

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 24-5400
CHIEF OPERATING OFFICER TO PURCHASE	)	
CERTAIN PROPERTY IN THE CLEAR CREEK	)	Introduced by Chief Operating Officer
TARGET AREA UNDER THE 2019 PARKS AND	)	Marissa Madrigal in concurrence with
NATURE BOND MEASURE	)	Council President Lynn Peterson

WHEREAS, on June 6, 2019, the Metro Council adopted Resolution No. 19-4988, referring to the voters of the Metro area the question of authorizing Metro to issue general obligation bonds in an amount not to exceed \$475 million for the purposes of protecting natural areas, water quality and fish and wildlife habitat and connecting people to nature (the “2019 Parks and Nature Measure”); and

WHEREAS, at the election held on November 5, 2019, the voters in the Metro area approved the 2019 Parks and Nature Measure (Ballot Measure 26-203); and

WHEREAS, the Clear Creek Target Area was identified in the 2019 Parks and Nature Measure as one of 24 regional target areas for land acquisition; and

WHEREAS, on December 12, 2019, the Metro Council approved Resolution No. 19-5055, authorizing the Chief Operating Officer to continue to acquire property with 2019 Parks and Nature Measure funds in accordance with the Acquisition Parameters and Due Diligence Guidelines of the Amended and Restated Natural Areas Implementation Work Plan (adopted pursuant to Metro Council Resolution No. 14-4536) and Open Spaces Leasing Policy (adopted pursuant to Metro Council Resolution No. 97-2483); and

WHEREAS, on April 14, 2022, the Metro Council approved Resolution No. 22-5250, “For the Purpose of Approving Acquisition Target Area Refinement Plans for the 2019 Parks and Nature Bond Measure,” which included the Clear Creek Target Area Refinement Plan and authorized the Chief Operating Officer to acquire specific properties identified on corresponding confidential tax-lot maps, provided such acquisitions comply with the applicable Amended and Restated Natural Areas Implementation Work Plan requirements; and

WHEREAS, on April 17, 1997, the Metro Council approved Resolution No. 97-2483, which authorizes the Chief Operating Officer to execute future leases of Metro real property when such leases (1) relate to the acquisition of a natural area property acquired with bond proceeds, (2) contain a term of no more than one year; and (3) provide for lease payments of not more than \$2,000 per month; and

WHEREAS, Metro has entered into a purchase and sale agreement with a landowner (the “Seller”) to purchase 18.72 acres of land, as more particularly identified and described on Exhibit A to this resolution (the “Property”), and for the Seller to grant to Metro a right of first opportunity to purchase approximately 295 acres of real property owned by the Seller; and

WHEREAS, the Property was identified as a Tier I property under the Clear Creek Target Area Refinement Plan and acquisition of the Property is in the public benefit because it meets the Refinement Plan goals and objectives of protecting riparian, floodplain and aquatic habitats on Clear Creek, prioritizing lands adjacent to publicly owned lands that allow for reconnection of floodplains and restoration of aquatic habitat that benefit Salmon, Steelhead, Cutthroat Trout and Pacific Lamprey; and

WHEREAS, the appraisal of the Property does not support the purchase price agreed to by Metro and the Seller, and therefore in accordance with the Acquisition Parameters and Due Diligence Guidelines, the Chief Operating Officer must obtain Council approval to close the transaction and acquire the Property; and

WHEREAS, there is an existing month-to-month residential lease on a portion of the Property that will be assigned to Metro at closing with monthly lease payments of \$2,269, which amount is above the rent cap provided in in Resolution No. 97-2483; now therefore,

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to: (1) acquire the Property identified in Exhibit A 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; and (2) execute an assignment of lease to assume the existing lease on its terms and a subsequent lease for the residential home on the Property at the current amount of \$2,269, an amount higher than the rent cap provided in Resolution No. 97-2483.

ADOPTED by the Metro Council this 4th day of April 2024.



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Lynn Peterson, Council President

Approved as to Form:



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Carrie MacLaren, Metro Attorney

## Exhibit A

### Property Legal Description

#### PARCEL I:

Lots 1, 2, 3 and 4, and Tracts "A", "B", "C" and "D", EMMERT'S CLACKAMAS RIVER ESTATES, in the County of Clackamas and State of Oregon.

EXCEPTING THEREFROM the ownership of the State of Oregon in that portion lying below the line of mean high water.

