

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: August 17, 2006
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. RESEARCH ON INVESTING IN ETHANOL Berry

4. CONSENT AGENDA

4.1 Consideration of Minutes for the July 20, 2006 Metro Council Regular Meeting.

5. ORDINANCES – FIRST READ

5.1 **Ordinance No. 06-1125**, For the purpose of Amending Metro Code Section 4.01.050 to include a conservation surcharge with regular admission to the Oregon Zoo, effective January 1, 2007.

5.2 **Ordinance No. 06-1126**, For the Purpose of Amending FY 2006-07 Budget and Appropriations schedule to provide funding for Metro's Diversity Plan and Declaring an Emergency.

5.3 **Ordinance No. 06-1127**, For the purpose of Amending Metro Code Section 7.01.050 to exempt the Oregon Zoo conservation admission surcharge from Metro Excise Tax, effective January 1, 2007.

6. RESOLUTIONS

6.1 **Resolution No. 06-3722**, For the Purposed of Approving the Interim Waste Reduction Plan to Provide Direction for Regional Waste Reduction Programs Pending the Completion of the Regional Solid Waste Management Plan. McLain

- 6.2 **Resolution No. 06-3717**, For the Purpose of Endorsing Regional Burkholder
Support of the "Plug-In" Partners National Campaign.
- 6.3 **Resolution No. 06-3720**, For the Purpose of Authorizing the Chief Operating Hosticka
Officer to enter into Options to Purchase Properties in the Newell Creek,
Lower Tualatin River Headwaters, Forest Park and Johnson Creek Target
Areas, and including a property in the Forest Park Target Area Subject to
Unusual Circumstances under the Proposed 2006 Natural Areas Bond
Measure Implementation Work Plan.
- 6.4 **Resolution No. 06-3721**,For the Purpose of Adopting the Metro McLain
Diversity Plan.
- 6.5 **Resolution No. 06-3724**, For the Purpose of Approving an Application for a Hosticka
Wetland Mitigation Easement to the City of Wilsonville and Matrix
Development Corporation.
- 6.6 **Resolution No. 06-3706**, For the Purpose of Entering an Order Relating
to the Roger and Ann Miracle Claim for Compensation Under ORS
197.352 (Measure 37).

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for August 17, 2006 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.yourtv.org -- (503) 629-8534 2 p.m. Thursday, August 17 (live)	Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmtv.org -- (503) 288-1515 8:30 p.m. Sunday, August 20 2 p.m. Monday, August 21
Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, August 21	Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, August 19 11 p.m. Sunday, August 20 6 a.m. Tuesday, August 22 4 p.m. Wednesday, August 23
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

The Metro Council will reconvene September 5, 2006

MINUTES OF THE METRO COUNCIL MEETING

Thursday, July 20, 2006
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Robert Liberty, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

Councilors Absent: Susan McLain (excused)

Council President Bragdon convened the Regular Council Meeting at 2:03 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. DEPARTMENT OF FORESTRY PRESENTATION ON URBAN/FOREST ISSUES

Tim O'Brien, Planning Department, introduced Marvin Brown, State Forester. He noted that as part of the New Look process, they were engaging in conversations with a variety of stakeholders. Mr. Brown provided a power point presentation on *Creating the Future of Oregon Forests* (a copy of which is included in the meeting packet). He reviewed key messages on Oregon forests. He spoke to forest policymaking and implementation difficulty. He also talked about forestry sustainability and the need to integrate all of the values.

Councilor Liberty asked if the State Forestry Department had been participating in Measure 37 claims. He wondered if Mr. Brown had any sense of claims against the Forestry Department. Mr. Brown responded to his question and talked about the Forest Practices Act. He then talked about the expansion of the urban and community forestry services program. He suggested the Board of Forestry and Metro Council coordinate opportunities.

Council President Bragdon said their common interest was protection of forests on the urban edge/fringe. He asked about easement programs. Mr. Brown responded to his question and noted that there were limited federal funds for this type of program. Council President Bragdon talked about acquisition such as near Forest Park. Councilor Liberty talked about the past permitting practices as well as monitoring. Mr. Brown said they don't have regulatory tools to deal with some of the Measure 37 issues. Councilor Liberty raised the issue of forest fire safety and property protection. Was the Board discussing this issue? Mr. Brown responded by talking about their protection zones and SB 360. If the land fell within the fire protection zone, they only protected the land, not structures. Councilor Hosticka mentioned the community forest program.

4. CONSENT AGENDA

4.1 Consideration of minutes of the July 13, 2006 Regular Council Meeting.

Motion: Councilor Newman moved to adopt the meeting minutes of the July 13, 2006 Regular Metro Council.

Vote: Councilors Burkholder, Liberty, Park, Newman, and Council President Bragdon voted in support of the motion. The vote was 5 aye, the motion passed with Councilor Hosticka abstaining from the vote.

5. RESOLUTIONS

5.1 **Resolution No. 06-3713**, For the Purpose of Adopting the Eastside Transit Alternatives Analysis Locally Preferred Alternative Located within Portland Central City.

Motion:	Councilor Burkholder moved to adopt Resolution No. 06-3713.
Seconded:	Councilor Newman seconded the motion

Councilor Burkholder introduced the resolution and noted that Council had had a number of discussions about this project. Richard Brandman, Planning Department, provided a power point presentation on the Eastside Transit Alternatives Analysis Locally Preferred Alternative decision (a copy of the power point presentation is included in the meeting record). He reviewed the proposed alternatives and the final recommendation.

Council President Bragdon opened a public hearing.

Terry Parker, PO Box 13503 Portland OR 97213 provided a written summary of his remarks (a copy of which is included in the meeting record).

Gwenn Baldwin, Lloyd Executive Partnership, 700 NE Multnomah #340 Portland OR 97232 said they strongly supported the Eastside Streetcar analysis and the resolution before Council today. She talked about planned investments on the eastside. She spoke the Lloyd Executive Partnership's mission. The Eastside Streetcar project was one of three top priorities for the partnership. Councilor Liberty asked what the streetcar added. Ms. Baldwin responded that the Lloyd District benefits from a variety of transit options. She talked about the Pearl District and the impact of the streetcar on the Westside. Councilor Newman asked about other funding mechanisms to fund operations of the streetcar. Ms. Baldwin said they were looking at a variety of funding mixes.

Michael Powell, 1005 W Burnside Portland OR 97209 said he chaired the Eastside Streetcar Alliance. He noted the increase in ridership with the Westside streetcar. They had always envisioned a loop around the Central City. He spoke to the potential development on the eastside. He felt Metro had a very good proposal. He spoke to the agreement among the stakeholders. He felt the process had been well thought out. He urged Council's support.

J. E. Isaac, One Center Court Drive #200 Portland OR 97227 said he was a member of the Streetcar Board. He noted the other memberships he participated in having to do with this issue. He urged adoption of the resolution. Mr. Powell acknowledged Metro's staff and their work.

Susan Pearce, PO Box 426217 Portland OR 97242 said she represented the Hosford Abernethy Neighborhood Development Association and provided a letter for the record, which she

summarized (a copy of the letter is included in the meeting record). Councilor Liberty asked clarifying questions. Ms. Pearce responded to his questions.

Chris Smith, Chair of Citizen Advisory Committee, 2343 NW Pettygrove Street Portland OR 97210 thanked the Council for their work. They had the overview of the whole streetcar system. He highlighted benefits about interaction with other transit modes. They supported the resolution.

Kevin Downing, Westmoreland Resident, 6202 SE 21st Portland OR 97202 said he was in favor of the streetcar. He spoke to the history of the Milwaukie light rail. The eastside streetcar is an important component for the Central City but the Eastside Streetcar raised competition for operational dollars. Councilor Newman said he shared some of his concerns and thanked him for his participation. He said this agency in partnership with other entities would be starting the next stage on the potential for the Eastside Streetcar. Councilor Liberty called attention to the planning for the eastside.

Council President Bragdon closed the public hearing.

Councilor Newman thanked Metro staff as well as other partners who had participated in the process. He felt the process was a constructive one as well as creating productive tension. He enthusiastically supported this legislation and the project. He said the role of the Central City in redevelopment was very important and of high value. He had two concerns: 1) regional context and initiating a regional planning process and 2) operational issues. He summarized work program considerations. There was need for a new discussion about financing.

Councilor Liberty talked about his three areas of concern 1) connection between this project and development of the eastside industrial sanctuary, 2) interoperability, and 3) the use of a system approach versus a project approach. He supported the project and acknowledged the visionary leadership on this project.

Councilor Hosticka asked why would someone who represented the suburbs in the region be interested in this project. He thought this project could promote increase capacity within the central corridor, which would support his area as well. He noted the amount of money that went into subsidizing the suburbs.

Council President Bragdon talked about his history with the Portland Streetcar. He now looked at the Westside streetcar project as Phase 1. He spoke to impact on the neighborhoods. He felt it was important because they were also voting yes on the conditions of development surrounding the streetcar project. He also talked about the operational conditions. It was important that they design the streetcar in such a way to support transit and development.

Councilor Park added that this was another step for Portland to increase its activity levels. He felt that funding mechanisms needed to be adequate for the entire region. He would be voting yes on this resolution.

Councilor Burkholder thanked a variety of citizens for their work on the project as well as Metro staff for their work. There were a lot of resources put into this project. There had been a long discussion at Joint Policy Advisory Committee on Transportation (JPACT) on this issue. He noted challenges as well as the goals of the project. He urged support.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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Councilor Newman asked for regular updates on the project.

5.2 **Resolution No. 06-3714A**, For the Purpose of Entering an Order Relating to the Harold S. and Rebeca MacLaughlan Claim for Compensation under ORS 197.352 (Measure 37)

Paul Ketcham, Planning Department, said at the last Council meeting, Council had directed staff to prepare a revised Chief Operating Officer report. He noted three letters that they had received from Jeannette Moore. He summarized the substantive changes in the report. The comparable sales data indicated that the fair market value of the property was not reduced. Mr. Conder said they had eliminated the discount factor.

Councilor Liberty asked about the report and the use of the lower two figures. Mr. Conder responded to his question.

Council President Bragdon opened a public hearing.

Jeannette Moore, representing the MacLaughlan's, provided additional materials for the Council (a copy of which is included in the meeting record). She talked about what they had covered in last week's Council session, the time series method and state regulations. She spoke to what the law required. She said the appraiser had to appraise the property on the highest and best use of the property. Councilor Liberty asked clarifying questions. Ms. Moore responded by referring to the Oregon Administrative Rule.

Ms. Moore continued by talking about using the tax statements. She said the data were unreliable. She summarized a portion of Sonny Conder's assessment of valuation. She talked about Jaeger's theory. She said the statute set forth requirements by law to the value difference between regulated and unregulated land. She said the trigger date was the date of acquisition of the property. She said she had researched the comparables outside the boundary, which she had submitted for the record. Six of the properties were outside the urban growth boundary (UGB). She noted that one of the comparables was much higher in value. She talked about the change in value of Mr. MacLaughlan's property. She asked what date did the law require? She responded, the date of acquisition. She talked about interpreting the language in the statute. She read the statute into the record. She highlighted the sections of the statute, what made sense and those that did not in terms of this claim. She talked about the interpretation of Measure 37 and that two identical property, one within the UGB and one outside the UGB across the street from the first property. The intent of Measure 37 was that like people would get like treatment. She said using the very same methodology RA1 analysis, there was a per acre value which was higher. If they used the comparable the values were even higher. Whether they were using 2006 or 2005 comparables, under RA1 analysis, the result was the same; there was a tremendous loss. If they used RRFF5 analysis, under the comparable sales method, within and outside the UGB, the data still showed a reduction in value. She provided an additional table; Re: Harold and Rebeca MacLaughlan amended Metro 37 Claim No. 06-007 (Exhibit 2). Finally, in looking at the revised Chief Operating Officer recommendation, it did not go into an analysis of whether there was fair market value. She said no matter what comparables you looked at; there was a loss in value.

Council President Bragdon closed the public hearing.

Councilor Burkholder said the decision that they had to make was based on whether there was a loss in fair market value. He was trying to understand why Metro’s numbers would be different. Mr. Conder said RRF5 froze the property. They could not do anything with it. The value of their property was the value of their property today. In Table 4, they used \$75,000 per acre. He shared how he came to the computation. The computation was an attempt to be completely fair. Councilor Burkholder asked what the difference in value was. Mr. Conder responded to his question.

Councilor Liberty shared what he believed was the difference between value assessments. They were trying to compare apples to apples. Councilor Hosticka said he couldn’t find where Ms. Moore had shared the current value of the property. Ms. Moore said the value was on the claim report and on the amended claim report. Councilor Hosticka asked what the difference in value was with regulation and without regulation. Ms. Moore said she did not do that analysis because she interpreted the value when they acquired the property. She said there was more than one regulation to consider. Councilor Hosticka asked about the effect of our regulation when the regulation was first applied versus when the land was acquired. Dick Benner, Metro Senior Attorney, read the Measure 37 claim. He explained the initial burden on the claimant was to show the reduction in value at the time of regulation. The fairest and most accurate thing to do was to look at value of the property at the time the regulation was in place.

Motion:	Councilor Burkholder moved to adopt Resolution No. 06-3714A.
Seconded:	Councilor Liberty seconded the motion

Councilor Burkholder explained why they should deny the claim. He also noted the overriding concerns of the Metro Council on planning for growth in the area. He recommended that the Metro Council deny the claim based on the fact that there was no reduction in value and that legal advice had been that the value was assessed at the time of regulation. Councilor Liberty concurred with Councilor Burkholder’s remarks. Councilor Park talked about the Regionally Significant Industrial Areas (RSIA) designation and the only other action that could be taken besides denying the claim was to take the property outside the boundary. He would be supporting the resolution and the order.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

Council President Bragdon asked about analysis of taking these properties outside the UGB.

5.3 Resolution No. 06-3715, For the Purpose of Entering an Order Relating to the Kumyon and Helen Radow Claim for Compensation under ORS 197.352 (Measure 37)

Mr. Ketcham briefly described the claim. The conclusion was that there had been no reduction in fair market value. Mr. Conder reemphasized that when they had a property that nothing could be done with, he used the actual property value plus 15% (in Table 4). Councilor Hosticka asked about Table 3 and ownership of the property, which he saw was part of a trust. Mr. Ketcham responded to his question. Councilor Hosticka said Metro’s action did not change the zoning except to put the property into the UGB. Mr. Ketcham said when the property was acquired by the trust in 1996; it could not be further subdivided. Councilor Hosticka’s conclusion was Metro’s action did not change the zoning. Mr. Benner responded that the point that Councilor Hosticka

was making was that 1996 was the date of acquisition of the property. However, when the property was transferred to a revocable living trust, there was no change in property ownership. Council President Bragdon said on March 2003, they couldn't subdivide. When the property was brought into the UGB, they couldn't subdivide nor could they subdivide prior to bringing the property into the UGB. Councilor Liberty asked if staff had any concerns about the basis of fair market values from the assessors. Mr. Conder commented that the overwhelming factor was the inclusion of this land inside the UGB, because that signaled a certainty in time that the land could be developed. Councilor Liberty clarified his question about assessment. Mr. Conder emphasized the trend.

Motion:	Councilor Newman moved to adopt Resolution No. 06-3715.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman said the evidence was clear that the property was not reduced in value based on Metro's action of bringing it into the UGB. Councilor Park said they did not know what the zoning would be in the future. Additionally, the staff report talked about slope characteristics.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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6. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, was not present.

7. COUNCILOR COMMUNICATION

Councilor Burkholder talked about Measure 37 and Beaverton City Council's approval of a claim. He was concerned about the Metro Council response where they were losing some key policy objectives. Councilor Park asked about public infrastructure dollars that were going to some of the claimant sites. Councilor Hosticka suggested talking points to take to Metro Policy Advisory Committee (MPAC) next week. Councilor Liberty suggested talking to MPAC about the basis of their decision and the long-term impacts.

Councilor Newman said this Council had a lot of discussion about transportation. Next week there was a meeting on alternative analysis of the Lake Oswego to Portland transit project (a copy of the alternatives chart is include in the record). He summarized the options that would be considered for further analysis. Councilor Hosticka asked a clarifying question about the corridor. Councilor Newman summarized the trail component of the analysis. He provided a quick overview. Councilor Liberty thanked Councilor Newman for his summary. He expressed his concerns about land use and use of 2040. Councilor Hosticka expressed concern about ruling out the P & W railroad bridge. Councilors continued the discussion about the corridor. Councilor Burkholder suggested looking at this in a functional way. Councilor Newman explained the composition of Lake Oswego Policy Advisory Committee on Transportation (LOPACT). Ross Roberts, Planning Department, provided a history of how they got to the original list of options. This list was a winnowed down list of all of the community ideas they had heard. He provided a summary of who served on LOPACT. Councilor Liberty asked about the purpose and need. Mr. Roberts explained how they came up with the purpose and need.

Council President Bragdon said he heard that Council was asking that P & W Railroad Bridge be kept on the list. Councilor Hosticka added his comments. Mr. Brandman reviewed issues with respect to the rail crossing. During the process they would be analyzing the cost of the rail bridge that would provide transit options for individuals as well as freight. They were starting the Milwaukie Light rail Environmental Impact Statement (EIS) and they would be able to analyzing the impact of the rail bridge. Staff had the same goal in mind as the Council. Councilor Newman said when this process started it was focused on the Willamette Shoreline. There was a discussion at the Steering Committee about having members on the eastside participate in the alternative analysis. He appreciated the Councilors input.

Councilor Burkholder said the issue was they would like to keep the rail option alive. How do they stitch these options together? Councilor Hosticka suggested the representatives convey the Council's discussion. Councilor Park asked how they study something like this and keep the potential options on the table. Council President Bragdon said they needed to look at a regional system-wide model. Councilor Newman summarized Council's direction. Mr. Brandman said if there was direction from the Council and Steering Committee to analyze the option, they will do this prior to decisions being made toward the end of the year. Council President Bragdon talked about the need to do a systems analysis instead of project-by-project analysis. He urged not letting the funding be implied just because they were studying an option.

8. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:50 p.m.

Prepared by

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
JULY 20, 2006**

Item	Topic	Doc Date	Document Description	Doc. Number
4.1	Minutes	7/13/06	Metro Council Meeting Minutes of July 13, 2006	072006c-01
5.1	Evaluation Summary	May 2006	To: Metro Council From: Richard Brandman, Planning Department Re: Eastside Transit Alternative Analysis	072006c-02
5.1	Evaluation Report	May 2006	To: Metro Council From: Richard Brandman, Planning Department Re: Eastside Transit Alternative Analysis	072006c-03
5.3	Figure A	7/20/06	To: Metro Council From: Paul Ketcham, Planning Department Re: Figure A: Radow RRF-5 Property time trend and P-J Test for Resolution No. 06-3715	072006c-04
5.3	Figure B	7/20/06	To: Metro Council From: Paul Ketcham, Planning Department Re: Figure B: Radow EFU Property time trend compared to All EFU and P-J Test for Resolution No. 06-3715	072006c-05
5.2	Supplemental information	7/19/06	To: Metro Council From: Jeannette Moore, Attorney for MacLaughlan Re: Supplemental information to Resolution No. 06-3714A	072006c-06
5.2	Supplemental information	7/19/06	To: Metro Council From: Jeannette Moore, Attorney for MacLaughlan Re: Supplemental information to Resolution No. 06-3714A	072006c-07
5.2	Supplemental information	7/19/06	To: Metro Council From: Jeannette Moore, Attorney for MacLaughlan Re: Supplemental information to Resolution No. 06-3714A	072006c-08
5.1	Power Point Presentation	7/20/06	To: Metro Council From: Richard Brandman, Planning Department Re: Power point presentation on Resolution No. 06-3713	072006c09

3.0	Presentation Materials	July 2006	To: Metro Council From: Tim O'Brien, Planning Department Re: Oregon Department of Forestry Background and pamphlet	072006c-10
5.1	Written testimony	7/20/06	To: Metro Council From: Terry Parker Re: Resolution No. 06-3713	072006c-11
5.1	Written Testimony	7/20/06	To: Metro Councilors From: Joe Hagedorn, Chair Hosford Abernethy Neighborhood Development Association Re: Resolution No. 06-3713	072006c-12
5.2	Measure 37 claim additional materials	7/20/06	To: Metro Council From: Jeannette Moore, attorney representing MacLaughlans Re: Letter from Alan Brown, Broker/Sole Practitioner on current listing, recent sales, as possible comparables to property on 172 nd . Resolution No. 06-3714A	072006c-13
5.2	Measure 37 claim additional materials	7/20/06	To: Metro Council From: Jeannette Moore, attorney representing MacLaughlans Re: Excerpts from The Effects of land use regulations on Property values by William Jaeger (Exhibit 1), Resolution No. 06-3714A	072006c-14
5.2	Measure 37 claim additional materials	7/20/06	To: Metro Council From: Jeannette Moore, attorney representing MacLaughlans Re: Exhibit 2 Table 4 and information missing from Condor Memo analysis, Resolution No. 06-3714A	072006c-15
7.0	Agenda and materials	7/25/06	To: Metro Council From: Councilor Newman Re: Transit AA Steering Committee agenda and packet materials on Lake Oswego to Portland AA	072006c-16

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO) ORDINANCE NO. 06-1125
CODE SECTION 4.01.050 TO INCLUDE A)
CONSERVATION SURCHARGE WITH) Introduced by Chief Operating Officer Michael J.
REGULAR ADMISSION TO THE OREGON) Jordan, with the concurrence of Council
ZOO, EFFECTIVE JANUARY 1, 2007) President David Bragdon

WHEREAS, The Oregon Zoo has established itself as one of the leading zoos in the country for its conservation efforts; and

WHEREAS, funding is necessary for the continued development of these innovative conservation programs; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Section 4.01.050 is amended to read as follows:

“4.01.050 Admission Fees and Policies

(a) Regular Fee Schedule

Adult (12 years and over)	\$9.50
Youth (3 years through 11 years)	\$6.50
Child (2 years and younger)	Free
Senior Citizen (65 years and over)	\$8.00

(b) Conservation Admission Surcharge. A twenty-five cents (\$0.25) surcharge will be added to each regular paid admission to go toward the funding of Oregon Zoo conservation initiatives. This surcharge is in addition to the admission fees listed in the Regular Fee Schedule in subsection (a) above.

