

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 16-4729
CHIEF OPERATING OFFICER TO SELL)	Introduced by Chief Operating Officer
CERTAIN REAL PROPERTY AS PART OF THE)	Martha Bennett in concurrence with
NATURAL AREAS PROGRAM)	Council President Tom Hughes

WHEREAS, on July 23, 1992, via Resolution No. 92-1637 (“For the Purpose of Considering Adoption of the Metropolitan Greenspaces Master Plan”), the Metro Council adopted the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails;

WHEREAS, in May 1995, the voters of the Metro region approved ballot measure 26-26, authorizing Metro to issue \$135.6 million for bonds for Open Spaces, Parks and Streams (the “1995 Metro Open Spaces Bond Measure”);

WHEREAS, using funds from the 1995 Open Spaces Bond Measure, Metro acquired over 8,000 acres of property in over 270 transactions;

WHEREAS, in November 2006, the voters of the Metro region approved ballot measure 26-80, authorizing Metro to issue \$227.4 million for bonds for Natural Area Acquisition and Water Quality Protection (the 2006 Metro Natural Areas Bond Measure, and together with the 1995 Open Spaces Bond Measure, the “Bond Measures ”);

WHEREAS, since the passage of the 2006 Metro Natural Areas Bond Measure, Metro has acquired an additional 5,540 acres of property in over 140 transactions;

WHEREAS, as a result of the necessity to acquire entire parcels from willing sellers, Metro now manages and leases a number of rental homes, some of which are not needed to protect the natural resources on the properties and could be divided from the original parcel Metro acquired;

WHEREAS, in May 2015, via Resolution No. 15-4619 (“For the Purpose of Authorizing the Chief Operating Officer to Sell Certain Real Property as Part of the Natural Areas Program”), the Metro Council adopted a policy that included Disposition Guidelines, attached hereto as Exhibit A that establish a fair and open process and procedure that will allow the Natural Areas program to dispose of the Metro Parcels to better achieve the goals and objectives of the Bond Measures;


WHEREAS, staff has analyzed the bond acquisition portfolio of properties and identified a property thereof (the “Metro Parcel”), generally depicted on Exhibit B to this Resolution No. 16-4729 where the goals and objectives of the Bond Measures are not furthered by continued ownership of the Metro Parcel;

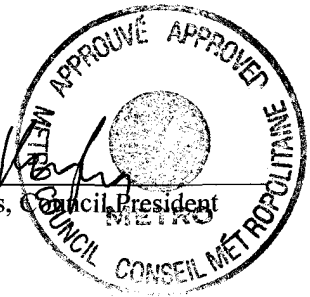
WHEREAS, on September 1, 2016, in an Executive Session, the Metro Council considered the staff’s proposal to declare the Metro Parcel surplus;

WHEREAS, disposition of the Metro Parcel following a property line adjustment using the process set forth in the Disposition Guidelines, will allow Metro to use any sale proceeds from these surplus properties to acquire additional natural areas properties and interests, and is considered the best resolution for the future of the Metro Parcel and the Natural Areas Program; now therefore,

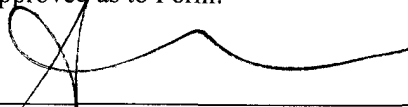
BE IT RESOLVED that (a) the Metro Council concludes that the Metro Parcel, generally as depicted in Exhibit B, is not needed for public use and that the public interest will be furthered by the disposition of the Metro Parcel, (b) hereby authorizes the Chief Operating Officer to dispose of the Metro Parcel, following a property line adjustment that will determine the final boundary of the Metro Parcel, using an equitable, commercially reasonable, and appropriate process, as determined by the Chief Operating Officer in her sole discretion, in accordance with the Disposition Guidelines set forth in Exhibit A.

Adopted by the Metro Council this 29 day of September, 2016.


Tom Hughes, Council President



Approved as to Form:


Alison R. Kean, Metro Attorney

METRO SURPLUS PROPERTY DISPOSITION GUIDELINES

The following procedures are the elements of analysis, outreach and sale that will be followed by Metro staff in the disposition of real property owned by Metro that is determined to be surplus (“Surplus Property”). These properties were acquired with funding from either the 1995 Open Spaces Bond Measure or 2006 Natural Areas Bond Measure. These guidelines apply where Metro staff determines that a property (and/or in some cases, residence(s) associated with it) is no longer needed to meet Metro’s natural areas program objectives and there are compelling reasons to dispose of the property. In certain 2006 Natural Areas Bond Measure target areas, Metro may dispose of agricultural land after protecting water and habitat areas via easements, as approved by the Metro Council via Resolution No. 06-3727. These guidelines assure fair and honest dealings with potential purchasers, as well as the protection of public investment in these natural area properties. Metro is committed to ensuring that this process is consistent with agency goals to consider equity when implementing policy.