#### PARCEL II:

A tract of land in the Horace Baker Donation Land Claim in Township 2 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a 1 inch iron shaft at the Northwest corner of that tract conveyed to Ruth Gekler by Deed recorded in Book 301, Page 575, said corner being described therein as being on the East line of said D.L.C. North 11°30' East 475.20 feet from the intersection of said East line and the centerline of the County Road (now Market Road No. 28); thence North 15°00' West 171.3 feet to a ½ inch iron pipe; thence North 60°23' West 65.7 feet to a wood stake in a small creek; thence South 61°55' West 92.7 feet; thence South 0°22' West 22.3 feet to an iron rod and the true point of beginning; thence continuing South 0°22' West 59.3 feet to an iron rod at the Southeast corner of a concrete driveway; thence South 13°24' West 99.4 feet to an iron rod; thence South 48°19' West 121.4 feet to an iron rod; thence South 71°03' West 90 feet, more or less, to the Northeast line of the County Road; thence tracing the Northeast line of said road in a Northwesterly direction to the center of Clear Creek; thence tracing the center of said creek downstream in a Northeasterly direction 330 feet, more or less, to a point that is North 46°41' West from the true point of beginning; thence South 46°41' East 30 feet, more or less, to an iron rod on the right bank of Clear Creek; thence continuing South 46°41' East 98.2 feet to the true point of beginning.

TOGETHER WITH an Easement for access over the following described tract:

Beginning at the most Southerly corner of the above described tract, said corner being on the Northeast line of Market Road No. 28; thence Southeasterly along said line of Market Road No. 28 to a point that is 20 feet from the Southeast line of the above described tract when measured at right angles thereto; thence Northeasterly, parallel with and 20 feet from the Southeast line of the above described tract, 310 feet, more or less, to a point that is South 76°36' East 20.00 feet from the iron rod at the corner of the concrete driveway; thence North 76°36' West 20.00 feet to said iron rod; thence Southwesterly tracing the Southeast line of the above described tract to the most Southerly corner thereof and the point of beginning of the tract herein described.

IN CONSIDERATION OF RESOLUTION NO. 24-5400, FOR THE PURPOSE OF  
AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE CERTAIN  
PROPERTY IN THE CLEAR CREEK TARGET AREA UNDER THE 2019 PARKS AND  
NATURE BOND MEASURE

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Date: March 26, 2024  
Department: Parks and Nature  
Meeting Date: April 4, 2024

Prepared by: Shannon Leary,  
Shannon.leary@oregonmetro.gov  
Presenter(s), (if applicable): not  
applicable  
Length: not applicable

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**ISSUE STATEMENT**

The Chief Operating Officer requests authorization from the Metro Council to acquire a particular property (the "Property") in the Clear Creek Target Area.

**ACTION REQUESTED**

Staff requests Council authorize the Chief Operating Officer (or her designee) to acquire the Property in accordance with the terms outlined in the purchase and sale agreement.

**IDENTIFIED POLICY OUTCOMES**

Acquisition of this Property will fulfill the overarching goals and objectives set by the Metro Council through Resolution 19-4988, the 2019 Parks and Nature bond measure, as well as meet target area specific goals and objectives for the Clear Creek Target Area identified in the Target Area Refinement Plans for the bond measure as adopted by the Metro Council via Resolution 22-5250.

**POLICY QUESTION(S)**

Should the Metro Council authorize the Chief Operating Officer to acquire the Property in accordance with the terms outlined in the purchase and sale agreement?

**POLICY OPTIONS FOR COUNCIL TO CONSIDER**

Option 1: The Metro Council authorizes the Chief Operating Officer to acquire the Property in accordance with the terms outlined in the purchase and sale agreement. This enables the Property to be protected in perpetuity and is in alignment with previous Council legislation directing staff to achieve the goals and objectives of the 2019 Parks and Nature bond measure as well as the specific target area goals and objectives adopted by the Metro Council through the Target Area Refinement Plans. Metro's acquisition of the Property will be funded through the 2019 bond funds and funding is available in this fiscal year's budget to acquire the Property.

Option 2: The Metro Council does not authorize the Chief Operating Officer to acquire the Property. This will prohibit Metro from implementing this portion of previous Council direction through the 2019 Parks and Nature bond measure and Target Area Refinement Plans.

### **STAFF RECOMMENDATIONS**

Staff recommends the Metro Council authorize the Chief Operating Officer to acquire the Property in accordance with the terms outlined in the purchase and sale agreement.