(bc) Free and Reduced Admission

- (1) The Director may set free or reduced price admission rates for groups, special events, or as otherwise in accordance with this Chapter.
- (2) A free admission pass will entitle the holder only to enter the Zoo without paying an admission fee.
- (3) A reduced admission pass will entitle the holder only to enter the Zoo by paying a reduced admission fee.

- (4) Free or reduced admission passes may be issued to the following groups or individuals and shall be administered as follows:
- (A) Metro employees shall be entitled to free regular Zoo admission upon presentation of a current Metro employee identification card.
 - (B) Metro elected officials shall be entitled to free admission.
 - (C) Free admission passes in the form of volunteer identification cards may, at the Director's discretion, be issued to persons who perform volunteer work at the Zoo. Cards shall bear the name of the volunteer, shall be signed by the Director, shall be non-transferable, and shall terminate at the end of each calendar year or upon termination of volunteer duty, whichever date occurs first. New identification cards may be issued at the beginning of each new calendar year for active Zoo volunteers.
 - (D) The Zoo Director may issue reduced price admission passes to individuals using a TriMet bus or the Metro Area Express (MAX) for travel to the Zoo, upon presentation of acceptable proof of fare payment, which includes TriMet passes, MAX tickets and bus transfer receipts validated on the date of Zoo entry.
- (5) Admission to the Zoo shall be at a reduced rate for all persons during a portion of a day each month, as determined by the Director.

~~(ed)~~ Special Events. The Zoo, or portions thereof, may be utilized for special events designed to enhance Zoo revenues during hours that the Zoo is not normally open to the public. The number, nature of, and admission fees for such events shall be determined by the Zoo Director.

~~(de)~~ Parking Fee. The Zoo Director may establish, charge and collect a parking fee from Zoo patrons for parking in the Zoo Parking Lot and Shuttle Lot and may adjust said parking fee annually.”

2. The amendment to Metro Code Section 4.01.050 Admission Fees and Policies, takes effect January 1, 2007.

ADOPTED by the Metro Council this _____ day of _____ 2006.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1125, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 4.01.050 TO INCLUDE A CONSERVATION SURCHARGE WITH REGULAR ADMISSION TO THE OREGON ZOO, EFFECTIVE JANUARY 1, 2007, AND ORDINANCE NO. 06-1127, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 7.01.050 TO EXEMPT THE OREGON ZOO CONSERVATION ADMISSION SURCHARGE FROM METRO EXCISE TAX, EFFECTIVE JANUARY 1, 2007

Date: August 17, 2006

Prepared by: Tony Vecchio and Brad Stevens

BACKGROUND

The FY 2006-07 budget for the Oregon Zoo includes the addition of a twenty-five cents (\$0.25) conservation surcharge on regular admission. The zoo is part of a consortium of northwest conservation organizations. Funds raised through the conservation surcharge are to be pooled with the funds collected from the other member organizations and used to fund northwest conservation initiatives, including conservation projects at the Oregon Zoo. Initially, until a mechanism can be established through the conservation consortium, these funds will go to the Oregon Zoo Foundation to be tracked and managed through the Future for Wildlife Fund. The zoo will report back to Council annually on the disposition of surcharge funds, including a summary of surcharge funded projects.

The companion ordinance, Ordinance No. 06-1127, is necessary if the Metro Council wishes to exempt the surcharge from Metro Excise Tax. If the surcharge is subject to the excise tax, it is projected to generate \$95,000.00 annually. Exempting the surcharge from Metro Excise Tax is would generate an additional \$7,000.00 each year for conservation projects.

ANALYSIS/INFORMATION

- 1. Known Opposition** None known.
- 2. Legal Antecedents** Metro Code Section 4.01.050 Admission Fees and Policies identifies policies on Zoo admission fees and requires the Zoo to request an amendment to increase fees. Metro Code Section 7.01.050 Exemptions allows for excise tax exemptions for specified persons, users, and operators.
- 3. Anticipated Effects** The Conservation Surcharge is expected to generate approximately \$102,000.00 annually to fund northwest regional conservation projects.
- 4. Budget Impacts** The projected revenues and expenditures associated with the Conservation Surcharge are already included in the FY 2006-07 budget.

RECOMMENDED ACTION

Metro staff recommends the adoption of Ordinances Nos. 06-1125 and 06-1127.

Staff Report to Ordinance Nos. 06-1125 & 06-1127

M:\attorney\confidential\R-0\2006\Ords. 06-1125.1127.Zoo.Staff Report.02
ZOO/FAS/BS/OMA/DBC/sm 8/3/06

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY) ORDINANCE NO. 06-1126
2006-07 BUDGET AND APPROPRIATIONS) Introduced by Mike Jordan, Chief Operating
SCHEDULE PROVIDE FUNDING FOR METRO'S) Officer, with the concurrence of Council
DIVERSITY PLAN AND DECLARING AN) President Bragdon
EMERGENCY)

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2006-07 Budget; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. That the FY 2006-07 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of amending the General Fund.
- 2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 2006.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A
Ordinance No. 06-1126

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Council Office							
Total Personal Services		20.00	\$1,589,895	0.00	\$0	20.00	\$1,589,895
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		45,000		0		45,000
	5205 Operating Supplies		7,500		0		7,500
	5210 Subscriptions and Dues		4,000		0		4,000
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		29,500		17,500		47,000
	5251 Utility Services		2,500		0		2,500
	5260 Maintenance & Repair Services		1,200		0		1,200
	5265 Rentals		1,000		0		1,000
	5280 Other Purchased Services		9,000		0		9,000
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		8,000		0		8,000
	5455 Staff Development		8,000		0		8,000
	5470 Council Costs		19,500		0		19,500
	5490 Miscellaneous Expenditures		31,000		0		31,000
Total Materials & Services			\$166,200		\$17,500		\$183,700
TOTAL REQUIREMENTS		20.00	\$1,756,095	0.00	\$17,500	20.00	\$1,773,595

Exhibit A
Ordinance No. 06-1126

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Non-Departmental							
Total Personal Services		4.00	\$454,058	0.00	\$0	4.00	\$454,058
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		20,780		0		20,780
	5205 Operating Supplies		4,370		0		4,370
	5210 Subscriptions and Dues		32,500		0		32,500
	5215 Maintenance & Repairs Supplies		7,500		0		7,500
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		413,450		0		413,450
	5246 Sponsorships		35,000		(5,000)		30,000
	5251 Utility Services		1,000		0		1,000
	5280 Other Purchased Services		186,640		0		186,640
	5290 Operations Contracts		250		0		250
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		11,320,046		0		11,320,046
	5305 Election Expenses		300,000		0		300,000
<i>OTHEXP Other Expenditures</i>							
	5445 Grants		1,175,000		0		1,175,000
	5450 Travel		6,000		0		6,000
	5455 Staff Development		2,000		0		2,000
	5490 Miscellaneous Expenditures		50,000		0		50,000
Total Materials & Services			\$13,554,536		(\$5,000)		\$13,549,536
<i>Debt Service</i>							
<i>REVBND Revenue Bond Payments</i>							
	5635 Revenue Bond Payments-Interest		1,198,898		0		1,198,898
Total Debt Service			\$1,198,898		\$0		\$1,198,898
TOTAL REQUIREMENTS		4.00	\$15,207,492	0.00	(\$5,000)	4.00	\$15,202,492

Exhibit A
Ordinance No. 06-1126

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
General Expenses							
Total Interfund Transfers			\$7,823,692		\$0		\$7,823,692
<i><u>Contingency & Unappropriated Balance</u></i>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		1,796,785		(12,500)		1,784,285
	* General Reserve		5,848,983		0		5,848,983
	* Tourism Opportunity & Comp. Account		43,307		0		43,307
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Recovery Rate Stabilization reserve		1,982,748		0		1,982,748
	* Computer Replacement Reserve (Planning)		90,000		0		90,000
	* Tibbets Flower Account		278		0		278
	* Reserve for Future Debt Service		1,862,371		0		1,862,371
Total Contingency & Unappropriated Balance			\$11,624,472		(\$12,500)		\$11,611,972
TOTAL REQUIREMENTS		402.33	\$102,053,553	0.00	\$0	402.33	\$102,053,553

Exhibit B
Ordinance No. 06-1126
FY 2006-07 SCHEDULE OF APPROPRIATIONS

GENERAL FUND	<u>Current</u>	<u>Revision</u>	<u>Amended</u>
	<u>Appropriation</u>	<u>Revision</u>	<u>Appropriation</u>
Council Office			
Operating Expenses (PS & M&S)	1,756,095	17,500	1,773,595
Subtotal	<u>1,756,095</u>	<u>17,500</u>	<u>1,773,595</u>
Finance & Administrative Services			
Operating Expenses (PS & M&S)	7,352,501	0	7,352,501
Capital Outlay	5,000	0	5,000
Subtotal	<u>7,357,501</u>	<u>0</u>	<u>7,357,501</u>
Human Resources			
Operating Expenses (PS & M&S)	1,527,312	0	1,527,312
Subtotal	<u>1,527,312</u>	<u>0</u>	<u>1,527,312</u>
Metro Auditor			
Operating Expenses (PS & M&S)	342,280	0	342,280
Subtotal	<u>342,280</u>	<u>0</u>	<u>342,280</u>
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,448,414	0	1,448,414
Subtotal	<u>1,448,414</u>	<u>0</u>	<u>1,448,414</u>
Oregon Zoo			
Operating Expenses (PS & M&S)	22,508,631	0	22,508,631
Capital Outlay	200,000	0	200,000
Subtotal	<u>22,708,631</u>	<u>0</u>	<u>22,708,631</u>
Planning			
Operating Expenses (PS & M&S)	23,852,076	0	23,852,076
Subtotal	<u>23,852,076</u>	<u>0</u>	<u>23,852,076</u>
Public Affairs & Government Relations			
Operating Expenses (PS & M&S)	1,390,721	0	1,390,721
Subtotal	<u>1,390,721</u>	<u>0</u>	<u>1,390,721</u>
Regional Parks & Greenspaces			
Operating Expenses (PS & M&S)	6,914,866	0	6,914,866
Capital Outlay	100,000	0	100,000
Subtotal	<u>7,014,866</u>	<u>0</u>	<u>7,014,866</u>

Exhibit B
Ordinance No. 06-1126
FY 2006-07 SCHEDULE OF APPROPRIATIONS

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Amended Appropriation</u>
Non-Departmental			
Operating Expenses (PS & M&S)	14,008,594	(5,000)	14,003,594
Debt Service	1,198,898	0	1,198,898
Subtotal	15,207,492	(5,000)	15,202,492
General Expenses			
Interfund Transfers	7,823,692	0	7,823,692
Contingency	7,689,075	(12,500)	7,676,575
Subtotal	15,512,767	(12,500)	15,500,267
Unappropriated Balance	3,935,397	0	3,935,397
Total Fund Requirements	\$102,053,553	\$0	\$102,053,553

All Other Appropriations Remain as Previously Adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE_NO. [06-1126](#), FOR THE PURPOSE OF AMENDING THE FY 2006-07 BUDGET AND APPROPRIATIONS SCHEDULE TO PROVIDE FUNDING FOR METRO'S DIVERSITY PLAN AND DECLARING AN EMERGENCY

Date: August 17, 2006

Prepared by: Karol Ford

BACKGROUND

In 2005, Metro Council developed a strategic plan and critical success factors for the agency, including Workforce Excellence and "providing leadership in the community through our diversity practices." In response to this objective, Michael Jordan, Chief Operating Officer (COO), convened the Diversity Action Team, comprised of Councilor Susan McLain, liaison to Metro Council, Mike Hogle, Solid Waste & Recycling Director, liaison to senior management, and employee representatives from Contracts and Procurement, Public Affairs and Government Relations, and Human Resources. The Diversity Action Team has developed a Metro Diversity Plan as a written statement of Metro's commitment to diversity, including measurable objectives within each of the core areas of contract and procurement, membership on citizen advisory committees, and recruitment and retention of employees. The Program Budget for the Diversity Action Team was presented in the Metro Council Work session December 6, a copy of which is attached as Exhibit A to this staff report. Subsequent to that work session the Diversity Program Budget was inadvertently left out of the Proposed Budget. This budget amendment is being requested in order to provide necessary funding to achieve the Metro Diversity Plan objectives.

First year efforts for this program will be to sponsor the Partners in Diversity program, and provide a small amount for activities/events to further diversity efforts. The Office of the COO provides program management.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this resolution.
2. **Legal Antecedents:** This program ensures Metro compliance with local, state and federal regulations concerning diversity including Title VI and VII of the Civil Rights Act of 1964, as well as related contracts & purchasing laws and regulations, including Oregon Revised Statutes, Federal Regulations, and Metro Code 2.04.100 – 2.04.190.
3. **Anticipated Effects:** Adoption of the Diversity Action Team Budget will provide much needed funding to support initiatives proposed in the Metro Diversity Action Plan.
4. **Budget Impacts:** The budget amendment request is for the amount of \$17,500. \$5,000 will be used to renew the Partners in Diversity annual sponsorship fee; the remaining \$12,500 will be used to implement Diversity Plan objectives. The proposed funding for this amendment will be a \$12,500 transfer from the General Fund contingency and a \$5,000 reduction to non-departmental sponsorship funding. Proposed funding in future years for this program will be Central Services Cost Allocation. In year three of this program, funding will need to increase to provide for a part-time employee to manage diversity goals and objectives identified by the Diversity Action Team.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance # [06-1126](#).

Exhibit A to Ordinance No. 06-1126 Staff Report

Metro
FY 2006/2007 Program Budget

**Workforce Excellence
Diversity Action Team**

Program Manager: Mike Jordan, COO

Program Status: New

Description of Program

Metro's diversity efforts are most evident in three areas: Contracts and Purchasing, membership on citizen advisory committees, Recruitment and Retention. This program ensures Metro's success in identifying and achieving diversity initiatives in each of these areas. Primary stakeholders include the Metro Council, outside businesses, Metro advisory committee members, department directors, managers and line employees.

Regulatory/Statutory Requirements

This program ensures Metro compliance with local, state and federal regulations concerning diversity including Title VI and VII of the Civil Rights Act of 1964, as well as related contracts & purchasing laws and regulations, including Oregon Revised Statutes, Federal Regulations, and Metro Code 2.04.100 – 2.04.190.

Relationship to Goal/Critical Success Factor

This program supports Metro Council's Critical Success Factor of Workforce Excellence by developing goals and objectives that align with Council's stated objective of "providing leadership in the community through our diversity practices."

In addition, this program provides ancillary support to the Critical Success Factor of Communications and Leadership Excellence by enhancing diversity on Metro advisory committees in order to reflect the ethnicity and income distribution of the community we serve.

**Changes from
FY 2005/06 Current Service Levels**

This is a new program. These initiatives were previously administered in three departments, including FAS Contracts

and Purchasing, Human Resources, and Public Affairs and Government Relations.

Interrelationship to Other Programs

Contracts and Purchasing
Human Resources
Public Affairs and Government Relations

Issues & Challenges

Collaboratively develop and implement sustainable diversity initiatives.

**Performance Measures or
Indicators of Success**

Perf Measure #1: Agency-wide diversity plan developed.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	100%				

Perf Measure #2: Diversity goals established for Metro Citizen Committees.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	TBD	TBD	TBD	TBD	TBD

Perf Measure #3: Diversity of applicant pools increased for recruitments where underutilization is found.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	3%	5%	7%	10%	10%

Perf Measure #4: M/W/ESB utilization increased on Metro Projects. Percentage represents utilization achieved based on the total contract dollars solicited through the competitive bidding process.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	5%	7%	10%	15%	15%

Metro
 FY 2006/2007 Program Budget

Budget and Projections	<i>Adopted</i>	<i>Proposed</i>	<i>Projected</i>	<i>Projected</i>	<i>Projected</i>	<i>Projected</i>
	<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
PROGRAM RESOURCES						
Enterprise Revenue						
Grants & Donations						
Governmental Sources						
Other resources (specify)						
TOTAL PROGRAM RESOURCES	\$0	\$0	\$0	\$0	\$0	\$0
PROGRAM OUTLAYS						
Costs	\$0	\$17,500	\$17,500	\$75,000	\$77,000	\$78,000
Capital						
Department Administration & Overhead						
Direct Service Transfers						
Central Administration & Overhead						
TOTAL PROGRAM OUTLAYS	\$0	\$17,500	\$17,500	\$75,000	\$77,000	\$78,000
NET PROGRAM REVENUE / (COST) <i>(program resources minus outlays)</i>						
<i>less: NON-PROGRAMMATIC RESOURCES</i>						
Excise Tax						
Property tax						
Central Services Cost Allocation	\$0	\$17,500	\$17,500	\$75,000	\$77,000	\$78,000
Department Current Revenue						
Reserves						
Other (specify)						
<i>equals: Additional Resources / (Resources Needed)</i>	\$0	(\$17,500)	(\$17,500)	(\$75,000)	(\$77,000)	(\$78,000)

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 06-1127
CODE SECTION 7.01.050 TO EXEMPT THE)	
OREGON ZOO CONSERVATION)	Introduced by Chief Operating Officer Michael J.
ADMISSION SURCHARGE FROM METRO)	Jordan, with the concurrence of Council
EXCISE TAX, EFFECTIVE JANUARY 1, 2007)	President David Bragdon

WHEREAS, The Oregon Zoo has established itself as one of the leading zoos in the country for its conservation efforts; and

WHEREAS, funding is necessary for the continued development of these innovative conservation programs; and

WHEREAS, the Metro Council has approved the creation of a Conservation Admission Surcharge at the Oregon Zoo; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Section 7.01.050 is amended to read as follows:

“7.01.050 Exemptions

- (a) The following persons, users and operators are exempt from the requirements of this chapter:
 - (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the state of Oregon.
 - (2) Persons who are users and operators of the Portland Center for the Performing Arts.
 - (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
 - (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
 - (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.

- (6) Users of the following facilities:
 - (A) Facilities that are licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a);
 - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - (C) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.

- (7) Persons making payments to Metro for the following purposes:
 - (A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
 - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
 - (C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects;

- (E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
- (F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;

(G) Payments collected with admission to the Oregon Zoo in the form of a Conservation Admission Surcharge;

~~(G)~~(H) Notwithstanding the provisions of subsections (C) through ~~(G)~~(F) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.
- (10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

- (11) Persons making the following payments:
- (A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
 - (B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
 - (C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.
 - (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.
- (12) Persons making the following payments:
- (A) Payments to a person or entity other than Metro that entitle a person to admission to an event that is held at a Metro regional park; and
 - (B) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food or beverages at an event being held at a Metro regional park pursuant to the terms of a special use permit issued by Metro; and
 - (C) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food, or beverages at an event that is being sponsored and conducted by Metro at a Metro regional park.
 - (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to an operator authorized by Metro to sell goods, food or beverages or to provide services at a Metro regional park shall be subject to tax.

- (b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.”