Pursuant to Metro Code 2.04.026(a)(2), staff will not proceed to Outreach and Sale of Surplus Property, as outlined below, until the Metro Council has authorized the disposition. Where Metro Council has determined a property is surplus, it will so declare by resolution and authorize staff to dispose of the property in accordance with these guidelines, or as amended by the Metro Council.

PROCEDURE FOR DISPOSING OF SURPLUS PROPERTY

Analysis

1. Original Acquisition The first step in the disposition process is a thorough review of the original acquisition file and stabilization efforts since Metro’s acquisition of the property. Staff will ensure that sale of the Surplus Property would not conflict with the restrictions imposed by the original acquisition funding (1995 Open Spaces bond funds or 2006 Natural Areas bond funds).
2. Title Review Staff will review a current title report to make sure the Surplus Property is free and clear of liens that could interfere with a transfer of title.
3. Physical Inspection Staff will physically inspect the Surplus Property to identify possible hazards, unrecorded easements or other conditions that could impede the disposition, and will make a preliminary evaluation of the condition of any structures and improvements. Staff will inspect the property boundaries to identify any encroachments and take measures to correct them, if possible.
4. Tenant-Occupied Property If the Surplus Property has a leased residence or agricultural field, staff will review the current lease to ensure compliance with the terms. Surplus Properties will be sold subject to existing leases.
5. Preparation for Disposition The Surplus Property may require a land use action at the county level in order to separate residences or other property to be disposed from the portion of the property that Metro will keep. In these cases, staff will meet with county planners to determine the process that will result in Metro’s ability to transfer the title to the legally created parcels.

Outreach

1. Stakeholder and Public Notice The Natural Areas Public Affairs Specialist will develop recommendations for stakeholder and public notice for the sale of the Surplus Property. The

Natural Areas Program Director will review these recommendations. Notice may include, but is not limited to, outreach to adjacent landowners to notify of Metro's intention to dispose of the property. Staff will assess the community impact of disposing of the Surplus Property, if any. Where opportunities are available, Metro will engage community based organizations with an equity focus to contract aspects of property dispositions such as: real estate sales, property demolition, and property renovation and remodeling.

Sale Process

1. Market Value and Negotiated Sale Price The market value of the Surplus Property will be established by an appraisal completed by an independent certified appraiser that states a conclusion of the market value of the property or, if appropriate, a range of value. The appraisal will be completed in accordance with the Uniform Standards of Professional Appraisal Practice and may be a summary format report.
2. Sale Price The negotiated sale price of the Surplus Property, or the total value of money and real property received, shall be: not greater than that which will ensure that Metro does not violate the terms of its bond covenants, including any applicable bond arbitrage limitations, as determined by the Metro Attorney in consultation with the Metro Chief Financial Officer; and
 - a. Except when limited by the foregoing provision, not less than:
 - i. The market value as established by the appraisal process described below; or
 - ii. 90% of such market value, with the authorization of the Chief Operating Officer upon review of a recommendation from the Natural Areas Program Director finding that:
 1. The property has been on the market for a reasonable exposure period and a disposition transaction has not been completed; and
 2. It is in the public interest to sell the property at the reduced value.
3. Marketing and Sale of Property Metro or its authorized agents will advertise the Surplus Property for sale by commercially reasonable means which may include signage, direct marketing, newspaper advertising, or listing on public real estate listing services. Contracting agents for the sale of the Surplus Property will be at the discretion of the Natural Areas Program Director and in compliance with the Metro Code.

Marketing specifications include, but are not limited to, the following:

- a. The Surplus Property may be offered for sale 'as is' directly by Metro or by a real estate broker.
- b. A detailed information package, including a title report, the form of purchase and sale agreement, and any other information deemed relevant to the transaction will be provided to interested parties electronically.
- c. If there is more than one offer for a Surplus Property, the winning bid shall be determined by customary real estate practices in Oregon and may include the following factors: the date the bid was received by Metro, offer price, and other terms deemed to be relevant to

a successful transaction as determined by the Metro Chief Operating Officer, in her sole discretion.

