet in width, 12.5 feet on each side of the following described centerline:

Beginning at a point on the North line of said Section 10, bearing South 89°52' East, 1851.0 feet from the Northwest corner thereof, said point being on the as-traveled centerline of an existing roadway; thence leaving said place of beginning, South 57°45' East, 105.0 feet; thence South 52°58' East, 255.00 feet; thence South 63°25' East, 500.00 feet; thence South 39°41' East, 265.0 feet; thence South 27°20' East, 140.00 feet; thence South 45°30' East, 240.0 feet; thence South 53°44' East, 70.0 feet; thence South 67°57' East 90.0 feet; thence South 77°45' East, 75 feet, more or less, to the as-traveled centerline of Grahams Ferry Road, EXCEPTING THEREFROM all land lying within the right of way of said Grahams Ferry Road.

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 16-4715 AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE CERTAIN PROPERTY IN THE TONQUIN GEOLOGIC AREA TARGET AREA UNDER THE 2006 NATURAL AREAS BOND MEASURE**

Date: July 21, 2016

Prepared by: Dan Moeller, (503) 797-1819  
Director, Conservation Program

## **BACKGROUND**

Resolution 16-4715 requests authorization for the Chief Operating Officer to purchase property (the "Property") located within the Tonquin Geologic Area target area in a transaction that does not meet all of the acquisition parameters described in the 2014 Natural Areas Work Plan. Metro Council approval is necessary to complete the transaction. In order to acquire the Property, Metro staff is proposing to close on the Property according to terms consistent with the discussion at the Metro Council executive session on June 21, 2016.

The Property is a 51-acre single tax lot across SW Grahams Ferry Road from Metro's 232 -acre Coffee Lake Creek Wetlands and south of Metro's 26-acre North Coffee Lake Creek Wetlands. It is centrally located between Wilsonville, Sherwood and Tualatin, has an unoccupied mobile home and can legally be used for one large homesite. The Property is a rare example of the diverse geologic landscape formed by the Missoula floods that repeatedly inundated the area during the last Ice Age, approximately 13,000 years ago. Its unique natural geologic features help convey the history of the area. Specifically, the Property contains an intact 3.5-acre kolk pond, created by the historic floodwaters scouring bedrock. It is one of the few remaining large kolk ponds in the area, as most others have been destroyed or severely disturbed by nearby mining activity. The Property also contains rock outcrops, remnant scablands and glacial erratics which are geologic signatures of the Missoula floods.

Acquisition of this Property has been a priority of both the 1995 Open Spaces, Parks and Streams bond measure and the 2006 Natural Areas bond measure. The Tonquin Geologic Area refinement plan (the "refinement plan"), approved by the Metro Council via Resolution No. 07-3850, is to "Protect unique geologic features that provide valuable wildlife habitat" and acquisition of the Property would meet this goal and enable its exceptional geologic and upland habitat features to be integrated into the larger Coffee Lake Creek complex, adding ecological diversity and improved habitat connectivity to the publicly owned property in the area. Acquisition of the property would also satisfy the refinement plan's Tier 1 objective for the target area which includes acquiring lands within Coffee Lake Creek and Rock Creek for completing restoration on Coffee Lake Creek and for permanent protection of unique geologic features.

Metro has entered into an agreement to purchase the Property, and this Resolution requests authorization for the Chief Operating Officer (COO) to complete the transaction notwithstanding a discrepancy between the appraised value (\$850,000) and the price at which the owner has agreed to sell the Property (\$1,000,000). The owner acquired the Property in 2003 for \$895,000

and is an unwilling seller for less than this purchase price plus some appreciation and carrying costs he has incurred since his purchase.

The Natural Areas Work Plan states that “The COO may complete an acquisition that does not meet all of the acquisition parameters only with prior Council review and approval.” The public benefit of this acquisition includes further expansion and diversification of Metro’s holdings in the Coffee Lake Creek area. Metro has also struggled to acquire properties containing the unique geologic features identified in the Tonquin Geologic Area target area refinement plan, and this Property provides an opportunity to acquire land with such features.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

None.

### **2. Legal Antecedents**

Metro’s 2006 Natural Areas Bond Measure.

Resolution No. 07-3766A, “Authorizing the Chief Operating Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan,” adopted by the Metro Council on March 1, 2007.

Resolution No. 07-3850, “Approving the Natural Areas Acquisition Refinement Plan for the Tonquin Geologic Area Target Area,” adopted by the Metro Council on September 27, 2007.

Resolution No. 14-4536, “For the Purpose of Amending and Updating the Natural Areas Work Plan,” adopted by the Metro Council on August 14, 2014.

### **3. Anticipated Effects**

Metro staff will complete their due diligence activities to comply with the Work Plan requirements. The 51-acre acquisition will enhance Metro’s Coffee Lake Creek Wetlands site, most significantly in acquiring land with unique geologic features that are not present on previous Metro acquisitions within the target area.

### **4. Budget Impacts**

Metro’s acquisition of the Property will be funded with 2006 Natural Areas bond proceeds. Funds for stabilization activities would be provided from the bond proceeds.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends passage of Resolution No. 16-4715.