2. The amendment to Metro Code Section 7.01.050 Exemptions, takes effect January 1, 2007.

ADOPTED by the Metro Council this _____ day of _____ 2006.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1125, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 4.01.050 TO INCLUDE A CONSERVATION SURCHARGE WITH REGULAR ADMISSION TO THE OREGON ZOO, EFFECTIVE JANUARY 1, 2007, AND ORDINANCE NO. 06-1127, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 7.01.050 TO EXEMPT THE OREGON ZOO CONSERVATION ADMISSION SURCHARGE FROM METRO EXCISE TAX, EFFECTIVE JANUARY 1, 2007

Date: August 17, 2006

Prepared by: Tony Vecchio and Brad Stevens

BACKGROUND

The FY 2006-07 budget for the Oregon Zoo includes the addition of a twenty-five cents (\$0.25) conservation surcharge on regular admission. The zoo is part of a consortium of northwest conservation organizations. Funds raised through the conservation surcharge are to be pooled with the funds collected from the other member organizations and used to fund northwest conservation initiatives, including conservation projects at the Oregon Zoo. Initially, until a mechanism can be established through the conservation consortium, these funds will go to the Oregon Zoo Foundation to be tracked and managed through the Future for Wildlife Fund. The zoo will report back to Council annually on the disposition of surcharge funds, including a summary of surcharge funded projects.

The companion ordinance, Ordinance No. 06-1127, is necessary if the Metro Council wishes to exempt the surcharge from Metro Excise Tax. If the surcharge is subject to the excise tax, it is projected to generate \$95,000.00 annually. Exempting the surcharge from Metro Excise Tax is would generate an additional \$7,000.00 each year for conservation projects.

ANALYSIS/INFORMATION

- 1. Known Opposition** None known.
- 2. Legal Antecedents** Metro Code Section 4.01.050 Admission Fees and Policies identifies policies on Zoo admission fees and requires the Zoo to request an amendment to increase fees. Metro Code Section 7.01.050 Exemptions allows for excise tax exemptions for specified persons, users, and operators.
- 3. Anticipated Effects** The Conservation Surcharge is expected to generate approximately \$102,000.00 annually to fund northwest regional conservation projects.
- 4. Budget Impacts** The projected revenues and expenditures associated with the Conservation Surcharge are already included in the FY 2006-07 budget.

RECOMMENDED ACTION

Metro staff recommends the adoption of Ordinances Nos. 06-1125 and 06-1127.

Staff Report to Ordinance Nos. 06-1125 & 06-1127

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ZOO/FAS/BS/OMA/DBC/sm 8/3/06

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE)	RESOLUTION NO. 06-3722
INTERIM WASTE REDUCTION PLAN TO)	
PROVIDE DIRECTION FOR REGIONAL)	Introduced by: Michael Jordan,
WASTE REDUCTION PROGRAMS PENDING)	Chief Operating Officer, with the
THE COMPLETION OF THE UPDATED)	concurrence of David Bragdon,
REGIONAL SOLID WASTE MANAGEMENT)	Council President
PLAN		

WHEREAS, Metro Council adopted Ordinance No. 95-624, "For the purpose of adopting the Regional Solid Waste Management Plan (RSWMP)," on November 30, 1995; and

WHEREAS, the RSWMP includes guiding direction for the region's waste reduction programs; and

WHEREAS, the RSWMP is currently being updated for the next ten years (2005-2015); and

WHEREAS, the RSWMP fulfills the state requirement that the regional watershed have a waste reduction plan; and

WHEREAS, Metro, in cooperation with public and private sector stakeholders, developed new goals and objectives for program activities in waste reduction, hazardous waste management, education, and product stewardship; and

WHEREAS, Metro Council directed staff to complete an Interim Waste Reduction Plan pending the completion of the RSWMP; and

WHEREAS, the draft Interim Waste Reduction Plan has been through an extensive public involvement process; and

WHEREAS, the Interim Waste Reduction Plan has been reviewed and approved by the Oregon Department of Environmental Quality, who termed the Plan's contents ". . . a strong base for implementing innovative and successful waste reduction programs over the next decade"; and

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Metro Council for approval; now therefore

BE IT RESOLVED, that the Metro Council approves the Interim Waste Reduction Plan (attached hereto as Exhibit "A") to provide direction for programs and activities related to reducing the amount and toxicity of waste generated and disposed, pending the completion of the updated Regional Solid Waste Management Plan.

ADOPTED by the Metro Council this _____ day of _____, 2006.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



DRAFT

Interim Waste Reduction Plan

**Regional
Solid Waste
Management Plan
Update Project**

July 2006

Solid Waste & Recycling Department
600 NE Grand Ave
Portland, OR 97232
Phone (503) 797-1650
Fax (503) 797-1795



www.metro-region.org

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Executive summary

A strong environmental ethic in the Portland metropolitan region has fueled ambitious waste reduction goals and effective programs, making this region a national leader. Over the past 20 years, the waste reduction rate* increased from 26% to 59% (see Figure 1). The goal ahead is to achieve a 64% rate by the end of 2009, an increase of five percentage points over the current rate, or approximately 400,000 additional tons of material diverted from disposal. This Plan is the region's blueprint for achieving that milestone goal, but it is also intended to accomplish much more. The desire to achieve a sustainable use of natural resources in this age, preserving resources for future generations, is at the heart of the guiding framework and every program area contained in the Plan. The Plan identifies significant policy, system, and behavioral changes needed to reverse the current context.

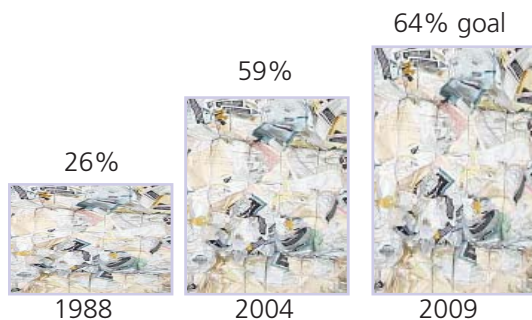
Context of the times

Among the impediments to the sustainable use of natural resources in the region are the following, which this plan seeks to address.

Waste generation is increasing.

The sum total of waste generated for recycling as well as disposal continues to increase. On a per person basis, the region's "waste generation rate" rose from 1.26 tons in 1994 to 1.72 tons in 2004 – a 37% increase, or over 3% per year – outpacing the rate of population growth. With significant population growth and good economic times, the generation rate historically trends up due to increased commercial activity. The challenge is to instill greater awareness and implementation of effective waste prevention activities in the residential, commercial, and industrial sectors. Reducing waste generation pays off with reduced material consumption as well as reduced energy, air and water impacts. This Plan is intended to contribute to dampening the rate at which waste is generated in the region.

Figure 1. Region's waste reduction rate



Recyclable resources are disposed.

Despite this region's high recovery rate, many resources that can easily be recycled are still disposed. Enough waste from this region is landfilled each year to fill a football field 100 stories high. Fully one-third of that disposed material is paper, wood, metal, glass, plastic and organics (food and yard waste) that could be recovered through existing programs. This Plan is intended to achieve greater progress toward ensuring these material resources are not wasted.

Toxics impact the environment.

Volumes of household hazardous waste continue to climb, and only a portion of the total generated by households each year is separated and collected for recycling or safe disposal. The high cost of dealing with this waste stream, plus the risks posed to human health and the environment, make this a compelling issue to address. By making people aware of alternatives to hazardous products for homes and gardens, and by giving them good reasons to use those alternatives, the amount of hazardous waste entering the environment, and the disposal system, can be substantially reduced. This Plan is intended to ensure continued sound management of household hazardous waste while bringing expanded emphasis to the promotion of safe and effective product alternatives.

The system is managed end-of-pipe.

A confluence of factors – growing fiscal constraints on public sector activities, rising amounts of total waste and increasing quantities of difficult-to-recycle waste – have motivated support for a more upstream-oriented approach to managing waste. Over the past decade, Europe and Canada enacted "product stewardship" policies that require manufacturers to share responsibility for managing certain products at their end-of-life; examples include tires, electronics, pesticides, beverage containers and other packaging. Making that policy shift could have significant results - more equitably shared costs, and products that are better designed (i.e., less toxic), more durable and

*Throughout this Plan "waste reduction" refers to both the "prevention" of waste (e.g., reuse, backyard composting) as well as "recovery" (e.g., recycling, composting and energy recovery). The region's annual "waste reduction rate," calculated by the Department of Environmental Quality (DEQ), combines credits for waste prevention programs as well as tons recovered from all waste generated. For 2004, the region's waste reduction rate was 59% (53% recovery plus 6% waste prevention credits).

more readily recyclable. This Plan is intended to support policies and practices consistent with shared responsibility addressed in the Plan vision statement.

Vision of the future

This Plan's vision is of a significant shift from today's "end of pipe" waste management practices to a future where resources are managed more efficiently for current and future generations, and responsibility for this is shared among producers, consumers, and government.

To achieve this vision, the Plan will build on progress achieved to date, and address impediments to resource conservation through activities that:

- prevent waste from being created in the first place,
- encourage more recycling and composting,
- promote alternatives to toxic products,
- require manufacturers to take more responsibility for the products they sell, and
- create awareness and support of the above through effective educational programs.

Plan contents

The Plan's first two chapters contain information on the process used to develop the Plan, including public involvement; the current waste reduction system; and material recovery and disposal trends. Chapter III lays out the Plan's long-term vision, as well as the regional values and waste reduction policies that will guide activities over the duration of this Plan.

Chapter IV presents the goals and objectives that will guide the key program areas – waste reduction, education services, hazardous waste management and product stewardship. Chapter V describes the framework for implementing the Plan, including annual work plans, plan performance, alternative programs, compliance and enforcement, and revisions.

Action plan

The goals and general direction planned for the four program areas addressed in this Plan are summarized below. (Complete text may be found in Chapter IV or Appendix A.)

1. Waste reduction

Goal: Increase the sustainable use of natural resources by reaching a waste reduction goal of 64%.

Objectives to reach the region's goal of 64% waste reduction by 2009 have been identified for each of the following sources of waste: single-family residential,

multi-family residential, business, building industry and commercial organics. Each of these five sources will require unique approaches and regionally coordinated efforts to provide access to services by all.

The Plan aims to increase both the quantity and quality of materials recovered from both single- and multi-family residences. The Plan places special emphasis on business and commercial sources of waste where the opportunities for improvement are greatest. Offices generate large quantities of paper; construction and demolition sites generate wood and metal; and restaurants and grocery stores generate food waste.

Customized education and outreach campaigns will encourage more voluntary involvement in recycling; however, the Plan also suggests the necessity of other measures to realize the waste reduction goal, such as requiring business and construction debris recycling throughout the region.

2. Education services

Goal: Increase the adoption of sustainable behaviors by households and businesses through increased knowledge, motivation and commitment.

The Plan identifies information services and school education as methods of achieving this goal. Implementing objectives in these areas will require coordinated efforts among Metro, local governments, and public and private schools.

Education strategies motivate residents to take their commitment to the next level and instill in newcomers an appreciation for the region's environmental values. Special emphasis is placed on outreach efforts that help people make environmentally responsible choices.

3. Hazardous waste management

Goal: Reduce the use and improper disposal of products generating hazardous waste to protect the environment and human health.

Management of hazardous waste is approached by this Plan in two ways: 1) reducing the amount of hazardous waste generated by reducing the use of hazardous products; and 2) collecting generated wastes properly. The goal of this program area will be reached through coordinated efforts of education and efficient, safe collection methods.

The Plan emphasizes targeted education and outreach to encourage the use of safe alternatives to hazardous products. The Plan also calls for possible disposal bans on some products that pose the most serious risks to public health or the environment.

4. Product stewardship

Goal: Shift responsibility to manufacturers, distributors, and retailers ensuring that products are designed to be nontoxic and recyclable and incorporate the cost of the product's end-of-life management in the purchase price.

This Plan outlines the initial steps to be taken for furthering product stewardship. Product stewardship represents a change from current end-of-pipe waste management to front-end product management.

Such a significant change in approach will eventually help reduce the burden on local governments for proper waste handling and will also arguably lead to less waste, reduced toxicity and increased recyclability by having those in charge of the manufacture and consumption of products take responsibility for the proper management of those products.

Moving forward

Historically, the waste reduction rate has been the primary measure of progress in this Plan. Emphasis on that measure continues, as the Plan identifies policy and operational changes necessary to enable the region to divert approximately 400,000 additional tons of material from disposal and achieve the 64% waste reduction goal by 2009.

How will we get there? Increased recovery of commercially generated organics is predicated on expanded participation of large food waste generators in the City of Portland and other jurisdictions in the region, as well as the siting and operation of a food waste composting facility in the region. Increased recovery of "dry waste" material generated by the business and building industry sectors will follow the implementation of regulatory requirements by Metro and other jurisdictions, and on-going technical assistance to generators. Increased recovery of material from the multi-family residential sector is anticipated after region-wide implementation of a uniform collection system and more effective outreach targeted to those residents. Finally, increased recovery of material from the single-family residential sector will result as local jurisdictions throughout the region convert from bins to roll carts for the collection of recyclables.

Future goals

In addition to ambitious plans for achieving a 64% waste reduction goal by 2009, it is anticipated that a new set of performance indicators for the region will be implemented in the years ahead. Sustainability Goals for the Solid Waste System, related to solid waste facilities and collection services, will be included in the draft Regional Solid Waste Management Plan (RSWMP) update next year. Nine goals and 23 related objectives encompass air emissions, stormwater run-off, natural resource use, toxic materials, green building standards, training and education, purchasing practices, health and safety, and quality of life. This groundbreaking work was developed by a subcommittee of the Regional Solid Waste Advisory Committee (SWAC), which then recommended the measures for inclusion in the updated RSWMP.

Other measures of assessing performance in resource conservation efforts will be considered in years ahead. As the 64% benchmark-year of 2009 draws closer, Metro will launch a regional discussion on new goals for the future. New waste reduction goals beyond 64% will be considered; a goal to reduce per capita and/or total waste generation (similar to that established by the state) will also be considered after the Oregon Department of Environmental Quality stakeholder process on waste generation has concluded its work. Ways to meaningfully establish and assess other measures (e.g., toxicity reduction, energy consumption, and greenhouse gas reduction) will be discussed, and, where related to Plan activities, goals in these areas may be established.

A shared agenda

For the next four years, the focus is on addressing impediments to the sustainable use of natural resources by achieving the goals and objectives identified in this Plan.

Stakeholders who participated in developing this Plan will also play valued roles in its implementation. From almost 20 years of such collaborative efforts in the region, the pieces are in place to move forward, achieve greater goals than before, and continue to be a national leader in reducing the amount and toxicity of waste.

Chapter I

Introduction

Plan purpose

This Interim Waste Reduction Plan (Plan) is intended to provide direction for waste reduction programs pending the completion of the Regional Solid Waste Management Plan (RSWMP). In addition to providing interim guidance, this Plan meets state requirements (ORS 459) for a plan that shows how statutory waste reduction goals will be met.

Planning process

The RSWMP update project began in late 2003 with an initial assessment of areas needing to be updated and the development of a process for conducting that work. The information shown in this Plan was originally gathered as part of the project to update the RSWMP, but ongoing discussions about Metro's role in the disposal system (and especially questions about Metro's ownership of two transfer stations) have delayed the RSWMP. Since the information in this Plan was essentially ready, it was determined that an interim waste reduction plan should be prepared and released without further delay. When the RSWMP is completed, most of this Plan will be incorporated into it.

Public involvement

An extensive stakeholder process was conducted in 2004 to solicit input on the *existing* RSWMP and issues to be addressed in the *updated* RSWMP. This process was conducted in two phases. The first phase identified and then refined a list of regional issues to be addressed by the RSWMP update. In the second phase of public involvement, an on-line survey and a series of facilitated small group discussions, called "Let's Talk Trash," were offered throughout the region to generate additional input on three issues:

- Do garbage and recycling services meet your needs?
- How much can we recycle?
- How can sustainability principles guide solid waste practices?

Project staff developed a discussion guide and questionnaire to help people understand the issues, examine alternative approaches and discuss the implications and trade-offs. Overall, 88 people attended Metro's hosted or facilitated discussions and 151 people submitted comments using

the on-line or printed questionnaire. During this period, Metro also recorded more than 1,300 "visits" to Metro's "Let's Talk Trash" web pages. More information about the process and results can be found on Metro's web site, but the conclusions of that process can be summarized as follows:

The current garbage and recycling system is working well, but recycling rates and services should be improved.

Participants generally expressed a high degree of satisfaction with regional solid waste and recycling systems, but each group also expressed the idea that recycling services could be improved. Some participants stated that they wish to see curbside recycling services expanded to include more items, such as all plastics, food waste, electronics and household hazardous wastes. There is also a desire to see recycling made easier by using consistent standards (such as standard rules for acceptable materials and preparation instructions) across the region and providing households with larger containers that have lids to protect recyclables from wind and rain. While all groups stated a willingness to pay for these services, it is uncertain how much more people would actually be willing to pay.

Residents and businesses can do more to recycle; more education and incentives should be emphasized but not exclude regulation.

Questionnaire respondents expressed only moderate satisfaction with current levels of household and business recycling. To increase recycling levels, most participants preferred incentives over regulations. Some participants expressed an interest in a system that covered the costs of additional recycling services by charging households and businesses that don't recycle, while other groups were in favor of broadening the scope of the state's "bottle bill" to include more types of beverage containers. Despite a preference for financial incentives, participants recognized that there is sometimes a need to use regulations to encourage recycling. Participants were generally in favor of requiring businesses to recycle. Others suggested that strategies to increase recycling should include increasing education in schools and making a larger investment in publicity and informational materials.

Sustainability practices in homes and business should be improved, and government agencies should lead by example.

Many participants were unfamiliar with the meaning of terms such as “green,” “sustainable,” and “zero waste.” Those who were aware of these concepts were not satisfied with current practices and supported “greening” the solid waste system and adopting zero waste strategies as long-term goals. It was unclear how much more people would be willing to pay for sustainability-related services. Participants generally felt that manufacturers should be encouraged to reduce product packaging and should be held responsible for the end-of-life management of their products. They also felt that governmental agencies and schools should lead by example when it comes to sustainable practices.

Bottom line: The current system is generally good, but improvements in services and recycling are desired, with resource conservation as the guiding principle.

Overall, participants were generally satisfied with solid waste and recycling services, but saw room for improvement. They felt that increasing education efforts, expanding recycling services and encouraging greater corporate responsibility would help move the region toward the goal of conserving resources through increasing recycling rates, “greening” the solid waste system and implementing zero waste strategies.

The goals and objectives in this Plan take this stakeholder feedback into account.

Plan organization

The rest of this Plan provides information about the current system and describes how the region will meet future goals, with this information divided into four chapters:

Chapter II, Regional waste reduction performance, describes the existing system for solid and hazardous waste reduction. It includes a discussion of the quantities and composition of the waste that is recycled and disposed, and then concludes with an assessment of future goals.

Chapter III, Guiding direction, presents the vision, values and policies related to waste reduction in the region. This framework helps determine future activities (objectives) by providing a basis for comparing where the region wants to be in the future against the results and activities of present-day efforts.

Chapter IV, Program areas, contains the goals and objectives for waste reduction, education services, hazardous waste reduction, and product stewardship activities.

Chapter V, Plan implementation, provides additional information on how the goals and objectives of this Plan will be implemented and how future results and performance will be monitored.

Chapter II

Regional waste reduction performance

This chapter provides an overview of the current waste reduction programs and related facilities; a summary of the results of those programs; an assessment of what more can be recovered from the waste stream; and concludes with an assessment of the future waste reduction goal.

Current waste reduction system

Within the larger system of integrated facilities, services, and programs that manage solid waste in the region, a sub-set of these are dedicated in whole or in part to waste prevention, material recovery and other efforts (e.g., hazardous waste collection) that divert material from disposal. This section describes that public/private subset as the “waste reduction system.”

The success of the region’s recycling programs is partly due to two key elements of the system. First, the region has emphasized source-separated recycling, meaning that recyclables are separated by type of material at the source. This reduces the need for sorting facilities and increases the market value and options for the materials. Second, the region is fortunate to have extensive local markets for most of the collected materials. Local markets make recycling more cost-effective because transportation costs are kept low and the markets are more stable. Both of these elements increase the economic sustainability of the system.

Residential recycling services

Within the Metro region, all jurisdictions have weekly curbside collection of recyclables on the same day as



garbage service. This approach has been shown to help increase participation in curbside recycling. Residential garbage and recycling service is franchised in almost all jurisdictions in the region. Each city is responsible for its own franchising system, while the counties administer franchises in the unincorporated areas.

Curbside collection service is critical to the success of regional recycling, and is responsible for a significant amount of the tons recovered. In 2004, residential curbside systems in the region recovered 219,000 tons of materials. This represented about 16% of the total materials recovered from all sources in the region.

Recycling services for residents living in multi-family apartments also contribute to regional recovery levels. In 2004, 13,000 tons of materials were collected from the multi-family sector.

A number of activities within the region support and promote residential curbside programs. Local governments regularly inform residents about proper preparation of recyclable materials and other collection issues through newsletters, mailers and other methods. Residents can also receive the most current information regarding their services by calling their haulers, local government and Metro.