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

The Property, 18.72 acres in size, is located at the confluence of Clear Creek and the Clackamas River. Over the past 30 years and three bond measures Metro has protected almost 750 acres upstream on Clear Creek and approximately 715 acres upstream on the Clackamas River.

Metro protection of the Property is in alignment with the 2019 Parks and Nature bond measure because this Property contains floodplain and riparian habitat along Clear Creek and the Clackamas River. As it contains the confluence of Clear Creek and the Clackamas River it also would provide a corridor for wildlife, both aquatic and terrestrial species. The Property is adjacent to public lands owned by Clackamas County Parks and Forests and may provide an opportunity for restoration of aquatic habitat to benefit Salmon, Steelhead, Cutthroat Trout and Pacific Lamprey.

In addition to the Property at the confluence of Clear Creek and the Clackamas River, the seller owns tax lots that connect Metro's Clear Creek Natural Area to the Clackamas River that, if acquired by Metro, would facilitate significant ecological uplift in terms of restoring prairie habitat, and creating a large, protected wildlife corridor. Staff were able to negotiate as part of acquisition of the Property that the seller would grant Metro a Right of First Opportunity to purchase the seller's additional property. This would provide a future opportunity to acquire property to expand upon Metro's prairie restoration efforts at Clear Creek Natural Area and connect prairie and wildlife habitat between Clear Creek and the Clackamas River.

The Metro Council has previously delegated authority to the Chief Operating Officer to acquire natural areas and trail property in accordance with the parameters set forth in the Acquisition Parameters and Due Diligence Guidelines of the Amended and Restated Natural Areas Implementation Work Plan ("Work Plan"), which includes a purchase price that is supported by an independent appraisal. The negotiated price for this Property is above the appraised value and thus is outside of the Work Plan parameters, requiring specific Metro Council authorization to purchase the Property.

### **Known Opposition/Support/Community Feedback**

Acquisition of the Property advances goals of the Clackamas Partnership, a coalition of 15 organizations and agencies working to recover Salmon, Steelhead, Cutthroat Trout and

Lamprey in the Clackamas River watershed. Clear Creek is an important cold-water tributary to the Clackamas River watershed.

There is no known opposition to the Metro’s acquisition of the Property.

**Legal Antecedents**

1995 Open Spaces bond measure; 2006 Natural Areas bond measure

Resolution No. 19-4988, “For the Purpose of Submitting the Voters of the Metro Area General Obligation Bonds in the Amount of \$475 Million to Fund Natural Area and Water Quality Protection and to Connect People to Nature Close to Home; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Said Bonds Upon Issuance”, adopted by Metro Council on June 6, 2019.

Resolution No. 22-5250, “For the Purpose of Approving Acquisition Target Area Refinement Plans for the 2019 Parks and Nature Bond Measure”, adopted by Metro Council on April 14, 2022.

**Anticipated Effects**

Should Metro Council authorize the COO to acquire this property, Metro is expected to close on the Property on April 5, 2024 and subsequently manage it as a natural area for fish and wildlife habitat and to improve water quality.

**Financial Implications**

Purchase of the Property will occur with 2019 Parks and Nature bond funds and is within the budget allocation for fiscal year 2024.

**BACKGROUND**

This work builds on the 1995 and 2006 bond measures, which included funds for land acquisition for conservation and future trail development. The 2019 Parks and Nature bond measure, referred to the voters by the Metro Council in June of 2019, established principles and criteria to guide protecting and restoring greater Portland’s special places and securing gaps in the regional trail system in geographically specific target areas and regional trail corridors.

The principles, program criteria, and geographically specific 24 target areas identified in the 2019 Parks and Nature bond measure and subsequent refinement plans reflect Council direction and community priorities. The bond program protects land and water, aligns with regional conservation goals, strengthens our region’s climate resilience, and benefits communities who have been historically excluded from decision making or have not benefitted equitably from past investments. The refinement plans for each target area, adopted by the Metro Council in 2022 via Resolution 22-5250, articulate goals and objectives for each of the bond-identified target areas and were developed thorough a robust public engagement process including ecological assessments of each target area and

stakeholder interview sessions and roundtable discussions with people who identify as Black, Indigenous, or a person of color, or a person living with a disability.

**ATTACHMENTS**

None

- Is legislation required for Council action?  Yes  No
- If yes, is draft legislation attached?  Yes  No
- What other materials are you presenting today? Not applicable