

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 19-5045
CHIEF OPERATING OFFICER TO PURCHASE	)	
CERTAIN PROPERTY IN THE DEEP CREEK	)	Introduced by Acting Chief Operating Officer
AND TRIBUTARIES TARGET AREA		Andrew Scott in concurrence with Council
		President Lynn Peterson

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”); and

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;” and

WHEREAS, on September 13, 2007, the Council approved Resolution No. 07-3853, “Approving the Natural Areas Acquisition Refinement Plan for the Deep Creek and Tributaries Target Area” (the “Deep Creek Refinement Plan”) which established a Tier I Objective to “Acquire land to protect forested areas in the canyons of the North Fork of Deep Creek to Boring;” and

WHEREAS, on September 13, 2007, the Council approved Resolution No. 07-3854, “Approving the Natural Areas Acquisition Refinement Plan for the Cazadero Trail Target Area” (the “Cazadero Trail Refinement Plan”); and

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 (the “Work Plan”); and

WHEREAS, Metro is negotiating a purchase and sale agreement with a landowner (the “Seller”) to purchase approximately 78 acres of land, as more particularly identified and described on Exhibit A to this resolution (the “Property”); and

WHEREAS, the Property is identified as a Tier I property according to the Deep Creek Refinement Plan and a Tier II property according to the Cazadero Trail Refinement Plan and acquisition of the Property is in the public benefit as it also builds on adjacent Metro and Oregon State Parks owned properties to secure a feasible corridor in which to construct the last segment of the Cazadero Trail and provide a larger habitat area and wildlife corridor; and

WHEREAS, the Work Plan requires an appraisal of the Property to support the negotiated purchase and sale agreement price, and while Metro does have an appraisal that supports the purchase price and staff consider this to be a reasonable estimate of fair market value, best practice under the Work Plan would be to obtain a current appraisal; and

WHEREAS, Metro and the Seller have been negotiating for over a decade, and time is of the essence because the Seller is currently a willing seller at the negotiated purchase price; and

WHEREAS, because without a current appraisal, the transaction fails to meet all of the Acquisition Parameters and Due Diligence Guidelines in the Work Plan; and

WHEREAS, the 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 enter into a Purchase and Sale Agreement and acquire the Property identified in Exhibit A, and as discussed in the executive session on November 7<sup>th</sup>, 2019, at the negotiated purchase price without an updated appraisal, 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 5<sup>th</sup> day of December, 2019.



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Sam Chase, Deputy Council President

Approved as to Form:



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Carrie MacLaren, Metro Attorney

Exhibit A

PARCEL I:

All that part of the Northwest one-quarter of Section 14, Township 2 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, lying East of the right of way conveyed to Oregon Water Power and Railway by Deed recorded August 1, 1903 in Book 87, Page 275, Deed records.

PARCEL II:

All that part of the North one-half of the Southwest one-quarter of Section 14, Township 2 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, lying Easterly of that tract conveyed to Oregon Water Power and Railway Company by Deed recorded July 13, 1903 in Book 87, Page 234, Deed records.

IN CONSIDERATION OF RESOLUTION NO. 19-5045, FOR THE PURPOSE OF  
AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE CERTAIN  
PROPERTY IN THE DEEP CREEK AND TRIBUTARIES TARGET AREA

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Date: November 19, 2019  
Department: Parks and Nature  
Meeting Date: December 5, 2019

Prepared by: Shannon Leary, 503-813-  
7547, Shannon.leary@oregonmetro.gov

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**ACTION REQUESTED**

Council authorization for the Chief Operating Officer to purchase the “Property” identified in Exhibit A to the Resolution, as discussed in the Executive Session on November 7, 2019, subject to completion of due diligence and other standard conditions of a purchase contract.

**IDENTIFIED POLICY OUTCOMES**

Fulfillment of promises to the voters of the Metro region in Measure 26-80 (the 2006 Natural Areas Bond Measure to preserve natural areas and clean water and protect fish and wildlife), as well as direction given to staff in the Resolution No. 07-3853, “Approving the Natural Areas Acquisition Refinement Plan for the Deep Creek and Tributaries Target Area,” and Resolution No. 07-3854, “Approving the Natural Areas Acquisition Refinement Plan for the Cazadero Trail Target Area.”