Commercial recycling services

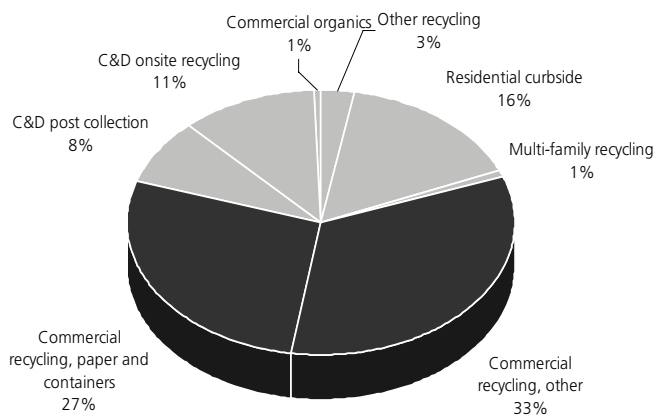
Commercial garbage and recycling service is franchised in all jurisdictions in the Metro region except for the City of Portland. Portland’s commercial system allows customers to choose among permitted haulers in the city and negotiate rates for service.

Within the region, there are also independent recyclers that specialize in collecting various materials.

Under state recycling opportunity requirements, haulers are required to provide recycling services to businesses that want to recycle, but businesses are not required to recycle except in the City of Portland. Portland requires businesses to recycle at least 50% of their wastes.

The commercial sector is the largest source of recovered material in the region. In 2004, 841,000 tons of source-separated recyclables were collected from businesses, which was 61% of the total materials recovered throughout the region (see Figure 2).

Figure 2. Amounts recovered by generator source



Commercial recycling is promoted through business recognition programs, an on-line interactive recycled product database, and a regional campaign to provide deskside paper recycling collection boxes. There is also a regional business assistance program designed to provide on-site personalized technical assistance for waste reduction practices, including waste prevention, recycling and buying recycled products.

Commercially-generated organics programs

Regional efforts to recover commercially-generated organics (food waste) target edible food for donation to local agencies, and diversion of non-edible food to composting operations. For edible food, the program aims to increase the levels of donations as well as increase the capacity of the agencies to take donations. In 2004, local agencies recovered 16,000 tons of edible food, an increase of 1,800 tons from the previous year. For non-edible food, the program aims to increase the processing infrastructure for organics available to businesses within the region. Metro, the City of Portland and the private sector have worked on a number of projects that have expanded food waste recovery from 4,400 tons in 2000 to 8,400 in 2004.

Building industry programs

The commercial garbage and recycling systems described earlier (franchised everywhere except Portland) are also used by many companies in the building industry for construction and demolition (C&D) wastes, but an estimated 50% of C&D waste is "self-hauled" by building contractors to disposal or processing facilities. Approximately 158,000 tons of source-separated materials were recovered from the building industry in 2004. In that same year, processing facilities in the region also recovered 112,000 tons of material from mixed dry waste, the bulk of which was from construction and demolition sites.

The building industry program has increased the capacity of local firms to handle used building materials. A survey of regional activity in deconstruction and used building material retailers reported that more than 10,000 tons of materials were salvaged for reuse in 2004. The program has also emphasized developing partnerships with building industry associations to increase awareness of waste reduction practices within the industry. Metro has distributed 25,000 copies of the construction industry recycling toolkit that lists over 100 facilities accepting C&D materials for reuse and recycling.

Hazardous waste services

Collection services for household hazardous waste have been offered by Metro since the mid-1980s. Services began with occasional collection events and have grown to include permanent facilities at Metro's two transfer stations and community-based collection events around the region. In 2005, 44,443 customers used the facilities and 10,622 attended the community events.

The collection events, conducted at various locations around the region, are held nearly every weekend between mid-March and mid-November. These events are located to provide a convenient disposal option for residents who are more distant from the permanent sites.

Many small and large business generators contract with private companies that provide hazardous waste management services in the region. Metro, in partnership with DEQ, also collects hazardous waste from businesses that generate small amounts, which are known as conditionally exempt generators (CEGs). In 2005, Metro served more than 495 CEGs.

Waste recovery facilities

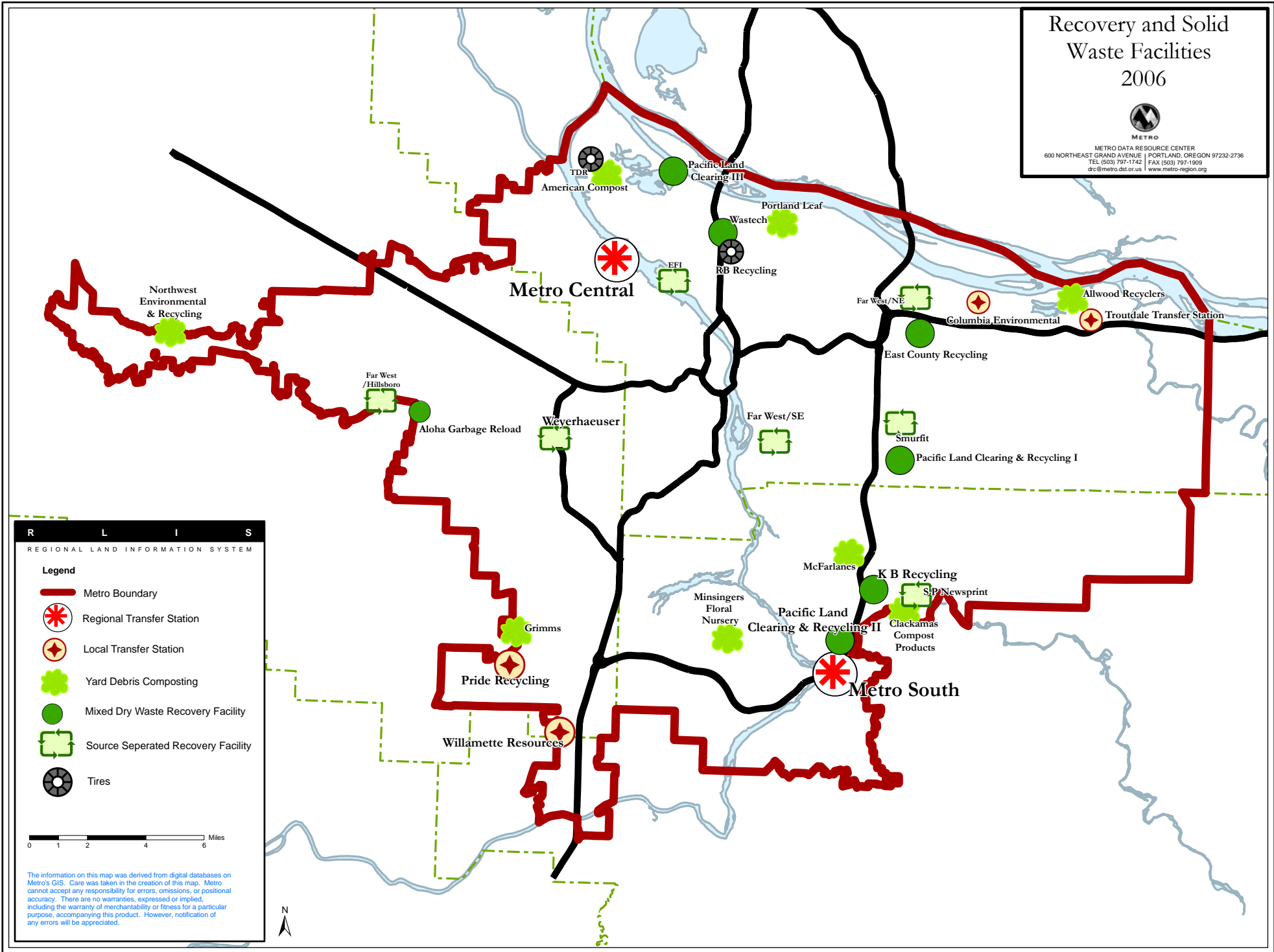
The Metro region is currently served by 15 facilities conducting material recovery from dry waste of varying types. Four of these facilities are also *local* transfer stations; two are publicly owned and privately operated *regional* transfer stations. Eleven of these facilities are permitted to take any dry waste and the other four are licensed to accept a more limited range of materials. Three of those four facilities are specialized waste recovery facilities limited to accepting wood, yard debris, and roofing; two handle tires exclusively (see map, page 8).

Eight yard debris composting facilities are located within the region. All but one of these facilities are privately owned and operated. The publicly owned facility handles only leaf debris generated by City of Portland maintenance crews. (The region is also served by a composting facility located in Washington state that is authorized to accept post-consumer food waste.)

Recovery and Solid Waste Facilities 2006



METRO DATA RESOURCE CENTER
 600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
 TEL (503) 797-1742 FAX (503) 797-1909
 drc@metro.dst.or.us www.metro-region.org



R L I S
 REGIONAL LAND INFORMATION SYSTEM

Legend

- Metro Boundary
- Regional Transfer Station
- Local Transfer Station
- Yard Debris Composting
- Mixed Dry Waste Recovery Facility
- Source Separated Recovery Facility
- Tires

0 1 2 4 6 Miles

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

There are also seven “clean” MRFs that exclusively receive and process source-separated residential curbside and business recyclable materials.

Current roles and responsibilities

The implementation of waste reduction programs in the region relies heavily on collaboration between the public and private sector participants in the system. Private sector service providers are critically important to the success of waste reduction programs. These service providers are primarily involved in collection and facility operation, as described earlier. They are expected to continue to play a central role in helping the region progress toward a more sustainable future.

The following is a description of the roles of each level of government in the administration or regulation of waste reduction programs, facilities and services.

State level

The Oregon Department of Environmental Quality (DEQ) prepares and adopts a state solid waste management plan and approves local solid waste management plans, measures recovery rates and enforces statutes, including the wasteshed goals. DEQ also provides technical assistance and offers grants.

Regional level

Metro is responsible for solid waste planning and disposal in the region. As a part of these responsibilities, Metro develops and administers the RSWMP, which gives the region direction for meeting waste reduction goals. Metro is accountable for state-mandated waste reduction goals in the tri-county region, and works with its local government partners to accomplish these goals. Metro provides funding assistance to local governments for waste reduction programs. Metro also operates household hazardous waste prevention and collection programs in the region.

Local level

Cities and counties are responsible for designing and administering waste reduction programs for their jurisdictions. These activities must comply with state laws, including the Opportunity to Recycle Act, the Oregon Recycling Act and the Metro Waste Reduction Plan (see Appendices B, C & D).

Local governments also are responsible for regulating and managing solid waste and recycling collection services within their jurisdictional boundaries (including setting

franchise boundaries), and reviewing collection rates and service standards. In all jurisdictions, garbage and recycling collection services are provided by private haulers who are permitted or franchised by their respective jurisdictions.

Material recovery and disposal trends

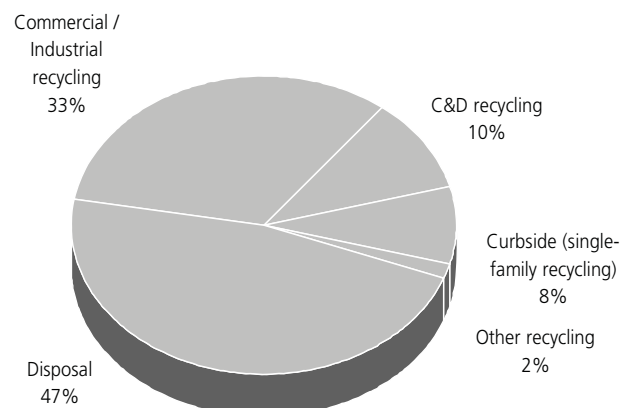
Current waste recovery rate

The current percentages recycled and disposed are illustrated in Figure 3. The data used for Figure 3 do not include the waste prevention credits (6%) or other waste prevention activities.

As shown in Figure 3, over half of the wastes generated are being recovered through recycling and composting programs. This is a significant accomplishment and represents a substantial improvement over historical recycling levels. In 1986, the regional recovery rate (including recycling and composting) was estimated at about 25%. Over the next 10 years, spurred on by higher goals and by public and private investments, the rate grew to more than 40%, thus achieving the 1995 target set by the state legislature.

The 1995-2005 RSWMP followed on this accomplishment by setting recovery goals of 52% by 2000 and 56% by 2005. In 1997, the state legislature recognized the importance of encouraging waste prevention and passed a statute that allowed wastesheds to receive “credits” for waste prevention efforts. As a result of the 1997 legislation, a wasteshed that implements programs in waste prevention, reuse and home composting could receive a 2% credit for each of those programs. Metro has applied for and received the credits since they have become available. By 2004, the Metro region had achieved a 59% waste reduction rate (53% recovery plus 6% for waste prevention credits).

Figure 3. Recycling and disposal by percent

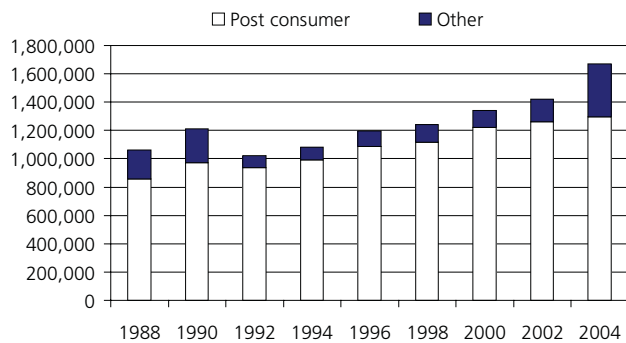


Waste disposal amounts

At the same time that the waste reduction rate was increasing, the amount of waste landfilled each year has also increased. Since 1994, the total amount of waste landfilled annually has grown from about 1.1 million tons to almost 1.7 million tons (see Figure 4). A significant part of this increase has been in the “other waste” category, which includes environmental cleanup wastes and other special wastes that generally originate from industrial activities. These wastes made up only 15% of the disposal tonnage in 1994, but now account for 30% of solid waste disposed.

The “post-consumer” waste shown in Figure 4 includes residential and commercial solid waste, plus construction and demolition debris. This figure is used by DEQ in computing recovery rates.

Figure 4. Historical disposal tonnages

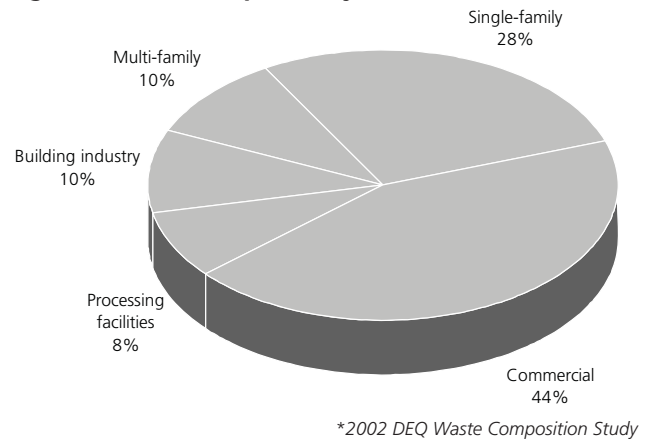


Amount of waste disposed by sector

The amount of waste disposed by each type of generator is shown in Figure 5. Commercial sources (including industrial and institutional waste generators) account for almost half of the waste disposed from the Metro region (44%). Single-family homes are next at 28% (this figure includes the amount of residential self-haul received at the Metro-owned transfer stations, since most of that waste is from single-family homes).

The proportions of these sources’ contributions to the region’s waste varies locally, depending on the amount of commercial and industrial generators in a given area. The amount of C&D waste generated in a specific area, for example, is related to the amount of construction activity. In the outer suburban areas of the Metro region, where substantial new construction of residences and businesses is currently taking place, C&D may account for half or more of the waste generated there.

Figure 5. Waste disposed by source*



In the long term, the relative proportions of waste from each sector will shift due to changes in the amount recycled or composted. Implementation of the goals and objectives in this Plan should further decrease the amount of waste disposed from business, building industry and residential sources.

Composition of the waste disposed

The portion of the waste stream that is landfilled still contains large amounts of materials that could be recycled or composted. The results of the most recent waste composition study (see Figure 6 and Table 1) show that an additional 344,500 tons of material (30% of the waste currently disposed) could be recycled through existing programs. Another 52,800 tons (4.5%) could be composted through existing programs and facilities.

The composition of waste generated by each sector (residential, business and building industry) is different. The building industry generates many recyclable materials such as wood, concrete, cardboard, metal, sheet rock, and land-clearing debris. Some types of businesses generate large quantities of waste paper, most of which is recyclable when it is separated from the smaller amounts of putrescible and nonrecyclable wastes generated at most locations. Assorted industries generate diverse wastes, such as grits and screenings, scrap from product manufacturing, specialized packaging and other substances that typically require case-by-case evaluation for recycling or reuse.

Residential sources generate a waste stream that contains a wide variety of materials. Among the recyclable residential materials are paper, metal, glass, plastic bottles, motor oil, and yard debris. The largest single material remaining in the residential waste stream is food waste (26% of the waste disposed). Infrastructure development in food waste collection may make it possible to recover that material, and soiled paper, for composting.

Figure 6. Composition of disposed waste

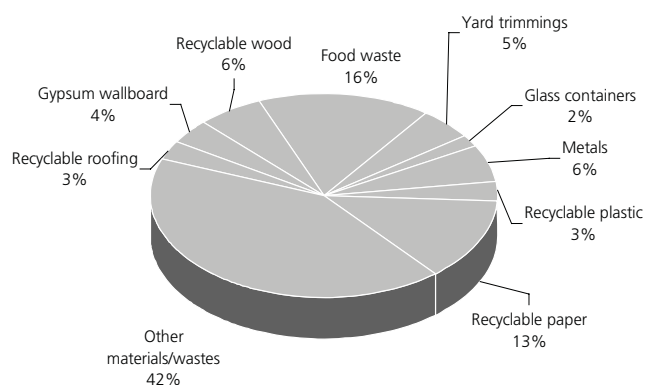


Table 1. Composition of disposed waste by tons*

Paper		Construction and demolition	
Recyclable	155,563	Recyclable wood	70,399
Nonrecyclable	96,648	Nonrecyclable wood	21,246
Plastic		Gypsum wallboard	51,549
Recyclable	33,861	Roofing, recyclable	30,998
Nonrecyclable	104,749	Roofing, nonrecyclable	2,880
Metals		Inerts (rock, concrete, dirt)	37,146
Cans and foil	14,491	Other C&D	36,788
Scrap metal	52,055	Textiles and furnishings	88,111
Glass		Electronics and elec. equip.	23,971
Containers	18,082	Hazardous wastes	10,138
Other glass	6,555	Other materials/wastes	57,912
Rubber	19,015		
Organics		Total	1,165,762
Yard trimmings	52,801		
Food waste	180,804		

*2002 Data

The amount of recovery possible for many materials is constrained for various reasons, including factors such as a lack of market infrastructure and/or collection services, poor generator awareness, and certain government regulations. Variations in these factors among the generators give rise to variations in recovery performance. For example, because residential collection and processing infrastructure is well developed, and homeowners tend to be highly aware and motivated recyclers, the recovery rate for some residential materials is relatively high. Typically, about 50% of the waste generated in a single-family residence gets recycled or composted. On the other hand, businesses tend to be more focused on bottom-line financials than on the environmental impacts of their consumption. Despite a highly recoverable waste stream (mostly paper), businesses as a whole separate their recyclables less thoroughly than households and so send a higher proportion of recyclables to the landfill.

The quantities, composition and recovery potential for recyclable materials that are being disposed by various sources within the region have been analyzed and used in setting target goals for different programs and sources, as discussed in the section below on waste reduction goals.

Future trends and goals

This section is designed to show the effect that improved waste reduction programs would have on reducing the amount of wastes generated and disposed over the next 10 years. In this section, the effect of the Plan is measured by comparing regional performance, assuming Plan activities are implemented, with regional performance if waste reduction programs are not improved. The contribution of each of the improved programs to enabling the region to reach the statutory 64% waste reduction goal will be described.

Projecting waste generation

The total amount of waste generated (that is, the sum of what is recovered and disposed) is a function of changes in a number of demographic and economic factors, including population, household size, personal income levels and types of employment. Historically, the trend has been for waste to grow at rate greater than the rate of population growth.

Between 1994 and 2004, regional population grew about 18%, gaining 235,000 residents. Waste generation, however, grew by over 60%. This means that the rate of “per capita” waste generation (that is, total waste divided by population) grew at a rate of about 3.2% each year (see Table 2). During the economic slowdown of the early 2000s, the per capita generation rate flattened out, but it started to rise again in 2003 and 2004.

For this analysis, regional population growth is projected to average 1.75% per year and the “per capita” rate of waste generation is assumed to rise conservatively at 1.3% per year. (DEQ used this waste generation growth rate in its recent study of waste reduction programs and greenhouse gases.) Given these assumptions, by 2015 the region will have an additional 270,000 residents and the annual per capita generation rate will rise from 1.7 tons per person per year in 2004 to 2.0 tons per person per year in 2015.

