

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE ) RESOLUTION NO. 17-4822  
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'S DISPOSITION ) Council President Tom Hughes  
OF AGRICULTURAL LANDS POLICY

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, 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”);

WHEREAS, also in 2006, the Metro Council adopted Resolution 06-3727, “For the Purpose of Establishing a Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure” (the “Ag Lands Policy”), which set forth a policy regarding possible purchase by Metro of agricultural land with funds from the 2006 Natural Areas Bond Measure;

WHEREAS, in certain target areas, the Ag Lands Policy directs Metro staff to attempt to acquire conservation easements over the most sensitive portions of agricultural land, but if a seller is willing to sell only an entire property, the Ag Lands Policy directs staff to determine if the property could be re-sold by Metro after protecting those portions of the property essential to achieving water quality and habitat protection goals with a conservation easement;

WHEREAS, pursuant to the Ag Lands Policy, Metro staff have reviewed acquisitions it has made of agricultural land in the target areas in which the Ag Lands Policy applies, which land was purchased, as required by the sellers, in fee simple, and Metro staff have determined that a certain property acquired with funds from the 1995 Metro Open Spaces Bond Measure, depicted on Exhibit A to this Resolution 17-4822 (the “Property”), could be sold per the terms of the Ag Lands Policy;


WHEREAS, in May 2015, the Metro Council adopted Resolution 15-4619 (“For the Purposes of Authorizing the Chief Operating Officer to Sell Certain Real Property as Part of the Natural Areas Program”), adopting disposition guidelines that establish a fair and open process for the sale of Parks and Natural Areas land (the “Disposition Guidelines”);

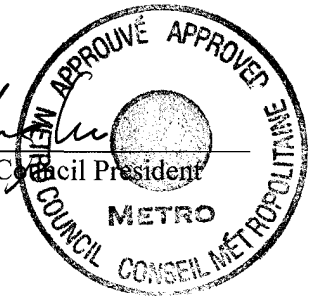
WHEREAS, on July 27, 2017, in an Executive Session, the Metro Council considered details of the proposal to sell the Property in accordance with the Ag Lands Policy and the Disposition Guidelines, and considered whether the proposed conservation easement would protect the goals of water quality and habitat protection on the Property;

WHEREAS, disposition of the Property, subject to a conservation easement as outlined in the Ag Lands Policy, will allow Metro to follow through on its commitments to the agricultural community while achieving clean water and fish and wildlife protection, and considers a sale of the Property subject to a conservation easement the best resolution for the future of the Property; now therefore,

BE IT RESOLVED that the Metro Council: (a) concludes that fee title to the Property is not needed for public use and that the public interest will be furthered by the disposition of the Property subject to a conservation easement protecting the area generally depicted on Exhibit A; and (b) hereby authorizes the Chief Operating Officer to dispose of the Property using an equitable, commercially reasonable, and appropriate process, as determined by the Chief Operating Officer in her sole discretion, in accordance with the Ag Lands Policy and the Disposition Guidelines. In case of a conflict between the Ag Lands Policy and the Disposition Guidelines, the Ag Lands Policy will govern the sale of the Property.

Adopted by the Metro Council this 14 day of September, 2017.

  
Tom Hughes, Council President







Approved as to Form:



Alison R. Kean, Metro Attorney



-  FEMA 100-Yr Floodzone
-  Taxlots
-  Property Boundary
-  General conservation easement area

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 17-4822, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO SELL CERTAIN REAL PROPERTY AS PART OF THE NATURAL AREAS PROGRAM'S DISPOSITION OF AGRICULTURAL LANDS POLICY

---

Date: September 14, 2017

Prepared by: Dan Moeller, 503-797-1819

#### BACKGROUND

Resolution 17-4822 requests authorization for the Chief Operating Officer to declare certain real property surplus and allow staff to dispose of the parcel.

In 1995 and again in 2006, voters in the Metro Area approved the Open Spaces, Parks and Streams Bond Measure and the Natural Areas Bond Measure (the "Natural Areas Bond Measure", or collectively, the "Bond Measures") authorizing Metro to acquire property in designated regional target areas to preserve and protect natural areas, clean water, and fish and wildlife habitat. As provided in the Bond Measures, Metro undertook a public refinement process to establish specific acquisition strategies, goals and objectives for each target area.