**POLICY QUESTION(S)**

Should the Metro Council authorize the Chief Operating Officer to acquire the Property under the terms discussed in Executive Session on November 7, 2019?

**POLICY OPTIONS FOR COUNCIL TO CONSIDER**

1. Metro Council authorizes the Chief Operating Officer to acquire the Property under the terms discussed at Executive Session on November 7, 2019. This would protect approximately 78 acres of forest along the North Fork of Deep Creek in unincorporated Clackamas County. Acquisition of the Property will fill a large, critical gap in the Cazadero State Trail that will enable completion of the trail and protect a large piece of valuable riparian forest habitat along the North Fork of Deep Creek. Oregon State Parks would be able to complete the missing gap of the Cazadero State Trail connecting Boring to Barton. This would reduce the amount available for Natural Areas Bond purchases by the amount discussed in Executive Session on November 7, 2019.

2. Metro Council does not authorize the Chief Operating Officer to acquire the Property under the terms discussed at Executive Session on November 7, 2019. This would put the ability of the Parks and Nature Department to acquire the Property in severe jeopardy. If Metro is unable to acquire the Property, 78 acres of riparian forest habitat would go unprotected, Oregon State Parks could not finish building the Cazadero State Trail, and Metro would not be able to fulfill its obligations under the 2006 Natural Areas Bond Measure and Deep Creek and Tributaries and Cazadero Trail Refinement Plans. Metro would have the funds set aside to purchase this Property and could potentially purchase other properties for the amount discussed in Executive Session on November 7, 2019, if able to come to agreement with other willing sellers.

## **STAFF RECOMMENDATIONS**

Staff recommends authorizing the Chief Operating Officer to acquire the Property under the terms discussed in Executive Session on November 7, 2019, including completion of due diligence and other customary conditions.

## **STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION**

On September 13, 2007, the Council approved Resolution No. 07-3853, “Approving the Natural Areas Acquisition Refinement Plan for the Deep Creek and Tributaries Target Area” (the “Deep Creek Refinement Plan”), that established a Tier I objective to “acquire land to protect forested areas in the canyons of the North Fork of Deep Creek to Boring” and Resolution No. 07-3854, “Approving the Natural Areas Acquisition Refinement Plan for the Cazadero Trail Target Area” (the “Cazadero Trail Refinement Plan”), which established a goal of acquiring lands necessary to complete the Cazadero Trail between Boring and Barton Park.

Metro is negotiating a purchase and sale agreement with a landowner (the “Seller”) to purchase approximately 78 acres of land in both the Deep Creek and Cazadero Trail Target Areas that meets the goals and Tier I objectives of both target areas. The Property is identified as a Tier I property according to the Deep Creek Refinement Plan and a Tier II property according to the Cazadero Trail Refinement Plan. Acquisition of the Property is in the public benefit as it also builds on adjacent Metro and Oregon State Parks owned properties to secure a feasible corridor in which to construct the last segment of the Cazadero Trail and to provide a larger habitat area and wildlife corridor.

- No known opposition.
- Legal Antecedents
  - *Measure 26-80, the 2006 Natural Areas Bond Measure to preserve natural areas and clean water and protect fish and wildlife*
  - *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”*

- *Resolution No. 07-3853, "Approving the Natural Areas Acquisition Refinement Plan for the Deep Creek and Tributaries Target Area"*
- *Resolution No. 07-3854, "Approving the Natural Areas Acquisition Refinement Plan for the Cazadero Trail Target Area"*
- *Resolution No. 14-4536, "For the Purpose of Amending and Updating the Natural Areas Implementation Work Plan"*
- Anticipated Effects
  - *Metro staff will complete their due diligence activities to comply with the Work Plan requirements.*
- Financial Implications (current year and ongoing)
  - *This property purchase will be funded from natural areas bond measure proceeds.*

## **BACKGROUND**

Resolution 19-5045 requests authorization for the Chief Operating Officer to purchase Property located within both the Deep Creek and Tributaries and Cazadero Trail Target Areas 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 acquire the Property according to terms consistent with the discussion at the Metro Council Executive Session on November 7, 2019.

## **ATTACHMENTS**

None.