Projected performance #1 – base case – maintain current programs

Figure 7 (page 13) portrays future waste generation amounts if there are no new waste reduction programs or enhancements to current efforts over the next 10 years. It assumes the population growth and increasing per capita waste generation rates as identified in Table 2. The

Table 2. Population and waste generation growth assumptions

	Actual		Projected		
	1995	2000	2005	2010	2015
Population*	1,305,100	1,451,650	1,550,092	1,696,296	1,821,181
Per capita generation**	1.33	1.50	1.75	1.86	1.99
Total waste generation	1,731,365	2,178,258	2,706,683	3,159,576	3,618,490

*Source: PSU Center for Population actual numbers. Regional forecast for four-county area was used to project annual growth: 1.82% from 2004-2010 and 1.42% from 2010-2015.

**Regional population divided by total waste generated (sum of recovered plus disposed).

Historical data through 2004, then grows at 1.3% per year through 2015.

projections also assume that the recovery rate achieved in 2004 (53%) will remain the same through 2015.

Under these assumptions, the waste generated over 10+ years will grow by about one-third or by almost one million tons, from 2.6 million tons in 2004 to 3.6 million tons in 2015. Both recovery and disposal will also grow by one-third, with roughly another half-million tons being recovered and disposed by 2015.

Projected performance #2 – achieve goal – implement new waste reduction activities

Figure 8 (page 13) shows future waste generation, recovery and disposal amounts if the program activities described in this Plan are implemented and perform as expected. Achievement of the 2009 goal depends upon successful implementation of enhanced waste reduction programs for commercial organics, business, the building industry and multi-family housing. (Additional detail on these programs is provided in Chapter IV, Program areas.)

This projection makes the same assumptions regarding the rates of population growth and waste generation rates as the base case (see Table 2), but the recovery rate is projected to rise from 53% in 2004 to 58% in 2009 and remain there through 2015. Under both projections the total amount of waste generated will grow from 2.6 million tons in 2004 to 3.6 million tons in 2015. In the “achieve goal” projection, however, improved waste reduction programs will capture more of that waste than in the “base case” projection. In 2015, improved programs will have reduced the amount of waste disposed that year by about 185,000 tons – a 40% reduction as compared with the base case (see Table 3).

Table 3. Projected regional performance - base case vs. achieving recovery goal*

	Actual		Projected		Change 2004-2015
	2004	2005	2010	2015	
Recovered					
Base case	1,389,526	1,433,194	1,673,002	1,915,998	526,472
Achieve goal	1,389,526	1,515,743	1,832,554	2,098,724	709,198
					182,726
					35%
Disposed					
Base case	1,234,687	1,273,489	1,486,574	1,702,492	467,805
Achieve goal	1,234,687	1,190,941	1,327,022	1,519,766	285,079
					(182,726)
					-39%

*Both scenarios employ Table 2’s assumptions on population and per capita waste generation growth.

Base case scenario - maintain 2004 recovery rate of 53% through 2015.

Achieve goal scenario - 58% recovery rate reached in 2009, then maintained through 2015.

If waste prevention efforts and other factors keep the per capita generation rate from increasing, then the future amounts to be handled by waste reduction and disposal programs would be significantly less. Table 4 shows the results of the “Achieving goal” projection if the per capita generation rate does not continue to increase. If per capita generation were to level off, by 2015 the total additional amount of waste generated per year would decline by almost 50% and the amounts going to disposal would drop by almost 75%. The Plan incorporates waste prevention elements in all the waste reduction programs, but whether these efforts can significantly reduce the waste generation rate is not known. The DEQ, with Metro’s participation, is undertaking a stakeholder process to examine the complex factors behind waste generation and, if possible, design programs that reduce waste generation while preserving future economic vitality.

Table 4. Projected regional performance - achieving goal vs. achieving goal plus constant waste generation growth*

	Actual		Projected		Change 2004-2015
	2004	2005	2010	2015	
Recovered					
Achieve goal	1,389,526	1,515,743	1,832,554	2,098,724	709,198
Constant per capita	1,389,526	1,496,291	1,695,900	1,820,755	431,229
					(277,969)
					-39%
Disposed					
Achieve goal	1,234,687	1,190,941	1,327,022	1,519,766	285,079
Constant per capita	1,234,687	1,175,657	1,228,065	1,318,478	83,791
					(201,288)
					-71%
Generated					
Achieve goal	2,624,213	2,706,683	3,159,576	3,618,490	994,277
Constant per capita	2,624,213	2,671,948	2,923,965	3,139,233	515,019
					(479,258)
					-48%

*Achieve goal scenario – Table 2 for population and per capita generation.

Constant per capita scenario - Table 2 population, 2004 per capita generation through 2015.

Both scenarios project 56% recovery rate reached in 2005, 58% in 2009, then maintained through 2015.

Figure 7. Waste disposed and recovered - base case

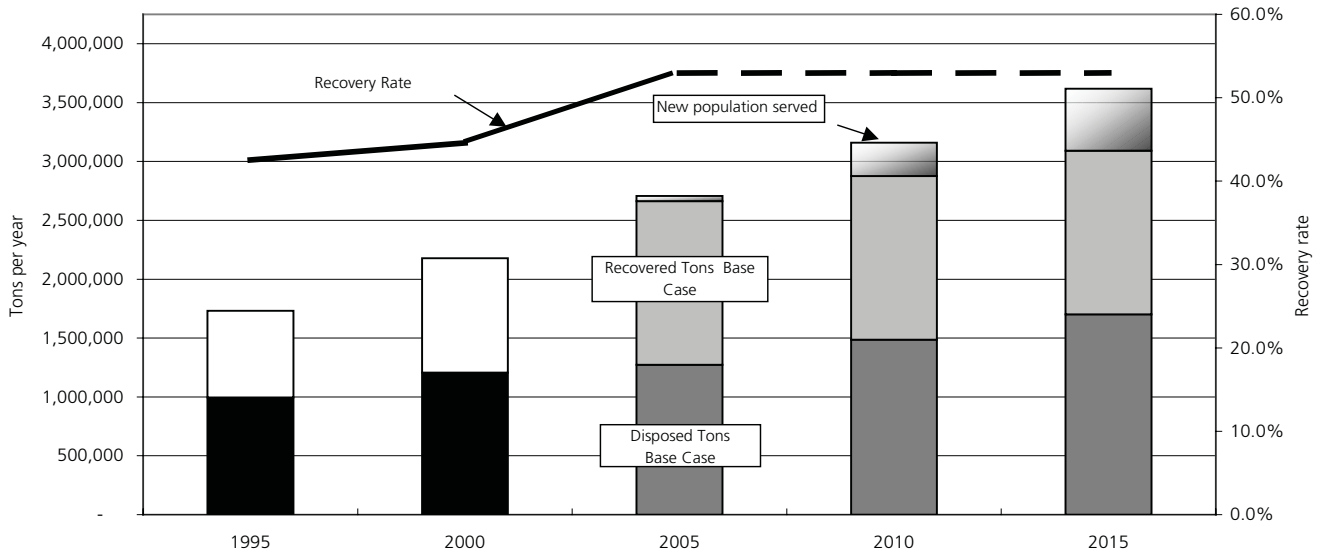


Figure 8. Waste disposed and recovered - achieve goal

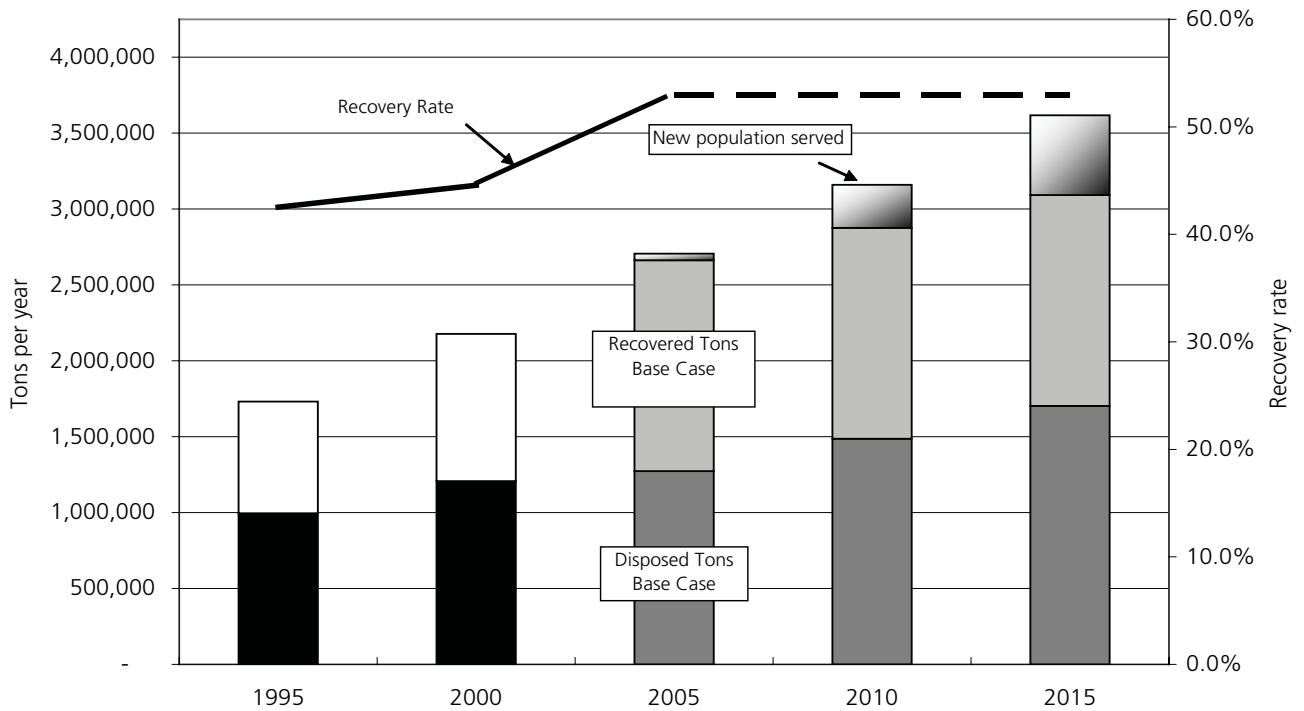


Table 5. Tons needed to achieve the 64% goal

Program areas	Actual 2004	Tons to Goal	Projected 2009
Commercial organics	8,435	37,530	45,964
Building industry	269,868	87,865	357,733
Business	381,554	114,273	495,827
Residential multi-family	13,034	10,170	23,203
Residential single-family	219,428	54,160	273,589
Other recovery	497,207	83,195	580,402
Total recovery	1,389,526	387,192	1,776,718
Disposal	1,234,687	51,902	1,286,589
Generation	2,624,213	439,093	3,063,307
Waste recovery rate	53%		58%
Waste prevention credits	6%		6%
Total Metro waste reduction rate	59%		64%

Achieving the 64% goal

To achieve the 64% waste reduction goal, an additional 387,000 tons of material will need to be recovered annually from the regional waste stream. The additional tonnages can largely be achieved through program activities in five key areas: commercial organics, business, the building industry, single-family housing and multi-family housing. Table 5 shows the additional tons by program area that will be needed to reach the 64% goal.

The projected 2009 performance of program areas listed in Table 5 are based on current estimates of what could reasonably be recovered from the remaining materials in the waste stream, given certain operational and policy developments. The estimate for increased recovery of commercial organics is predicated on expanded participation of large food waste generators in the City of Portland and other jurisdictions in the region, as well as the siting and operation of a food waste composting facility in the region. Estimates for increased recovery in the business and building industry sectors are based on results from other areas of the country where mandatory business recycling or disposal bans have been implemented. The implementation of similar regulatory requirements in this region will be necessary to realize significant increases in dry waste recovery. Increased recovery from the multi-family sector is anticipated to result from region-wide implementation of a uniform collection system (two sort) that will allow for more effective regional outreach targeted to those residents. Finally, the estimate for increased recovery in the single-family residential sector is based on the expanding trend to recycling roll carts in jurisdictions throughout the region. Experience locally and elsewhere in the country provides a clear indication of tonnage to be gained in switching from bins to roll carts for recycling.

Guiding direction for achieving the 64% waste reduction goal is shown in the rest of this Plan, first by establishing the vision, values and policies that guide future decisions and then by identifying specific objectives for ensuring progress in each program area.

Getting to goal: required recycling

In 2003, a regional work group was convened by Metro Council to develop a “contingency plan” containing strategies that would enable the region to reach its waste reduction goal. The work group evaluated contingency strategies for the building industry, business and commercial organics sectors. The strategies reviewed included both methods to improve the current voluntary approach to recycling as well as the implementation of “required recycling,” i.e., regulatory approaches that would either require generators to recycle certain materials or ban the disposal of certain materials at landfills.

Strategies were evaluated using criteria including: impact – how much tonnage would each strategy divert; use elsewhere – strategies being used successfully in other communities in the United States and Canada; and ease and cost of implementation – strategies should be legally and financially feasible. Based on this evaluation, the work group recommended that:

- Metro should require building industry wastes to be processed at material recovery facilities before being landfilled.
- Metro should require local governments in the region to adopt standards that require the recycling of specific materials.

The work groups recommendations were received by Metro Council and implementation programs based on the recommendation for both the business and the building industry sectors are under development. This Plan presumes the programs will be adopted by Metro Council unless additional information is forthcoming that determines the programs are infeasible.

Chapter III

Guiding direction

This chapter presents the long-term vision for regional waste reduction as well as the values and policies that provide direction. As used in this Plan:

- the vision is the ultimate ideal or aspiration;
- the values represent a set of principles held by the region that will guide and shape policies; and
- the policies are statements that guide programs.

Plan vision

The Plan envisions a significant evolution in today's comprehensive solid waste management practices to a future where waste is viewed as an inefficient use of resources. Through cooperation and shared responsibility among producers, consumers and government, the region will contribute to the sustainable use of natural resources to enhance our community, economy and environment for current and future generations.

Regional values

1. Resource conservation

Protecting the environmental quality of the region by conserving resources and reducing toxic and solid waste to ensure adequate resources for future generations.

2. Public health and safety

Ensuring sound waste management operations, eradicating illegal dumps and reducing toxic substances to maintain quality of life for the region's residents.

3. Shared responsibility

Promoting a shift away from managing products after they have become wastes to instead include manufacturers and users in bearing or avoiding the costs associated with product management.

4. Life-long learning

Raising awareness among all age groups of ways to conserve resources and reduce impacts on the environment.

5. Coordination and cooperation

Addressing regional issues and developing regional programs in partnership with local government, the private sector, citizens and other key parties.

6. Performance

Emphasizing outcomes in programs and services to maximize efficiency and effectiveness.

7. Access to services

Providing residential and commercial customers with access to a range of collection and facility service options.

Waste reduction policies

Policy 1.0, Preferred practices

Solid waste management practices will be guided by the following hierarchy:

- First, reduce the amount of solid waste generated;
- Second, reuse material for the purpose for which it was originally intended;
- Third, recycle or compost material that cannot be reduced or reused;
- Fourth, recover energy from material that cannot be reduced, reused, recycled or composted so long as the energy recovery facility preserves the quality of air, water and land resources;
- Fifth, landfill solid waste that cannot be reduced, reused, recycled, composted or from which energy cannot be recovered.

Policy 2.0, Sustainability alternatives evaluation

Waste reduction or other sustainability alternatives identified for business practices or programs will be evaluated based on (a) technological feasibility; (b) economic comparison to current practice; and (c) net environmental benefits.

Policy 3.0, Recycling service provision

Recycling services will be offered as a component of residential and commercial waste collection in the region.

Policy 4.0, Source separation

Source separation is the preferred approach in the region for ensuring quality secondary materials for recycling markets, but other forms of material recovery, such as post-collection separation, will not be precluded.

Policy 5.0, Market development

Enterprises that can significantly expand end-use opportunities for reuse or recycling will be fostered by the region.

Chapter IV

Program areas

This chapter outlines specific goals and objectives to guide the direction of waste reduction programs for the next 10 years. It is organized into four sections: Waste reduction, Education services, Toxicity reduction and Product stewardship. The objectives in these four sections are designed to achieve the region's goals, and will be used to guide the annual work plans produced by Metro and local governments.

Many of the programs will continue to focus on sectors where the most recoverable tonnage remains, as these will provide the greatest opportunity for achieving our statutory goal. These programs will be designed in the direction of recovery, while adhering to the solid waste hierarchy of reduce, reuse, recycle/compost, recover energy and landfill. Other programs will look beyond generator-based strategies and will focus on the toxicity or recyclability of products by addressing their design and manufacture (i.e., product stewardship).

These waste reduction efforts will require coordination and collaboration among Metro, local governments, service providers, the Oregon Department of Environmental Quality and the public. The coordination of efforts between those providing education and outreach services, for example, is important to avoid duplication of services and to reach the largest audiences. Collaboration can also assist in addressing complex environmental problems that cannot be solved by one agency, such as partnerships between hazardous waste and water quality programs to achieve the goals of protecting and restoring streams and critical habitat.

Waste reduction

Goal: Increase the sustainable use of natural resources by achieving the waste reduction goal of 64% by 2009.*

Achieving the region's vision of a future where waste is viewed as an inefficient use of resources requires residents and businesses to increase their use of practices that reduce waste. Waste reduction practices aim to reduce the amount of waste generated and disposed, using strategies such as waste prevention, reuse, recycling, composting or energy recovery. Over the past 10 years, the region has made significant progress in reducing waste and achieving a 59% waste reduction rate in 2004. More can be done, but how much more? If 90% of recyclable material could be collected, the waste reduction rate could be as high as 78%. For at least the next four years, however, regional program efforts will be focused on meeting the statutory waste reduction goal of 64%.

Specific objectives describing how each sector (single-family residential, multi-family residential, business, building industry and commercial organics) will contribute to this goal are described in the pages that follow. The creation of regionally coordinated plans with services accessible to all is the foundation of each set of objectives.

*This goal is consistent with state law requiring the counties of Clackamas, Multnomah, and Washington to meet a 64% "recovery rate." The state's "recovery rate" term is somewhat of a misnomer since recovery typically refers to recycling, composting, and energy recovery, while this three county region is also allowed 6% in "credits" for waste prevention programs. Given that our current 59% rate is a combination of tons recovered and credits for programs that prevent waste, this Plan uses the umbrella terms "waste reduction rate" and "waste reduction goal" when referring to what state law calls a "recovery rate."

Single-family residential

Following a boost to curbside recycling rates when commingled collection was introduced, increases to the recycling rate have tapered off recently. In 2004, about 50% of residential waste was recycled through curbside services. To stimulate additional participation and to ensure steady progress toward the waste reduction goal, the region has identified the objectives shown below.



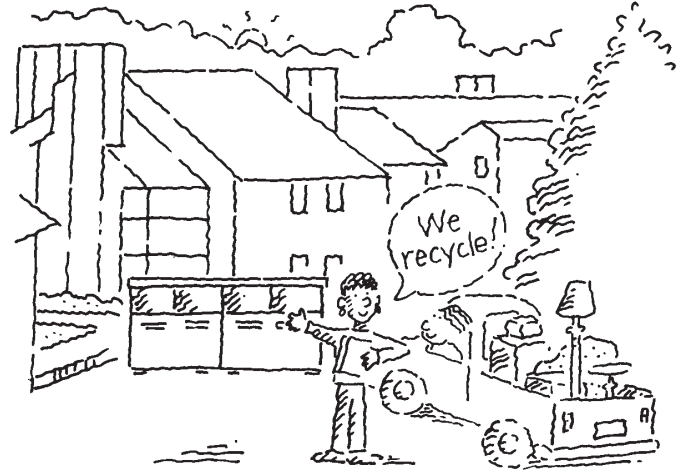
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| 1.0 Conduct annual outreach campaigns that focus on preventing waste, reducing toxicity and/or increasing the quantity and quality of recycling setouts. | To increase the quantity and quality of materials set out for recycling in regional recycling programs, regular campaigns will be undertaken. Regional campaigns will be cooperative in nature and will use a clear and consistent message across the region. |
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| 2.0 Identify and implement service provision changes and incentives to increase recycling, and identify and evaluate new collection technologies. | Incentives in the form of monetary savings or convenience can encourage residents to participate in waste reduction programs. Currently, collection rates are structured to provide some degree of savings with increased recycling and reduced solid waste (e.g., mini-can rates, monthly collection, etc.). With emerging solid waste collection technologies, it is important to evaluate new collection techniques and options that may increase efficiencies and recycling rates. Research will be conducted on a cooperative regionwide basis to identify potential new collection options and opportunities for additional incentives through the residential rate structure, service options or other means. |
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| 3.0 Expand curbside service by adding new materials as markets and systems allow. | The region's residents continue to seek more opportunities to recycle additional materials at the curb. Markets for recycled materials can be volatile, and it is vital to ensure that it is technically and economically feasible to collect and process any new materials before they are added to curbside collection. |
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| 4.0 Promote home composting and appropriate on-site management of yard debris and food waste. | Composting and other on-site management is the least expensive and most environmentally sound option for handling yard debris and food scraps. Half of the region's residents participate in this activity and divert more than 50,000 tons of organics annually. Future activities in this area will include providing technical support for current on-site composters and developing more cost-effective home compost bin promotions that target interested residents. |
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| 5.0 Develop residential organics collection programs when economically and technically feasible. | Although home composting of vegetative food waste and yard debris is the preferred method of managing yard debris and food scraps, the region will also examine the economic and technical feasibility of implementing curbside collection of residential food wastes to further increase organics recovery. |
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Monitoring and implementation methods

Detailed program planning and implementation of these objectives will be coordinated through the Local Government Recycling Coordinators group, which includes local governments, Metro and Oregon DEQ staff. Implementation plans will be presented for review to the Regional Solid Waste Advisory Committee and Metro Council annually. The plans will detail annual programs, costs, and roles and responsibilities. Local governments and Metro will be jointly responsible for the implementation of these plans.