Also in 2006, the Metro Council adopted Resolution 06-3727, "For the Purpose of Establishing a Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure" (the "Ag Lands Policy"), which set forth a policy regarding possible purchase by Metro of agricultural land with funds from the Natural Areas Bond Measure. The Ag Lands Policy recognized that the preservation of the existing base of agricultural land as well as the ability of Oregon farmers in or near the Metro Area to operate efficiently and effectively is a high priority for Metro, and as such, directed Metro to consider additional provisions policy objectives for acquisition in target areas located in agricultural areas. Through the public refinement process mentioned above, the Metro Council determined that acquisitions in the Wapato Lake, Dairy and McKay Creeks, and Killin Wetlands target areas are subject to the Ag Lands Policy.

The Ag Lands Policy requires Metro to purchase conservation easements unless the seller is only willing to sell a fee simple interest to Metro. Metro has followed this guideline. If the property is purchased fee simple as preferred by the seller, the Ag Lands Policy then directs Metro staff to map the portions of the property that are essential to achieve water quality and habitat protection goals of the Natural Areas Bond Measure, and those portions of the property that are viable for agricultural production without conflicting with protection of water quality or habitat.

In accordance with the guidelines in the Ag Lands Policy, Metro has reviewed its existing agricultural holdings purchased in fee simple in these target areas to determine which portions of the properties are essential to achieving the goals of the Bond Measure, and if any remaining portions are otherwise viable for agricultural production.

This review resulted in the determination that certain real property, as described in Exhibit A to the Resolution (the "Property"), could be sold per the terms in the Ag Lands Policy: on the open market at a fair market value subject to easements that achieve the goals of the Natural Areas Bond Measure for water quality and habitat protection and restrict use of the remainder of the property to agricultural uses.

Through the review, staff determined that approximately 9 acres, areas consisting of sloped riparian and floodplain land, are most essential to protecting water quality and habitat and could be restricted with a conservation easement for Metro to retain access and management. This would leave approximately 5.5 acres of land, including the single family residence, for agricultural use. Currently, approximately 2 acres of viable agricultural land is under an agricultural lease, and approximately 1.25 containing a single family residence is also leased.

This property was purchased with funds from the 1995 Open Spaces, Parks and Streams Bond Measure in the Jackson Bottom-Dairy/McKay Creeks Target Area, which overlaps with the 2006 Dairy McKay Confluence Target Area. Though the Ag Policy may not technically bind this property, it is a good candidate to sell in accordance with the Ag Policy because of the target area overlap.

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 public interest will be furthered by the sale of the Property. Metro Code section 2.04.050(b) 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 July 27, 2017, Metro staff informed the Council about the details of the proposed surplus of the Property. Metro’s procedures for the disposition of surplus property are outlined in the “Metro Surplus Property Disposition Guidelines,” attached as Exhibit A to Resolution No. 15-4619, adopted by the Metro Council in 2015. Metro staff will follow the applicable guidelines in the disposition of the Property, except to the extent that they may conflict with the Ag Lands Policy (in which case the Ag Lands Policy will govern).

In accordance with the Ag Lands Policy, Resolution No. 17-4822 requests authorization for the Chief Operating Officer to declare the Property surplus and allow staff to sell the parcel as outlined in the disposition guidelines and the Ag Lands Policy, subject to the existing leases and future restrictions to protect the most important habitat on the Property.

## **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 2.04.050(b) 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. 06-3727, “For the Purpose of Establishing Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure.”

Metro Resolution No. 07-3855, “Approving the Natural Areas Acquisition Refinement Plan for the Dairy and McKay Creeks Confluence Target Area.”

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 Resolution will allow the Property to be sold subject to restrictions to protect habitat on the Property.

4. **Budget Impacts**

Net revenues from sale of the Property, 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 1995 Bond Measure account, for use to acquire other real property consistent with the goals and requirements of such measure. Annual operating revenues will see a minor reduction due to lost agricultural and residential rent.

**RECOMMENDED ACTION**

Staff recommends the adoption of Resolution No. 17-4822.