Exemption to Outreach and Sale Requirements

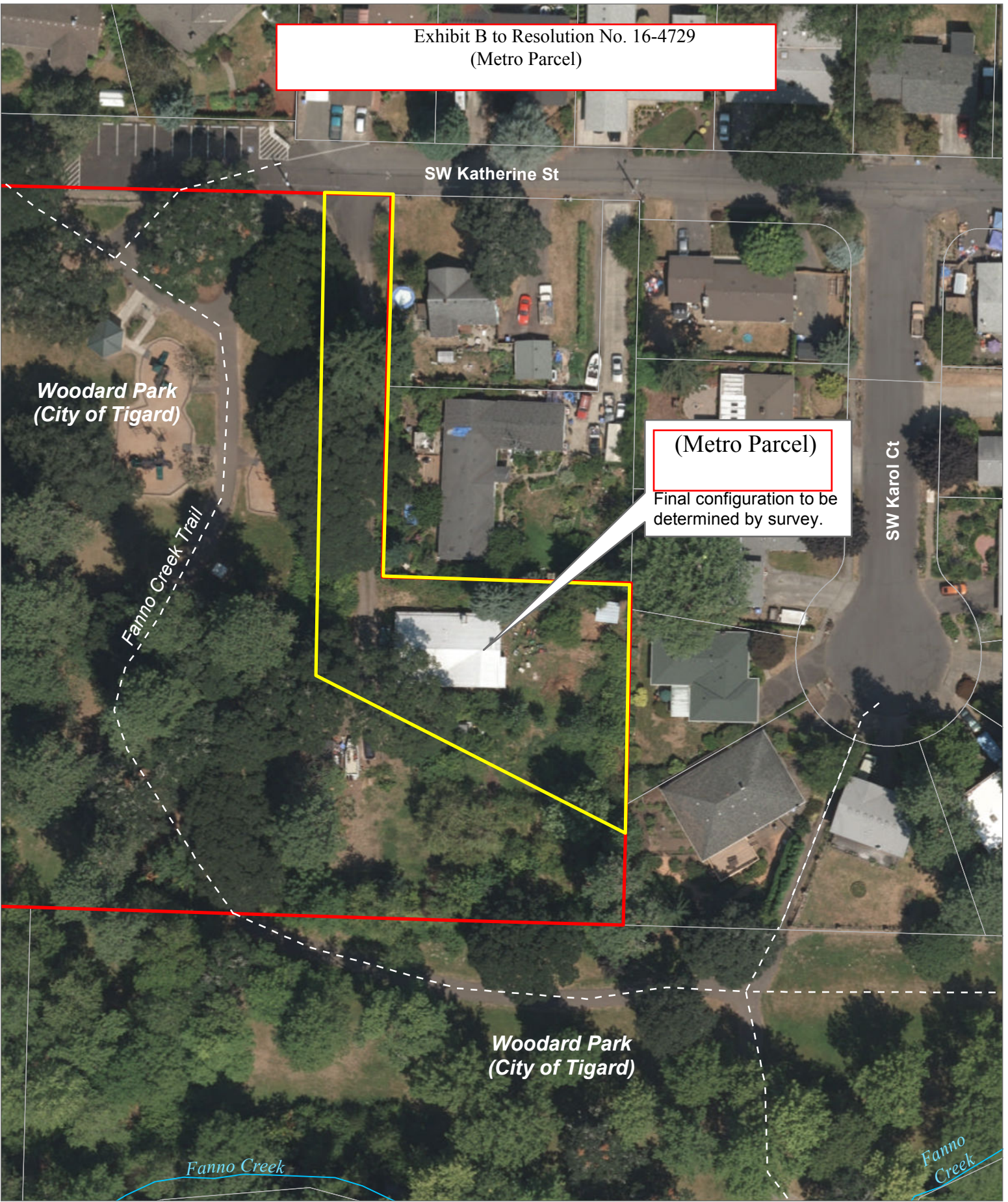
Surplus Property may be exempted from the Outreach and Sale process set forth in sections 2 and 3 above if sold at fair market value and where the Natural Area Program Director has made a determination that it is in the best interest of Metro and the public interest. Examples where this exemption might apply include:

1. Where a tenant(s) currently occupies the Surplus Property, Metro may offer to sell the property directly to the tenant(s), with significant notice and opportunity for the tenant(s) to respond to the offer.
2. Metro may offer to sell the property directly to the adjacent landowners, with significant notice and opportunity for the landowners to respond to the offer.
3. Metro may offer the Surplus Property to other local government agencies that have jurisdiction or interest in the area, as well as to not-for-profit or other stakeholder groups.

Post-Closing

1. Distribution of Proceeds From Sale The Metro Chief Financial Officer shall determine the distribution of the proceeds from the disposition transaction, in consultation with the Metro Attorney, in order to ensure that such distribution is consistent with bond covenants and the intent of the bond measures approved by the voters.
2. Notice to Metro Council The Natural Areas Bond Program Director or his/her designees shall notify the Council promptly following the closing of any disposition transaction.
3. Document Retention Documents related to disposition transactions shall be retained as determined appropriate by the Metro Attorney, consistent with Metro's records retention policies.

Exhibit B to Resolution No. 16-4729
(Metro Parcel)







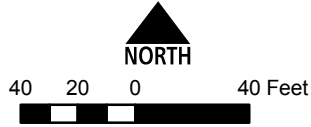
(Metro Parcel)
Final configuration to be determined by survey.