Multi-family residential

Recycling services for residents living in dwellings of five or more units ("multi-family" buildings) currently contribute to regional recovery levels but could be collecting more material. These households, which range from suburban garden apartments to high-rise buildings in dense urban areas, present a number of challenges and opportunities for recycling. Although technically these are defined as residential dwellings, most multi-family units share common garbage and recycling areas and are serviced as commercial accounts by garbage haulers. Turnover in multi-family dwellings is much higher than in single-family housing, making more frequent education and outreach especially important. According to the 2002 American Housing Survey, people who rent (either apartments or houses) typically stay in the same location for less than two years while homeowners stay at the same location for about seven years.



The following objectives are designed to increase the efficiency and effectiveness of multi-family residential recycling programs.

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| 1.0 Implement a program suited to the needs of multi-family housing that is uniform and consistent throughout the region. | The region will cooperatively develop a program tailored to the needs of multi-family housing. |
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| 2.0 Provide annual regional education and outreach targeting multi-family housing. | Outreach materials will be designed to address the barriers and benefits of recycling in a multi-family setting and will be adapted to a variety of conditions and collection systems. |
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| 3.0 Identify and evaluate new collection technologies for implementation on a cooperative regionwide basis. | Multi-family recycling presents many unique challenges. Emerging collection technologies will be evaluated on a cooperative regionwide basis to identify potential opportunities to enhance and improve collection. |
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Monitoring and implementation methods

Implementation of these objectives will be coordinated through the intergovernmental Multi-Family Waste Reduction Work Group. This work group will present its implementation plans for review to the Regional Solid Waste Advisory Committee and Metro Council annually. The plans will detail annual programs, costs, and roles and responsibilities. Local governments and Metro will be jointly responsible for the implementation of these plans.

Business

Businesses hold the greatest potential for increasing material recovery in the region, as they generate nearly half the region's waste. For example, 25% of the garbage businesses throw away (more than 120,000 tons annually) is paper that is fully recyclable. An additional 68,000 tons of paper and containers are needed to meet the 2009 waste reduction goal. To help achieve this goal, programs for this sector focus on providing businesses with direct assistance to develop and improve their waste reduction programs.

The following objectives are intended to help non-residential waste generators improve their recycling programs, initiate waste prevention practices, increase their purchases of recycled-content products and incorporate sustainable practices into their operations.



1.0 Provide businesses with annual education and technical assistance programs focused on waste reduction and sustainable practices.

The business community has indicated in a variety of forums that tailored one-on-one education and assistance is a preferred approach to increase recycling rates. By offering a comprehensive education and technical assistance program to businesses, the region addresses the needs of businesses that want to start or improve their waste reduction programs. It also focuses attention on a waste stream that generates a large percentage of the region's waste.

2.0 Develop information and resource materials that demonstrate the benefits of waste reduction and sustainable practices to support the business assistance program.

Information and resources, such as fact sheets, recycling containers, decals and Internet tools, provide additional tools to help businesses participate in the assistance program and improve their waste reduction practices.

3.0 Conduct annual regional outreach campaigns to increase participation in the business assistance program and to promote recycling opportunities and other sustainable practices.

Outreach campaigns stimulate individual business interest and broadly promote waste reduction ideas to a large portion of the business sector.

4.0 Implement waste reduction and sustainable practices at government facilities.

Government facilities make up a large portion of the business waste stream in the region. Improving practices at government facilities shows a commitment to serve as a model for the business community.

5.0 Identify and implement opportunities for increasing recovery in the business sector, including service provision options, incentives for recycling and regulation.

Incentives in the form of monetary savings, increased convenience and a variety of service options can encourage businesses to participate in waste reduction programs. Currently, collection rates and service standards are set by some, but not all, jurisdictions in the region. Research will be conducted on a cooperative regionwide basis to identify potential opportunities for additional incentives through commercial rate structures, service standards or other means. In addition, many municipalities around the country (including Portland and Seattle) have passed laws that either require items to be recycled or that ban them from landfill disposal. These regulatory approaches will be pursued if regional implementation is feasible.

6.0 Periodically review end-use markets to assess cost-effectiveness, material quality and capacity.

Conducting periodic market studies and reviewing end-use markets to ascertain the viability of recycling various materials can help provide businesses with up-to-date information on recycling opportunities and preparation guidelines. Many businesses generate materials that have historically had little opportunity for recycling, and need to be informed in a timely fashion if new materials become recyclable.

Monitoring and implementation methods

Implementation of these objectives will be coordinated by Metro through the intergovernmental Business Recovery Work Group. The work group will present its implementation plans for review to the Regional Solid Waste Advisory Committee and Metro Council annually. The plans will detail annual programs, costs, and roles and responsibilities. Local governments and Metro will be jointly responsible for the implementation of these plans.



Building industry

Regional efforts to manage construction and demolition debris follow a three-pronged approach:

- preventing waste through salvage, deconstruction and reuse;
- developing effective construction and demolition debris recovery programs for debris that is not suitable for deconstruction and salvage; and
- maintaining and supporting viable and diverse markets for recyclable and reusable building materials.

The primary targets for increased recovery of construction and demolition debris include new commercial construction under \$3 million, commercial remodel/tenant improvement, complete and selective building demolition, and residential remodeling performed by licensed contractors.

The following objectives are designed to support the building industry in its efforts to develop sustainable practices promoting environmental protection and resource conservation.



1.0 Develop a regionwide system to ensure that recoverable construction and demolition debris is salvaged for reuse or is recycled.

The region's building industry currently enjoys a full range of waste reduction options and choices, including salvage and reuse, source-separated recycling, post-collection recovery and disposal. The existence of low-cost disposal at two regional landfills severely constrains the growth of salvage and recycling. The region will work with stakeholders to develop a program that ensures construction and demolition debris in the region is processed before disposal and recovered to the maximum extent possible.

2.0 Provide the building industry with annual outreach, education and technical assistance programs that demonstrate the benefits of green building, including building material reuse and recycling.

The building industry generally supports reuse and recycling, but often lacks information on these opportunities. Maintaining an ongoing outreach, education and technical assistance program helps builders make more informed decisions about managing their waste. Green building is a growing enterprise and it is important to work cooperatively with local green building programs to promote reuse and recycling.

3.0 Include sustainable practices and products in the development, construction, renovation and operation of government buildings, facilities and lands.

Construction, renovation and maintenance of government buildings and facilities represents a large portion of the construction activity in the region. These projects result in significant quantities of construction and demolition debris and present an opportunity to serve as models and demonstration projects for businesses in the region.

4.0 Support the development of and access to viable end-use markets for construction and demolition materials.

Periodic market studies will be conducted to assess the viability and diversity of local salvage markets or markets for materials typically found in construction and demolition waste. If markets appear weakened, then technical, monetary or research assistance may be provided to strengthen, maintain and diversify markets for construction and demolition materials.

Monitoring and implementation methods

Implementation of these objectives will be coordinated through the intergovernmental Construction and Demolition Recovery Work Group. The work group will present its implementation plans for review to the Regional Solid Waste Advisory Committee and Metro Council annually. The plans will detail annual programs, costs, and roles and responsibilities. Local governments and Metro will be jointly responsible for the implementation of these plans.

Commercial organics

The region follows a two-track approach to organic waste management. The first track emphasizes preventing waste by donating usable food to food banks and other uses such as animal feed when appropriate. The second track focuses on implementing a collection and processing system to recover (i.e., compost) organic waste that cannot be diverted to those higher end uses. Regional efforts currently target large organics-rich businesses and industries, such as large retail grocery stores, restaurants, hotels, institutional cafeterias, wholesale produce warehouses and food processors.



The following objectives are designed to support the use of sustainable practices by businesses generating organic wastes.

1.0 Provide outreach and education programs for targeted businesses to support and increase organic waste prevention and diversion practices.

Donation is the highest end use for surplus food, and an established system to collect and redistribute donated food exists in the region. Emphasizing food donation also helps to address the problems of hunger in the region and the state.

2.0 Enhance access to organics recovery services throughout the region.

Organic waste that cannot be diverted to higher end uses may be collected for composting. The region will focus on increasing the composting opportunities that are available to businesses; every effort will be made to use existing infrastructure and to tailor generator and collection programs to fit within existing operations and regulatory systems.

3.0 Implement organic waste recovery programs at government facilities where feasible.

Government facilities that generate significant quantities of organic waste will serve as models for businesses in the region by adopting organics recovery programs.

4.0 Work to ensure that compost products are specified for use in government projects.

Metro and local governments will coordinate with other government agencies to incorporate the standard use of compost products for landscaping, soil conditioning and erosion control on publicly-funded projects.

5.0 Periodically review the viability of end-use markets and assist with market development efforts.

Conducting periodic market studies to assess the viability of local compost markets is an important activity. If market trends indicate a weakening in demand, Metro and others can assist regional compost facilities with market development as needed to strengthen and maintain the marketability of compost and soil amendment products made from organic materials.

Monitoring and implementation methods

Implementation of these objectives will be coordinated through the intergovernmental Organics Recovery Work Group. The work group will present its implementation plans for review to the Regional Solid Waste Advisory Committee and Metro Council annually. The plans will detail annual programs, costs, and roles and responsibilities. Local governments and Metro will be jointly responsible for the implementation of these plans.

Education services

Goal: Increase the adoption of sustainable behaviors by households and businesses through increased knowledge, motivation and commitment.

Achieving the region’s vision of a sustainable community will require strong public support. Regional education and outreach efforts help build this support by supplying the information that residents and businesses need to make environmentally responsible choices in their daily lives. Metro and local governments also provide a wide range of information through a variety of media. The Metro Recycling Information hotline responds to nearly 100,000 calls per year and the companion website has a host of tools and resources available. Local governments provide ongoing outreach and education through mailed materials and events.

Education and outreach efforts also build and reinforce the resource conservation and environmental protection ethics that are essential to creating a sustainable community. Regional education efforts start in the schools. Targeted education in schools, including elementary and secondary programs provide age-appropriate information and concepts about resource conservation and environmental awareness, as well as programs designed to help teachers incorporate resource conservation concepts into their teaching. There are free classroom presentations and educational materials on waste prevention, recycling, composting and household hazardous waste reduction for elementary and secondary schools. In addition, technical assistance is available to help schools set up a waste reduction and recycling program or expand existing programs.

Metro and local governments also provide a wide variety of adult education programs. In particular, governments and Metro have been promoting household hazardous waste (HHW) prevention and proper disposal education and outreach to the region for many years. Education targeted to adults about household hazardous chemical use and less toxic alternatives are ongoing through efforts such as the natural gardening program.

Information services and adult education

Numerous organizations within the region, including local governments, private businesses and non-profit agencies, provide disposal, recycling and other waste reduction services. Offering residents and businesses easily accessible and accurate referrals to these services is critical to reaching regional waste reduction goals.



1.0 Provide a regional information clearinghouse and referral service.	Maintaining communication with and providing education to residents and businesses about waste reduction programs and services offered within the region is essential to help them make environmentally responsible choices.
2.0 Provide education and information services for residents and businesses that are targeted to specific waste streams, materials or generators.	Information services are more effective when they address specific needs and use methods that match how generators receive and respond to information on waste reduction opportunities. Education services are critical part of each waste reduction program area (Single-family, Multi-family, Business, Building Industry and Commercial organics) targeted in the Plan.

Monitoring and implementation methods

Metro and local governments will work cooperatively to develop and distribute education materials for households and businesses. Metro will research and provide technical assistance on the most effective methods to educate households and businesses on waste reduction options. Local governments, haulers and Metro will cooperate and communicate on the implementation of these education programs. Implementation of these objectives will be coordinated through the intergovernmental work groups.

School education

Life-long learning about the value of resource conservation and the importance of protecting the environment begins with children in elementary and secondary schools. The guiding approach is to develop curriculums and programs that are appropriate for each age group and that cumulatively help build an environmental stewardship ethic.



1.0 Provide education programs that help teachers incorporate resource conservation concepts, including waste prevention and toxicity reduction, into their teaching.

Today's teachers have a multitude of demands on their time and resources. Providing teachers with assistance on curriculums and programs helps teachers meet their needs while simultaneously assisting the region in meeting its waste reduction goals.

1.1 Provide programs at the elementary level that establish fundamental concepts of resource conservation and environmental awareness through active learning experiences.

Elementary students are often eager to learn about ways that can help make the world a better place. Providing age-appropriate information and concepts about resource conservation that encourage awareness and participation will build a strong foundation for life-long sustainable behaviors.

1.2 Provide programs at the secondary level (middle and high school) that will extend concepts established at the elementary level and prepare students for making responsible environmental choices in everyday adult life.

By middle and high school, students can begin to make connections between their daily choices and behaviors and how they impact the environment. By providing opportunities to encourage their critical thinking skills, students can gain an appreciation for and a sense of stewardship for the environment that can carry over into adulthood.

2.0 Work with schools and teachers to increase support for regional solid waste programs and create opportunities for partnerships.

Schools are vital institutions within our community. Working and partnering with schools provides an opportunity to educate the next generation about resource conservation programs. Schools are also large resource users and waste generators and need to be active participants in waste reduction programs.

Monitoring and implementation methods

Metro and local governments will continue to provide school waste reduction education programs. Metro and local governments will provide technical assistance to school recycling programs and will collaborate on the development and distribution of education materials to meet local needs. Implementation of these objectives will be coordinated with various waste reduction work groups and the Regional Solid Waste Advisory Committee.

Hazardous waste management

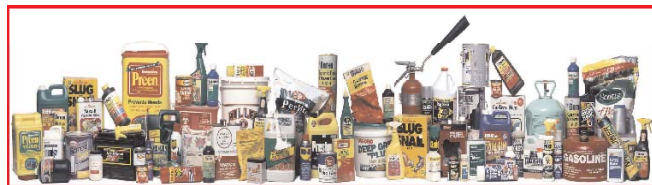
Goal: Reduce the use and improper disposal of products generating hazardous waste in order to protect the environment and human health.

Homeowners use a variety of products in their daily life, some of which pose risks to human health and the environment during use, storage and disposal. Examples of these risks include fires or child poisonings due to improper storage; injuries to disposal system workers (haulers, transfer station or landfill workers); contamination of streams and fish from runoff of lawn and garden care products; and pollution of streams or groundwater from improper disposal of auto products such as used oil or antifreeze.

Historically, the region's approach to dealing with the problem has been to provide disposal alternatives for the public through collection facilities and events. Collection programs are costly to operate, however, and waste volumes continue to increase, while only a portion of the total waste generated each year comes into the collection program. As a result, in recent years there has been growing interest in preventing the generation of household hazardous waste through increased education and outreach. In addition, the region is looking toward product stewardship to transfer responsibility from local governments back to manufacturers and retailers (see the section on product stewardship).

Hazardous waste reduction

Changing the way people use products in their home is a very challenging undertaking. Traditional education techniques such as informational brochures can be ineffective in getting people to change long-standing behavior. The large number of households in the region, wide array of products, and competing messages from manufacturers and retailers all pose barriers to encouraging residents to change their behavior. Given these challenges, regional education and outreach efforts are paying increased attention to new methods to get residents to engage in more environmentally sustainable behavior.



The objectives for achieving hazardous waste reduction are shown below.

1.0 Provide hazardous waste education programs that focus on behavior change.

The region will pursue methods to tailor education messages to more effectively bring about behavioral changes in ways that can benefit public health and the environment. Programs will include learning about and targeting specific audiences that use hazardous products, identifying barriers to changing these behaviors, and overcoming these barriers. Education on hazardous products in the home will also be a part of Metro's school age education programs.

1.1 Provide hazardous waste education programs that focus on those products whose toxic and hazardous characteristics pose the greatest risks to human health and the environment, or that are very costly to properly dispose or recycle.

With limited resources available for hazardous waste reduction efforts, it is important to focus on the types of waste that have the greatest health, environmental, and financial impacts. Focusing on pesticides, mercury and other persistent bioaccumulative toxins (PBTs), for instance, is consistent with these priorities. As more understanding is gained on the health and environmental impacts of hazardous wastes, education programs will focus on those wastes that are the most detrimental to human and environmental health.

<p>1.2 Provide hazardous waste reduction messages and information to all customers bringing waste to household hazardous waste collection sites.</p>	<p>A large number of the region’s residents are already taking one step by bringing their leftover hazardous products to collection sites. This audience is likely to be receptive to information about the hazards of those products and the use of less toxic alternatives.</p>
<p>1.3 Coordinate hazardous waste education efforts with related efforts conducted by government agencies and community groups in the region and in other areas.</p>	<p>Along with the hazardous waste reduction efforts conducted by Metro, a number of other organizations in the region, such as water and air quality agencies, are involved in similar efforts. Coordination can eliminate duplication of efforts and can help solve problems that are too complex for any one group to address. Coordinating with hazardous waste education efforts in other areas can help keep local educators informed of the latest research and the successes of approaches that others have tried.</p>
<p>2.0 Research and develop tools to measure the generation, impacts and reduction of hazardous waste, when this can be accomplished at a reasonable cost.</p>	<p>To reduce the environmental and health impacts of hazardous products, it is important to fully characterize their effect, but data are limited on many important aspects of household hazardous waste use and disposal. When it can be done at a reasonable cost, the region will acquire quantitative information on aspects such as purchasing, generation and disposal practices; repeat users; specific environmental and health impacts; consumer attitudes and behaviors; and the effectiveness of behavior change programs.</p>

Monitoring and implementation methods

Metro will continue to provide annual reports as required by permits. Implementation of these objectives will be coordinated with various waste reduction work groups and the Regional Solid Waste Advisory Committee.

Hazardous waste collection

Even with significant efforts invested in preventing the generation of hazardous wastes, substantial volumes of hazardous wastes will still need to be managed and properly disposed. The region should provide convenient, safe, efficient and environmentally sound collection and disposal services for hazardous waste that cannot be eliminated through prevention and education.

Hazardous waste collection objectives are shown below.



<p>1.0 Manage collected waste in accordance with the hazardous waste hierarchy: reduce, reuse, recycle, energy recovery, treatment, incineration and landfill.</p>	<p>The hazardous waste hierarchy differs from the solid waste hierarchy in that composting is not an option for hazardous waste. In addition, the options of treatment and incineration (without energy recovery) are acceptable for hazardous waste. For certain types of waste, treatment and incineration are the most environmentally sound options. To maximize the environmental soundness of the disposal methods selected, this hierarchy will be used when procuring contractors for ultimate disposal of collected household hazardous wastes.</p>
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2.0 Coordinate collection programs with waste reduction and product stewardship efforts.	When waste reduction efforts target particular wastes due to toxicity or cost concerns, collection programs will be available for disposal of the targeted waste. In some cases, however, Metro will not undertake collection but instead will pursue waste prevention or product stewardship solutions. In other cases, the convenience of Metro’s collection efforts may need to be increased when this is consistent with waste reduction goals and can be done in a cost-effective
3.0 Conduct waste screening programs at solid waste facilities to minimize the amount of hazardous waste disposed with solid waste.	In spite of the availability of collection programs, some hazardous waste is still put into the trash. Effective screening programs will be used at solid waste facilities to keep this hazardous waste from the landfill.
4.0 Use solid waste facilities efficiently and effectively for the delivery of collection services.	Existing solid waste facilities that serve the public will be used as collection points for household hazardous waste. In some cases, these facilities may serve as the site of permanent collection depots; in others, they may serve only as occasional sites as a part of a schedule of temporary events.
5.0 Maximize the efficiency of public collection operations, search for the most cost-effective methods and place a high priority on worker health and safety.	To maximize the amount of waste properly managed with limited financial resources, collection programs must operate in an efficient manner. Program operators will continue to identify ways to reduce expenditures for materials, labor and disposal contractors, while maintaining high standards for environmental protection, worker health and safety, and customer service. Wastes brought to household hazardous waste collection centers can pose a wide variety of risks to the workers handling them. It is important to have a comprehensive health and safety program in place to properly protect these workers.
6.0 Offer a Conditionally Exempt Generator (CEG) program to manage waste from small businesses.	Although while federal and state laws allow small businesses that are classified as Conditionally Exempt Generators (CEGs) to dispose of their hazardous waste in the trash, Metro discourages this practice. As part of the effort to keep this waste out of the solid waste system, Metro operates a disposal program that provides a convenient and economical way for these generators to properly dispose of their wastes.
7.0 Implement bans on disposal of specific hazardous products as needed to address public health and environmental concerns.	Some localities around the country have passed laws to ban the disposal of some or all hazardous products. When disposal of specific products poses a known risk to public health or the environment in the region, and there are convenient collection services available for such products, disposal bans will be implemented.

