

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 18-4934
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, 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 No. 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;

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 or portions of the property acquired with funds from the 2006 Metro Natural Areas Bond Measure, depicted on Exhibit A to this Resolution 18-4934 (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);

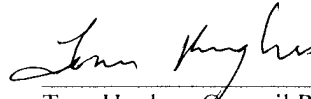
WHEREAS, the Metro Council has considered the proposal to sell the Property in accordance with the Ag Lands Policy and the Disposition Guidelines, and has considered whether the proposed transaction would protect the goals of water quality and habitat protection on the Property;

WHEREAS, only that portion of the Property no longer needed for conservation use could be sold after a property line adjustment, or the entire Property could be sold encumbered by a conservation easement protecting the habitat portions of the Property;

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

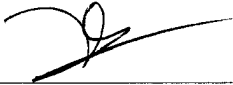
BE IT RESOLVED that the Metro Council concludes that: (a) fee title to the entire Property is not needed for public use, and (b) the public interest will be furthered by the disposition of the Property subject to a conservation easement protecting the habitat area generally depicted on Exhibit A, or by a sale after a property line adjustment of solely the agricultural production portion of the Property generally depicted on Exhibit A; and the Metro Council hereby authorizes the Chief Operating Officer to dispose of the Property or a portion thereof 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 transaction.

Adopted by the Metro Council this 4th day of December, 2018.



Tom Hughes, Council President

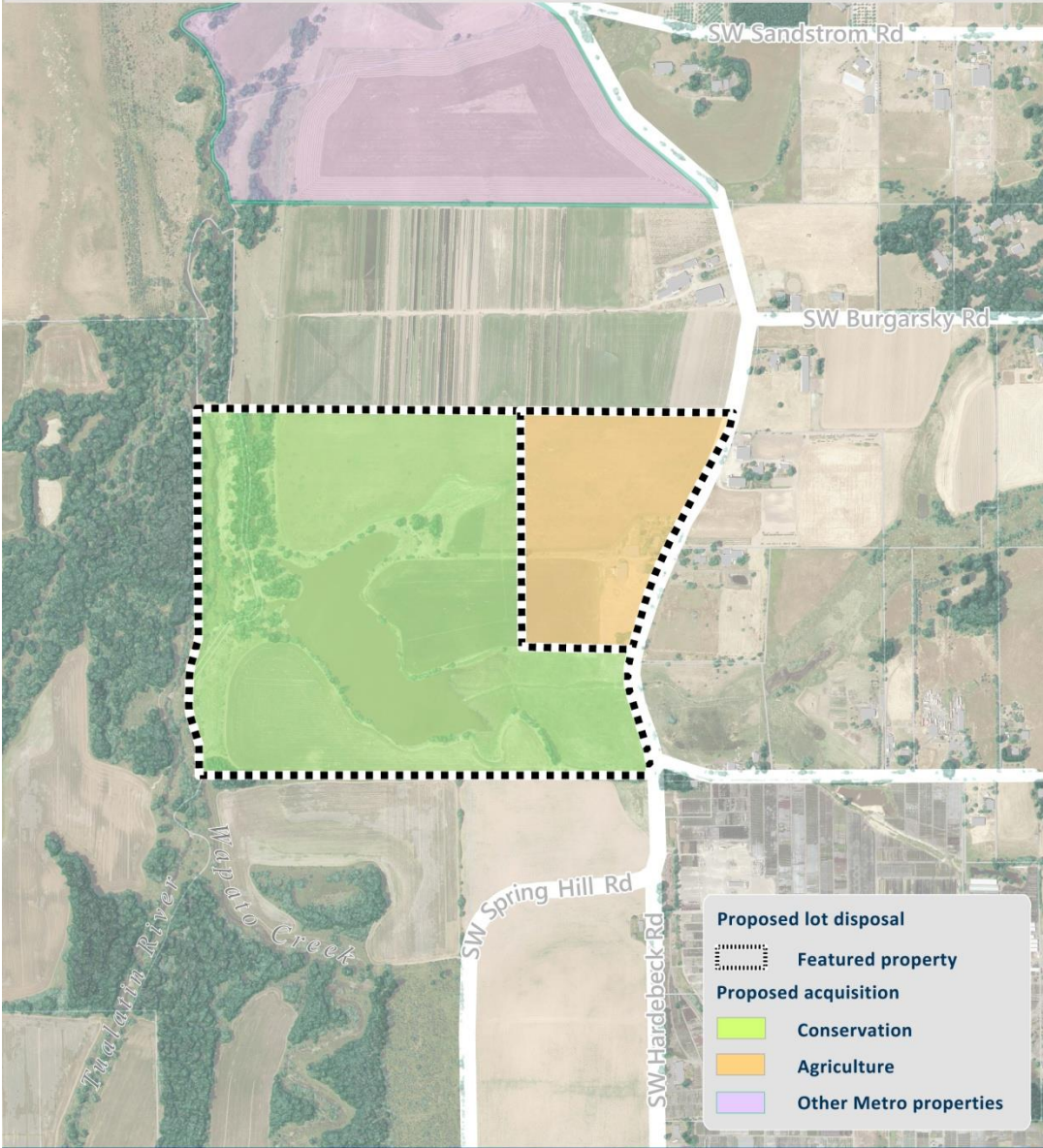
Approved as to Form:



Nathan A. S. Sykes, Acting Metro Attorney

Exhibit A

Metro **PARKS AND NATURE**
Featured property



**130.5 ACRES =
102 ACRES PROTECTED FOR CONSERVATION + 28.5 ACRES RESTRICTED TO AGRICULTURE**

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4934, 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: December 6, 2018

Prepared by: Shannon Leary, 503-813-7547

BACKGROUND

Resolution 18-4934 requests authorization for the Chief Operating Officer to declare certain real property no longer needed for public use and allow staff to sell the parcel subject to a conservation easement protecting the habitat portions of the parcel, or to sell only the portion of the property not needed for conservation purposes.

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 over the habitat portion of a property unless the seller is willing to sell only the entire fee title interest to Metro. Metro has followed this policy. 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 in the Wapato Lake Target Area, 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 101 acres, areas consisting of emergent wetland, floodplain and associated upland habitat, are most essential to protecting water quality and habitat and could be restricted with a conservation easement for Metro to retain access and management control. This would leave approximately 28 acres of land, including a large barn, for agricultural use. Alternatively, if permitted by application land use regulations, it may be possible to complete a property line adjustment to sell just that 28-acre portion of the Property not needed for habitat purposes.

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, subject to a conservation easement, or by the sale of only the agricultural portion of the Property following a property line adjustment. 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. 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. 18-4934 requests authorization for the Chief Operating Officer to sell the Property in accordance with the disposition guidelines and the Ag Lands Policy, subject to a conservation easement that would protect the most important habitat on the Property, or to sell, following a property line adjustment, just that portion of the Property best suited to agricultural use.

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. 07-3856, “Approving the Natural Areas Acquisition Refinement Plan for the Wapato Lake 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, or to sell a portion of the Property outright, following a property line adjustment.

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 2006 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 rent.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 18-4934.