FANNO CREEK GREENWAY (1995 Natural Areas Bond)

Lowery Property Property Line Adjustment

Legend

-  Lowery acquisition (1997)
-  Property lines
-  Trails
-  Streams



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4729 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO SELL CERTAIN REAL PROPERTY AS PART OF THE NATURAL AREAS PROGRAM

Date: September 29, 2016

Prepared by: Dan Moeller, 503-797-1819

BACKGROUND

Resolution No. 16-4729 requests authorization for the Chief Operating Officer to declare surplus and sell certain real property, depicted in Exhibit B to the Resolution (the “Metro Parcel”). This approximately half-acre Metro Parcel is a portion of a 6.8 acre property that was purchased in 1997 with funds from the 1995 Open Spaces bond measure (the “bond measure”). Voters in the Metro Area approved the bond measure authorizing Metro to acquire property, including the Metro Parcel, in designated regional target areas. The Metro Parcel was part of the Fanno Creek Greenway target area refinement plan, which had the objective to create a continuous greenway along the main stem of Fanno Creek by acquiring stream-front lands between the Tualatin River and Vista Brook Park, near SW Scholls Ferry Rd. and SW Allen Blvd. The Metro Parcel does not include any Fanno Creek stream frontage.

In several acquisitions under both the 1995 bond measure and the 2006 Natural Areas bond measure, Metro acquired residences as part of larger natural resource areas when it was not possible to separate the houses from the remainder of the parcel. Metro currently manages a portfolio of 29 residences and periodically undertakes analyses to ensure that its rental program is efficiently run and economically beneficial. When it is determined that a residence does not further the natural resource purpose and goals of the Parks and Nature department, we request that the Metro Council declare the property as surplus. If approved, staff prepares a disposition plan in accordance with established Metro guidelines. Staff have identified the Metro Parcel as a potential surplus candidate for reasons including, but not limited to, the following:

- The residence can be separated from the habitat/resource portion of the property by a Property Line Adjustment application to the City of Tigard.
- The portion of the property containing the residence is not needed for protection of the creek and associated riparian area.
- Although the Metro property adjacent to the Metro Parcel is managed by the City of Tigard under an intergovernmental agreement, Metro has continually managed the rental of the 1,958 square foot residence on the Metro Parcel. This requires staff involvement at a location that is isolated from other Metro-managed natural areas.
- Some maintenance issues, such as a new roof and extensive dry rot repair, will need to be addressed in the near future and these investments do not make sense for Metro from an economic perspective. It would not be in the public interest to expend funds for this purpose if the house is not needed to protect the property.

State law [ORS 271.310(1)] authorizes the governing body of any political subdivision within Oregon to sell real property owned by the political subdivision that is “not needed for public use, or whenever the public interest may be furthered.” As stated above, the Metro Parcel is not needed for public use and the public interest will be furthered by its sale. Metro Code section 2.04.026(a)(2) requires that the Chief

Operating Officer obtain the authorization of the Metro Council prior to executing any contract for the sale of real property owned by Metro. In an Executive Session of the Metro Council on September 1, 2016, Metro staff informed the Council about the details of the proposed surplus of the Metro Parcel. Metro's procedures for the disposition of surplus property are outlined in the "Metro Surplus Property Disposition Guidelines," included as Exhibit A to Resolution No. 15-4619, adopted by the Metro Council in 2015. Metro staff will adhere to the guidelines in the disposition of the Metro Parcel.

Staff requests Council authorization to declare the Metro Parcel surplus and to allow staff to dispose of the parcel as outlined in the disposition guidelines.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

ORS 271.310(1) authorizes the governing body of any political subdivision within Oregon to sell real property owned by the political subdivision that is "not needed for public use, or whenever the public interest may be furthered."

Metro Code section 2.04.026(a)(2) requires that the Chief Operating Office obtain the authorization of the Metro Council prior to executing any contract for the sale of real property owned by Metro.

Metro Resolution No. 15-4619, "For the Purpose of Authorizing the Chief Operating Officer to Sell Certain Real Property as Part of the Natural Areas Program".

3. Anticipated Effects

The Metro Parcel will be declared surplus because it is not needed for public use. Disposition of the Metro Parcel is consistent with the covenants of the Bond Measure, whose funds were used to acquire and stabilize the property, provided that the anticipated proceeds will be administered within the guidelines of the Bond Measure rules. The sale of property will relieve Metro of maintenance obligations and property taxes for the residence.

4. Budget Impacts

Net revenues from sale of the Metro Parcel, after payment of any appraisal, brokerage, closing, land use applications for partitioning properties, or other out-of-pocket costs associated with the sale, will be returned to the appropriate Bond Measure account, for use to acquire other real property consistent with the goals and requirements of the bond measure.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 16-4729