Monitoring and implementation methods

Metro will continue to provide annual reports as required by permits for hazardous waste collection methods. Implementation of these objectives will also be coordinated with various waste reduction work groups and through annual reports to the Regional Solid Waste Advisory Committee.

Product stewardship

Goal: Shift responsibility to manufacturers, distributors and retailers for ensuring that products are designed to be nontoxic and recyclable, and incorporate the cost of the product's end-of-life management in the purchase price.

Over the past decade, state and local governments have been faced with finding solutions to rising waste quantities, strong competition for limited fiscal resources, and a growing amount of expensive and difficult-to-recycle products. These problems resist traditional solid waste management methods, which focus primarily on improving end-of-life management through better recycling and disposal programs. Product stewardship has emerged as a way to help deal with these problems.

Product stewardship is defined as: a approach to managing the lifecycle costs of a product in which a product's designer, producer, seller and user share the responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle. The greatest responsibility lies with whomever has the greatest ability to affect the overall environmental impacts of the product.



This concept aspires to recast the system of product responsibility from resting primarily on governments to having others – consumers, retailers and manufacturers – share in reducing the product's life cycle impacts. "Products" in this sense are defined to include durable goods, nondurable goods and packaging.

The burden on government resources will be eased when manufacturers design, businesses distribute and sell, and consumers purchase products that are less toxic and are more durable, reusable and recyclable. Product stewardship shifts responsibilities "upstream" from government to a product's users, retailers, distributors and manufacturers. These parties then take greater responsibility for ensuring that products are collected and recycled and that markets exist for the recovered materials. If there are costs to recycle or dispose of a product, those costs should be part of the product's original price. This could be achieved by including a visible fee (i.e., an advance recycling fee) or by the manufacturer internalizing the costs of recovering, reusing and recycling. These "front-end" fee approaches are much preferable to "drop-off" or "end-of-life" fees which may increase illegal or improper disposal. Both "front-end" approaches are likely to increase the cost of a product in the near term, but could reduce the growth in solid waste management costs for ratepayers.

Objectives to achieve the product stewardship goal are shown below.

1.0 Prioritize product stewardship activities by evaluating products based on the significance of environmental impact (e.g., resource value, toxicity), current barriers to recycling, and financial burdens on governments for recovery programs.

The region will focus its resources on product stewardship activities that will have the greatest impact on decreasing local burdens, such as the need for government to provide special and costly collection programs. The region will coordinate with others at state, regional and national levels that are also seeking to set product stewardship priorities.

2.0 Implement industry-wide product stewardship agreements or individual company stewardship programs in the region.

Product stewardship agreements require the support of local and state governments to ensure that programs are effectively implemented. A number of national industry stewardship programs are currently in place and progress is being made in others (e.g., household batteries, carpet, paint, cell phones, and office products such as recycled content paper, ink cartridges, and computers). Local efforts can assist these programs by promoting product take-back opportunities and other activities.

3.0 Educate public and private sector consumers about product stewardship and, in particular, their role in purchasing environmentally preferable products.

Product stewardship encourages changes in thinking and behavior from a consumption and use perspective toward waste minimization and sustainable production. Such changes are enhanced by educating public and private consumers about the environmental impacts of their purchases and encouraging them to consider those impacts when making purchasing and disposal decisions. When businesses, institutions and governments adopt policies and purchase products that are part of product stewardship programs, they provide direct and visible support to stewardship programs. A program such as the electronic product environmental assessment tool (EPEAT) for electronic products is a good example.

4.0 Work at the local, regional, state and national level to develop and implement policies, such as recycled-content requirements, deposits, disposal bans and advance recycling fees, that encourage product stewardship programs.

Local, regional, state and national policies can provide the necessary incentives or legislative foundation required to make stewardship programs efficient, effective and sustainable. Because local governments are responsible for ensuring an environmentally sound and efficient solid waste disposal and recycling system, they directly benefit when product stewardship solutions result in manufacturers and others sharing that responsibility. Local governments are encouraged to support the product stewardship approach and to adopt product-specific policies. For example, a jurisdiction could include a provision in computer procurements that requires the sellers to take them back for recycling at the end of their useful life.

Monitoring and implementation methods

Metro will provide annual reports as appropriate and implementation of these objectives will be coordinated with various waste reduction work groups and the Regional Solid Waste Advisory Committee.

Chapter V

Plan implementation

This chapter describes the processes for plan implementation, performance measurement and plan revision. Success in all these efforts will require continued cooperation among stakeholders – cities, counties, Metro, DEQ, the solid waste industry and citizens.

Overview

Implementation efforts will be guided by the need to:

- Maintain consistency with the Plan's program direction, as well as the State of Oregon's solid waste goals and requirements.
- Allow flexibility in developing programs that may need to be adapted to local conditions.

The previous chapter identifies the goals and objectives for each of the Plan's program areas – waste reduction, education services, hazardous waste management and product stewardship. The focus of this implementation chapter is solely on the programs and activities that will implement the waste reduction goals and objectives. The process for ensuring that the other three plan programs areas (education services, hazardous waste management and product stewardship) also achieve their goals and objectives will include coordinating efforts with the various waste reduction work groups and the regional solid waste advisory committee, and regular reporting on their programs' performances.

Waste reduction goals and objectives are identified for five sectors: single-family residential; multi-family residential; business; building industry; and commercial organics. Meeting these objectives requires that basic recycling services are accessible to households and businesses throughout the region. Oregon's "Opportunity to Recycle Act" (see Appendix B) specifically mandates a minimum set of services that are required. The Plan will ensure that these state requirements are met or exceeded within the region.

Beyond the provision of basic services, Chapter IV identifies the direction that waste reduction programs will take. An emphasis on prioritizing and targeting specific waste generators as a way to achieve regional waste reduction goal took root in the 1999 "Waste Reduction Initiatives," and this Plan continues that strategy. Implementation of all waste reduction program area objectives is intended to take the region to its 64% waste reduction goal.

Implementation schedule

Appendix E provides a timetable for the Plan. For each of the five waste reduction program areas, the table shows the time period (ongoing, near, middle or long term) when the programs will be implemented.

Annual work plan

The Metro and local government annual work plan is the primary means for ensuring that basic waste reduction services are provided, and for developing the specific programs and activities necessary to reach regional recovery goals. The annual work plan is developed in cooperation with regional work groups and the regional solid waste advisory committee (see the annual work plan time line, Appendix F).

Basic services

Local governments and Metro currently provide basic recycling collection and education services that generally exceed minimum state requirements. During the development of the annual work plan, Metro and local governments will review the status of these basic programs, looking at ways to improve services and ensure continued compliance with minimum state requirements. Significant progress in waste reduction and recycling has been made over past years through these basic service programs. Metro provides funding assistance to local jurisdictions to assist with maintaining such programs.

Regional program areas

Within the annual work plan, regional work groups will develop programs and activities designed to achieve the waste reduction goals and objectives as specified in Chapter IV. Each year the annual work plan will identify which sector or sectors to focus upon: single-family residential, multi-family residential, business, building industry, commercial organics or potentially another area.

These plans will address the individual needs, barriers and particular circumstances affecting each sector and provide specific action steps, staffing and budgets for achieving the objectives within the Plan. This annual planning process allows for a flexible and rapid response to changing conditions. The process also enables the region to quickly phase out those programs or activities tasks that prove less effective and allows for shifting efforts and resources between areas as the need arises.

Plan performance

This section describes how regional waste reduction progress will be monitored and measured as well as the methods for assessing programs and activities implemented under the Plan. The following approaches will guide these efforts:

- Use indicators that allow early identification of potential problems.
- Support continued development of simple, timely and consistent reporting systems.
- Require appropriate levels of information from local governments and the private sector.

Measuring progress

Historically, the regional waste reduction rate has been the primary measure of regional progress. This Plan continues an emphasis on that measure, but other means of assessing the solid waste system's performance will be reviewed in the near future, such as reducing the toxicity of the waste stream and the generation of greenhouse gases. New goals may be established as a result, in which case the Plan would be amended.

Table 5 in Chapter II shows the Plan's design to reach the 64% waste reduction goal through targeting efforts in the single- and multi-family, business, building industry and commercial organics sectors. The Plan will also monitor performance through per capita measures (for generation, disposal and recycling) and in terms of the waste reduction hierarchy (i.e., prevention, recycling, composting, energy recovery and disposal).

Program monitoring and evaluation

The programs and activities developed and implemented as part of the Metro and local government annual work plan are critical to reaching regional goals and objectives. In recognition of that fact, implementation schedules and monitoring and evaluation components are incorporated within the annual work plan. Using qualitative and quantitative measures, performance on the annual work plan is evaluated for both accountability and effectiveness. These performance measures, combined with the annual DEQ material recovery survey report, are used to assess progress, and reported to the regional solid waste advisory committee and Metro Council annually.

For the basic services provided under the annual work plan, local governments' annual reports document their efforts completed during each year. The report details each task's actual implementation date, as well as relevant status reports and results noted. These annual reports serve as

the basis for monitoring the status of existing programs and progress with regard to the Plan, as well as required annual reporting to the Oregon DEQ.

Additional program evaluations

Additional program evaluations will be conducted when greater information is required about the efficiency and effectiveness of programs designed to implement the Plan's recommendations. Evaluations may also be conducted when alternative policies or programs are proposed to replace what is recommended by the Plan. The evaluation studies may also look at how the regional system can operate better as a whole. Recent studies of contamination issues at material recovery processing facilities are one example of such evaluation studies.

Alternative programs

An alternative program is a solid waste management program or service that is proposed by a local government and differs from those referenced by and being implemented under this Plan. Alternative programs allow for flexibility in meeting the Plan goals and objectives.

An alternative program process needs to be employed when a local government proposes programs or services that would depart from:

- (a) the state Opportunity to Recycle requirements as specified under state law and requiring an approved alternative program from the DEQ; or
- (b) the regional service standard as described in Appendix C.

Appendix D lays out the process to be followed.

Compliance and enforcement

The success of the Plan depends on maintaining cooperative working relationships among Metro, DEQ, local governments and the private sector. There may be occasions, however, when reviews or assessments reveal a lack of compliance or adequate contribution to achieving regional goals.

Local government compliance with the Plan is primarily ensured through the Metro and local government annual work plan process. Funding for local governments under this Plan is contingent upon receipt of a satisfactory plans and reports from the local jurisdictions.

All local jurisdictions are also required to comply with the provisions set forth in state law (OAR 340-090-0040 and ORS 459A), in addition to compliance with Metro's waste reduction plan. Metro has been designated by

the state as the reporting agency for the region's three-county area and local jurisdictions are to provide data to Metro to assist with this annual reporting responsibility. As part of the annual work plan, local jurisdictions must provide documentation indicating they are continuing to fully implement the program elements required as part of the Opportunity to Recycle Act (OAR 340-090-0040 and ORS 459A). Metro will review annual reports for compliance with state law. Those programs that appear to be out of compliance will be reviewed with the local jurisdiction and, if not resolved satisfactorily, Metro will work to resolve the matter in conjunction with the DEQ. In addition, Metro may amend Metro Code to include additional Plan enforcement provisions to deal with non-compliance issues as they arise.

Plan revisions

The Plan, including the performance program, is intended to allow sufficient flexibility for those charged with its implementation to adjust programs before needing to amend or revise the Plan itself. Measurements of regional progress, program monitoring and evaluation, and special evaluation studies will all help determine whether the Plan may require a mid-course correction, and should be amended.

This Plan is not intended to continue as an independent document, but will be integrated into the RSWMP by 2007. As part of the RSWMP, elements of this Plan will undergo periodic review and amendment as needed, with major updates expected every 10 years.

Appendix A

Goals and objectives of the interim waste reduction plan

Waste reduction

Goal: Increase the sustainable use of natural resources by achieving the waste reduction goal of 64% by 2009.

Single-family residential objectives

- 1.0 Conduct annual outreach campaigns that focus on preventing waste, reducing toxics and/or increasing the quantity and quality of recycling setouts.
- 2.0 Identify and implement service provision changes and incentives to increase recycling, and identify and evaluate new collection technologies.
- 3.0 Expand curbside service by adding new materials as markets and systems allow.
- 4.0 Promote home composting and appropriate on-site management of yard debris and food waste.
- 5.0 Develop residential organics collection programs when economically and technically feasible.

Multi-family residential objectives

- 1.0 Implement a program suited to the needs of multi-family housing that is uniform and consistent throughout the region.
- 2.0 Provide annual regional education and outreach targeting multi-family housing.
- 3.0 Identify and evaluate new collection technologies for implementation on a cooperative regionwide basis.

Business objectives

- 1.0 Provide businesses with annual education and technical assistance programs focused on waste reduction and sustainable practices.
- 2.0 Develop information and resource materials that demonstrate the benefits of waste reduction and sustainable practices to support the assistance program.
- 3.0 Conduct annual regional outreach campaigns to increase participation in the business assistance program and to promote recycling opportunities and sustainable business practices.
- 4.0 Implement waste reduction and sustainable practices at government facilities.
- 5.0 Identify and implement opportunities for increasing recovery in the business sector, including service

provision options, incentives for recycling and regulation.

- 6.0 Periodically review end-use markets to assess cost-effectiveness, material quality and capacity.

Building industry objectives

- 1.0 Develop a regionwide system to ensure that recoverable construction and demolition debris is salvaged for reuse or is recycled.
- 2.0 Provide the building industry with annual outreach, education and technical assistance programs that demonstrate the benefits of green building, including building material reuse and recycling.
- 3.0 Include sustainable practices and products in the development, construction, renovation and operation of government buildings, facilities and lands.
- 4.0 Support the development of and access to viable end-use markets for construction and demolition materials.

Commercial organics objectives

- 1.0 Provide focused outreach and education programs for targeted businesses to support and increase organic waste prevention and diversion practices.
- 2.0 Enhance access to organics recovery services throughout the region.
- 3.0 Implement organic waste recovery programs at government facilities where feasible.
- 4.0 Work to ensure that compost products are specified for use in government projects.
- 5.0 Periodically review the viability of end-use markets and assist with market development efforts.

Education services

Goal: Increase the adoption of sustainable behaviors by households and businesses through increased knowledge, motivation and commitment.

Information services and adult education objectives

- 1.0 Provide a regional information clearinghouse and referral service.
- 2.0 Provide education and information services for residents and businesses that are targeted to specific waste streams, materials or generators.

Appendix A (cont.)

School education objectives

- 1.0 Provide education programs that help teachers incorporate resource conservation concepts, including waste prevention and toxicity reduction, into their teaching.
- 1.1 Provide programs at the elementary level that establish fundamental concepts of resource conservation and environmental awareness through active learning experiences.
- 1.2 Provide programs at the secondary level (middle and high school) that will extend concepts established at the elementary level and prepare students for making responsible environmental choices in everyday adult life.
- 2.0 Work with schools and teachers to increase support for regional solid waste programs and create opportunities for partnerships.

Hazardous waste management

Goal: Reduce the use and improper disposal of products generating hazardous waste in order to protect the environment and human health.

Hazardous waste reduction objectives

- 1.0 Provide hazardous waste education programs that focus on behavior change.
- 1.1 Provide hazardous waste education programs that focus on those products whose toxic and hazardous characteristics pose the greatest risks to human health and the environment, or that are very costly to properly dispose or recycle.
- 1.2 Provide hazardous waste reduction messages and information to all customers bringing waste to household hazardous waste collection sites.
- 1.3 Coordinate hazardous waste education efforts with related efforts conducted by government agencies and community groups in the region and in other areas.
- 2.0 Research and develop tools to measure the generation, impacts and reduction of hazardous waste, when this can be accomplished at a reasonable cost.

Hazardous waste collection objectives

- 1.0 Manage collected waste in accordance with the hazardous waste hierarchy: reduce, reuse, recycle, energy recovery, treatment, incineration and landfill.

- 2.0 Coordinate collection programs with waste reduction and product stewardship efforts.
- 3.0 Conduct waste screening programs at solid waste facilities to minimize the amount of hazardous waste disposed with solid waste.
- 4.0 Use solid waste facilities efficiently and effectively for the delivery of collection services.
- 5.0 Maximize the efficiency of public collection operations, search for the most cost-effective methods and place a high priority on worker health and safety.
- 6.0 Offer a Conditionally Exempt Generator (CEG) program to manage waste from small businesses.
- 7.0 Implement bans on disposal of specific hazardous products as needed to address public health and environmental concerns.

Product stewardship

Goal: Shift responsibility to manufacturers, distributors and retailers for ensuring that products are designed to be nontoxic and recyclable, and incorporate the cost of the product's end-of-life management in the purchase price.

Product stewardship objectives

- 1.0 Prioritize product stewardship activities by evaluating products based on the significance of environmental impact (e.g., resource value, toxicity), current barriers to recycling, and financial burdens on governments recovery programs.
- 2.0 Implement industry-wide product stewardship agreements or individual company stewardship programs in the region.
- 3.0 Educate public and private sector consumers about product stewardship and, in particular, their role in purchasing environmentally preferable products.
- 4.0 Work at the local, regional, state and national level to develop and implement policies, such as recycled-content requirements, deposits, disposal bans and advance recycling fees, that encourage product stewardship programs.

Appendix B

Key solid waste laws

There are several state laws that help give perspective and direction to the activities in this Plan.

The Oregon Bottle Bill. The Oregon legislature passed the Oregon Bottle Bill in 1971 and it took effect on October 1, 1972. This bottle bill was the first of its kind in the nation. Its purpose was to reduce litter and divert all beer and carbonated beverage containers from the waste stream so that they could be reused or recycled. The bill requires that a refund be paid to any person who returns empty soft drink or beer bottles or cans to a retail store.

1983 Opportunity to Recycle Act. The Opportunity to Recycle Act, passed by the Oregon legislature in 1983, was ground-breaking legislation that required:

- Residential on-route (curbside) recycling collection in cities of 4,000 or more people.
- Recycling at solid waste disposal sites.
- Education and promotion programs designed to make all Oregonians aware of opportunities to recycle and the reasons for recycling.

Although Oregon already had an extensive recycling infrastructure, both private and public, before the passage of the act, the system was enhanced through this legislation. The recycling programs called for have been implemented throughout the state.

1991 Oregon Recycling Act. In 1991, the Oregon Legislature took recycling legislation a step further and passed the Oregon Recycling Act. Among other things, the Oregon Recycling Act established a recovery level goal of 50% by the year 2000. The Metro region was required to achieve a recovery level of 40% by 1995.

The Oregon Recycling Act also mandated the development of a statewide solid waste plan by 1994 and the performance of waste composition studies and required cities with a population greater than 10,000 population and the Metro area to implement certain waste reduction practices. Certain materials, such as whole tires and lead-acid batteries, were banned from landfills. The act also specified purchasing preferences by government agencies for materials with high percentages of recycled content and high degrees of reusability/recyclability.

Finally, the act established minimum recycled-content requirements for newsprint, telephone directories, glass containers and rigid plastic containers sold in Oregon.

1997 2% Credits for Waste Prevention. The session produced a bill that provided a means of enabling local governments to obtain credit for more than just their recycling programs. The program allows 2% credits for wastesheds such as Metro that establish and maintain programs in waste prevention, reuse and backyard composting. DEQ has established guidelines and evaluation criteria for wastesheds that allow them to earn up to 6% total credits toward their recovery goals for qualifying programs.

2001 State and Wasteshed Goals. In 2001, although most of the wastesheds in the state were meeting their individual required recovery goals, the DEQ confirmed to the legislature that these accomplishments were nevertheless not going to produce a statewide recovery goal of 50%. The legislature responded with HB 3744 (amending ORS 459.010) that set a statewide recovery goal of 45% for 2005 and 50% for 2009 and adjusted individual wasteshed goals. Metro's goal became 62% by 2005 and 64% by 2009 (these rates can include any credits received under the "2% waste prevention credits" program).

The bill set out review procedures regarding the goal:

If a wasteshed does not achieve its 2005 or 2009 waste recovery goal, the wasteshed shall conduct a technical review of existing policies or programs and determine revisions to meet the recovery goal. The department shall, upon the request of the wasteshed, assist in the technical review. The wasteshed may request, and may assist the department in conducting, a technical review to determine whether the wasteshed goal is valid (ORS 450.010(6)(e)).

In addition, HB 3744 established statewide waste generation goals:

- By 2005, there will be no annual increase in per capita municipal solid waste generation;
- By 2009, there will be no annual increase in total municipal solid waste generation.

Metro's Solid Waste Obligations and Authorizations under State Law and the Metro Code. In addition to the key solid waste laws noted above, Metro has additional obligations and authorizations related to solid waste management for the wasteshed. Oregon Revised Statutes (ORS) Chapter 459 covers solid waste management administration roles, disposal sites, hazardous waste management, enforcement and penalties.

ORS 459A covers reuse and recycling program requirements in the state. Oregon Administrative Rules (OAR) Chapter 340 sets out implementation standards, reporting requirements, recovery rate requirements, recovery rate calculation methods, etc. Title V of the Metro Code governs solid waste related policies and programs. The following state law chapters and sections specifically pertain to the region's waste and toxicity reduction plans, policies and programs. A complete list of legislation affecting the region's solid waste system will be presented in the revised overall Regional Solid Waste Management Plan.

ORS 459.055

Prepare and adopt a waste reduction program

ORS 459.250

Provide recycling collection at transfer stations

ORS 459.340

Implement the program required by 459.055

ORS 459.413(1)

Establish permanent HHW depots

ORS 459.413(2)

Encourage use of HHW collection

ORS 459A.010

Required waste reduction program elements and reporting

ORS 459A.750

School curriculum and teacher's guide components

OAR Chapter 340, Division 90

Implementation standards & reporting requirements

ORS 268.317(5)-(7) & 268.318

Solid waste regulatory authority

ORS 268.390

Functional planning authority

ORS 459.095

Local government compliance with RSWMP

Appendix C

Local government compliance with state recycling requirements and the regional service standard

Under state law, local jurisdictions in the Metro region must select and comply with the program elements set forth in Oregon Administrative Rules (OAR) chapter 340-090-0040. All local jurisdictions with populations over 4,000 residents have chosen to implement program elements (3) a, b, c and e, with the exception of unincorporated Washington County and the cities within the Washington County Cooperative (Cornelius, Forest Grove, Hillsboro, Sherwood, Tigard and Tualatin), which have chosen program elements (3) a, b, c and d.

In addition to meeting these state requirements, all jurisdictions in the Metro watershed with populations over 4,000 residents have implemented additional elements in sub-section (3), such that these jurisdictions are now providing program elements (a), (b), (c), (d), (e), and (f). All of these elements, summarized below, constitute the regional service standard under this Plan.

- a) Provide at least one recycling container to residential customers.
- b) Provide weekly collection of source-separated principal recyclable materials¹ to residential customers.
- c) Provide expanded recycling education and promotion to residential customers.
- d) Provide multi-family dwelling recycling collection.
- e) Provide a weekly or equivalent residential yard debris program (collection and composting of residential yard debris).²
- f) Provide on-site collection of source separated principal recyclable materials from commercial entities.

¹Principal recyclable materials include: newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high-grade office paper, tin cans, and yard debris. All local jurisdictions provide curbside collection of all principal recyclable materials and in addition also collect mixed scrap paper, milk cartons, plastic bottles, phonebooks, magazines, and empty aerosol cans.

²In addition, jurisdictions within the Metro watershed (Clackamas, Multnomah and Washington counties in aggregate) must comply with OAR 340-090-0070 (4), (13)(a), and (14) which states that the opportunity to recycle must be provided for each of the principal recyclable materials as designated by the state. Because yard debris is a principal recyclable material in the Metro watershed, all jurisdictions must establish and implement an effective residential yard debris program that meets the requirements of 340-090-0040(3)(e) whether or not they have chosen it as a program element.

Appendix D

Alternative programs - review and approval process

An alternative program is a solid waste management program or service that is proposed by a local government and differs from those referenced by and being implemented under this Plan. Alternative programs allow for flexibility in meeting the Plan goals and objectives.

As the Plan's waste reduction program and activities are developed through a collaborative approach, this approach should be maintained when a local government is considering undertaking an alternative program. The local government should consult with Metro, DEQ and other local government partners in early planning stages. These consultations may provide information or generate options that would eliminate consideration of an alternative program. If an alternative program is still sought after this recommended informal process, however, the local government must follow the alternative program process outlined below, which is intended to ensure that programs related to the Plan are consistent with Plan direction, and at minimum, demonstrate the same level of expected performance as the Plan program.

Use of alternative program process

An alternative program process needs to be employed when a local government proposes programs or services that would depart from:

- The state Opportunity to Recycle requirements as specified under state law and requiring an approved alternative program from the DEQ; or
- The regional service standard as described in Appendix C.

Process for application and review of an alternative program

1. Departures from state requirements

For proposals involving a departure from state requirements, local governments may contact either the DEQ or Metro. DEQ and Metro will work together and coordinate review. State requirements are part of the regional standard; therefore, all programs that receive approval by the DEQ must also be reviewed and approved by Metro via the process detailed below.

2. Departures from the regional service standard

Any local government seeking alternative program approval will submit an application to the Metro solid waste and recycling director that demonstrates how the alternative program will perform at the same level as the Plan program. This performance standard will be based on criteria that will include, as appropriate, the following:

- Estimated participation levels;
- Estimated amounts of waste prevented, recycled, recovered or disposed;
- Consistency with the waste reduction hierarchy and the source separation priority;
- Economic and technical feasibility;
- Estimated impact on other waste reduction activities.

The application will contain a description of the existing program and the proposed alternative program. (Metro may require a pilot program to evaluate the performance of a proposed alternative.) The applicant will provide information comparing the existing and proposed alternatives for:

- Types of materials collected;
- Frequency of collection for each material;
- Levels of recovery by material.

Metro's solid waste and recycling director must approve the proposal. Metro will include the DEQ in the review. If the approval is accompanied by a revision to the Plan, such an amendment will be submitted to the DEQ.

Appendix E

Interim waste reduction plan, draft timetable

Program areas	Ongoing	Near term (2006-08)	Middle term (2008-2011)	Long term (2011-2015)
Residential	1.0 Outreach campaign. OP (see key below)	4.0 Improve the quantity and quality of residential setouts. RP	2.0 Identify service provision changes and incentives to increase recycling. NP	5.0 Evaluate new collection technologies. NP
	3.0 New materials as markets allow. OP	6.0 Educate residents about management of yard debris and food waste. RP	4.0 Continue 6.0 Continue	7.0 Develop residential organics collection. NP
Multi-family		1.0 Needs assessment. NP 2.0 Education & outreach program. NP 3.0 Evaluate new collection technologies. RP	2.0 Continue	2.0 Program assessment
Business	3.0 Outreach campaign. OP	1.0 "Recycle at Work" program. RP	1.0 Continue	1.0 Program assessment
	6.0 Review end markets. OP	2.0 Develop information and resource materials. RP 4.0 Planning phase 5.0 Identify opportunities for increasing recovery. RP 7.0 Evaluate required recycling policies. NP	2.0 Continue 4.0 Implement waste reduction & sustainable practices at government facilities. RP	2.0 Program assessment
Building industry	2.0 Outreach campaign. OP	1.0 Develop regionwide construction & demolition system. NP 4.0 Include sustainable practices and products at government facilities. NP	1.0 Continue 4.0 Continue	1.0 Program assessment 4.0 Program assessment
	3.0 Review end markets. OP			
Commercial organics	3.0 Review end markets. RP	1.0 Outreach and education programs. RP 2.0 Enhance access to organics recovery services. NP 4.0 Compost products specified for use in government projects. NP 5.0 Planning phase	4.0 Continue 5.0 Implement organic waste recovery at government facilities. NP	

Numbered programs correspond to those in Appendix A.

OP = Ongoing Program, RP = Revised Program, NP = new program

Appendix F

Metro and local government - annual waste reduction plan schedule

Plan development

August/September

Metro and local government program area work groups (Organics, Building industry, Business, Multi-family) and local government recycling coordinators work group review and amend plans and associated budgets

November/December

Draft overall framework of the annual plan developed by Metro and local government staff

March

Regional public involvement - regional SWAC review of drafts

March-April

Council approval process

Metro Council consideration and adoption

April-May

Local and regional public involvement

Local SWAC and other public involvement

Metro budget hearings

Local government budget hearings

June-July

June 1 - Annual Plans due from local governments

Intergovernmental agreements drafted

Plan implementation

July

Start of fiscal year - Implementation begins

November

Intergovernmental agreements for grant funding approved and funds distributed to local governments to support the maintenance of existing programs

Reporting

April-May

Interim reports from jurisdictions receiving over \$100,000 in funding allocations

August 1

Final program progress reports on previous fiscal year's activities due from local governments

February 28

Metro, with local government assistance, produces annual report to DEQ

Appendix G

Glossary of terms

These definitions are provided to assist the reader and should not be construed as policies, goals or practices of the Plan, or as amendments to the Metro Code.

Alternative program – A solid waste management program or service that is proposed by a local government and differs from those referenced by and being implemented under this plan. An alternative program must demonstrate the same level of expected performance as the plan program. Alternative programs allow for local government flexibility in meeting the plan goals and objectives.

Collection service – A service that provides for collection of solid waste or recyclable material or both. (OAR 340-90-010)

Commercial organics – Waste generated by food processing operations, restaurants and institutions.

Commingled recyclables – A source-separated mixture of several recyclable materials into one collection container.

Compost – The controlled biological decomposition of organic material or the product resulting from such a process. (OAR 340-90-010)

Conditionally exempt generator (CEG) – Small businesses that generate small amounts of hazardous waste, as defined by state and federal law.

Construction and demolition waste – Solid waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but not including clean fill when separated from other construction and demolition wastes and used as fill materials or otherwise land disposed. Such waste typically consists of materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding, plaster; and soils, rock, stumps, boulders, brush, and other similar material. (OAR 340-93-030)

Curbside collection – Programs where recyclable materials are collected at the curb for single-family units and on-site depots for multi-family units.

End-use markets – Outlets for materials such as post-consumer paper, which are manufactured into a finished product or materials such as scrap tires that are incinerated by recover energy.

Energy recovery – The process in which all or part of the solid waste materials are processed to use the heat content or other forms of energy of or from the material. (ORS 459.005)

Franchise –The authority given by a local government (including Metro) to operate a solid waste and recycling collection service, a disposal site, a processing facility, a transfer station or a resource recovery facility. Often includes the establishment of rates by the local government.

Garbage – A general term for all products and materials discarded and intended for disposal.

Generator – A person who last uses a material and makes it available for disposal or recycling. (OAR 340-90-010)

Grits and screenings – Solids derived from primary, secondary or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or chemically stabilize solids to the extent that they do not attract vectors.

Hauler – Interchangeable with “collector”; the person who provides collection services.

Hog fuel – Biomass fuel, usually consisting of wood waste that has been prepared by processing through a “hog” (a mechanical shredder or grinder). It usually consists of a mixture of bark, wood, sawdust, shavings or secondary materials such as pallets and construction or demolition wood.

Household hazardous waste (HHW) or hazardous waste – Any discarded, useless or unwanted chemical materials or products that are or may be hazardous or toxic to the public or the environment and are commonly used in or around households. Residential waste which is ignitable, corrosive, reactive, or toxic. Examples include solvents, pesticides, cleaners, and paints.

Local governments – For the purposes of this document, a local government is defined as a city or county within the Metro boundaries.

Material recovery or recovery – Any process of obtaining from solid waste, by presegregation or otherwise, materials that still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose. (OAR 340-90-010, ORS 459.005)

Material recovery facility (MRF) – A solid waste management facility that separates materials for the purposes of recycling from an incoming source-separated or mixed solid waste stream.

Mixed waste – Solid waste containing a variety of recyclable and nonrecyclable material.

Multi-family – Residential dwellings of five or more units.

Non-putrescible waste – Commercial, residential or industrial solid waste, that does not contain food wastes or other putrescible wastes. Non-putrescible mixed solid waste (also called dry waste) includes only waste that does not require disposal at a municipal solid waste landfill (also referred to as a general purpose landfill), as that term is defined by the Oregon Administrative Rules. This category of waste excludes source-separated recyclables.

Organics – Yard debris, land clearing and food waste material.

Principal recyclable materials – These are as follows: newspaper, ferrous scrap metal, non-ferrous scrap metal, motor oil, corrugated cardboard and kraft paper, aluminum, glass, high-grade office paper, tin cans, and yard debris.

Product stewardship – An approach to managing the lifecycle costs of a product in which a product's designer, producer, seller and user share the responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle.

Putrescible waste – Solid waste (other than uncontaminated or only slightly contaminated cardboard and paper products) containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

Recovered – Material diverted from disposal to recycling, composting or energy recovery systems.

Recovery rate – The percent of total solid waste generated that is recovered from the municipal solid waste stream.

Recyclable material – Any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material. (OAR 340-90-010, ORS 459.005)

Recycling – Any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity. (OAR 340-90-010, ORS 459.005)

Reuse – The return of a commodity into the economic stream for use in the same kind of application as before without change in its identity. (OAR 340-90-010, ORS 459.005)

Solid waste – All putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse,

ashes, waste paper, and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure; vegetable or animal solid and semi-solid wastes, dead animals, infectious waste, and other wastes; but the term does not include: (a) hazardous wastes as defined in ORS 466.005; (b) materials used for fertilizer, or for other productive purposes or that are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates. (OAR 340-90-010, ORS 459.005, Metro Code 5.01.101)

Solid waste management – Prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities. Also see "State hierarchy."

Source-separated material – Material that has been kept from being mixed with solid waste by the generator in order to reuse or recycle that material.

State hierarchy – An established state priority (ORS 459.015) for managing solid waste in order to conserve energy and natural resources. The priority methods are as follows: reduce, reuse, recycle, compost, recover (energy), landfill.

Subtitle C – The hazardous waste section of the Resource Conservation and Recovery Act (RCRA).

Subtitle D – Solid, non-hazardous waste section of the federal Resource Conservation and Recovery Act (RCRA).

Sustainable, sustainability, sustainable practices – Using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic, and community objectives. [ORS 184.421(4)]

Sustainability principles – Considers use of all economic, environmental and societal resources and is consistent with the Natural Step system conditions so that nature is not subject to systematically increasing:

1. Concentrations of substances from the Earth's crust,
2. Concentrations of substances produced by society, or
3. Degradation by physical means; and in that system
4. Human needs are met worldwide.

Waste generator types are defined as follows:

- Commercially-hauled residential waste – generated from single and multi-family housing units and hauled to disposal facilities in rear, side or front loaders, drop boxes or self-dumping trucks.
- Self-hauled residential waste – generated from single and multi-family housing units and hauled to disposal facilities in autos, vans, pickup trucks and trailers attached to small vehicles.
- Business waste – generated from retail and wholesale businesses, offices, food and lodging businesses, food stores, education institutions, and service-related businesses.
- Industrial waste – generated from manufacturing businesses, the construction and demolition industry (but not loads containing construction waste materials), agriculture and other industrial businesses.
- Construction and demolition waste – generated from residential, business, and industrial sources containing mostly bricks, concrete, gypsum wallboard, land-clearing debris, roofing and tarpaper, wood, insulation, and other building materials.

Waste prevention (source reduction) – Prevention or elimination of waste prior to generation, including where the product is manufactured, purchased or utilized (consumed). The design, manufacture, acquisition, and reuse of materials so as to reduce the quantity and toxicity of waste produced at the place of origin. Also used to describe practices that reduce the amount of materials that need to be managed by either recycling or disposal methods. Home composting of yard debris is generally termed waste prevention, since the material is kept out of both yard debris processing or disposal facilities. Examples also include reducing office paper use through double-sided copying and buying in bulk to reduce packaging waste.

Waste prevention credits – Provision in state law that allows wastesheds to receive up to 6% on the recovery rate for programs in waste prevention, reuse and backyard composting.

Waste reduction – A term used to encompass waste prevention, reuse, and recovery; all practices that either prevent the generation of waste or divert it from landfill disposal.

Waste stream – A term describing the total flow of solid waste from homes, businesses, institutions and

manufacturing plants that must be recycled, burned, or disposed of in landfills; or any segment thereof, such as the “residential waste stream” or the “recyclable waste stream.”

Yard debris – Vegetative and woody material generated from residential property or from commercial landscaping activities. Includes grass clippings, leaves, hedge trimmings, stumps, and similar vegetative waste. (OAR 340-90-010)

Zero waste - Designing and managing products and processes to reduce the volume and toxicity of waste and materials, conserve and recover all resources, and not burn or bury them. Zero Waste is intended to eliminate all discharges to land, water or air that may be a threat to planetary, human, animal or plant health.

STAFF REPORT

In Consideration of Resolution No. 06-3722 for the purpose of approving the Interim Waste Reduction Plan to provide direction for regional waste reduction programs pending the completion of the updated Regional Solid Waste Management Plan.

August 17, 2006

Prepared by: Marta McGuire

BRIEF DESCRIPTION OF RESOLUTION

This resolution approves the Interim Waste Reduction Plan, which will provide direction for coordinating regional waste reduction programs pending the completion of the updated Regional Solid Waste Management Plan.

EXISTING LAW

ORS Chapter 459A, the “Opportunity to Recycle Act,” requires the city, county or metropolitan service district responsible for solid waste management to provide recycling services, public education programs, and to contribute to the statewide solid waste recovery goals. OAR 340-90-040 sets forth the administrative requirements for such programs. In response to state requirements and more aggressive regional goals, Metro developed a Regional Solid Waste Management Plan, which was adopted by Council via Ordinance No. 95-624 on November 30, 1995. The Plan serves as a regional framework for the identification of solid waste policy and coordination of programs. It also satisfies state law requiring implementation of a waste reduction plan for the Metro region (See ORS 459.055 and ORS 459.340 through .350).

BACKGROUND

The Regional Solid Waste Management Plan (RSWMP) is now being updated for the next ten years. Plan direction is being shaped through an extensive public involvement process that includes Metro, local governments, businesses, citizens, and the solid waste industry -- all of whom are affected by the Plan and whose cooperative efforts are vital to Plan implementation. Waste reduction goals and objectives were drafted as a part of the developing RSWMP, but ongoing discussions about Metro’s role in the disposal system have delayed the completion of the Plan. In order to continue the momentum on waste reduction work accomplished with stakeholders, Metro Council directed staff to provide the region with an Interim Waste Reduction Plan (IWRP). In April 2006, staff completed the draft IWRP.

The IWRP is intended to provide direction for waste reduction programs pending the completion of the RSWMP. In addition, the IWRP meets state requirements for a plan that shows how the 64% statutory waste reduction goal for 2009 will be met.

During a 45-day comment period held in the spring of 2006, more than 400 people provided input, either through an on-line survey or in writing, on the draft IWRP. Cogan Owens Cogan produced a report, “Waste Reduction Survey Results,” which summarizes the major themes from comments received. Metro staff prepared a responsiveness summary responding to the major themes identified by Cogan and detailing revisions made to the IWRP in response to the input. Both reports are available on Metro’s website at: <http://www.metro-region.org/article.cfm?ArticleID=20241>

The IWRP contains:

- An overview of current regional waste reduction performance, and strategies identified for achieving the 2009 waste reduction goal.
- A guiding framework, including Plan vision, regional values, and waste reduction policies.
- Goals and objectives for program activities in waste reduction, hazardous waste management, education and product stewardship.

The primary change in policy direction recommended by the IWRP is an emphasis on implementing regulatory-based program approaches in order to boost material recovery from commercial sources – primarily material generated by businesses and the building industry. Over 200,000 additional tons of material from these two sectors can be recovered rather than disposed. Voluntary programs alone, however, are not leading to increased recycling of these material resources.

Completely new areas of emphasis in the Plan include sections on education (information services, adult education, school education) and product stewardship.

The IWRP will be merged into the draft RSWMP document late this year. After public comment and further Plan revision, the RSWMP is expected to be ready for Metro Council consideration in early 2007.

ANALYSIS/INFORMATION

1. Known Opposition

One member of the public has characterized the final draft plan as “weak.”

2. Legal Antecedents

Council adopted the Regional Solid Waste Management Plan (Plan) by its approval Ordinance No. 95-624, “For the purpose of adopting the Regional Solid Waste Management Plan.” The Plan serves as a regional framework for the coordination of solid waste programs and to satisfy state law requiring development of a waste reduction plan for the Metro region (ORS 459).

3. Anticipated Effects

Adoption of the resolution will provide direction for the region’s waste reduction programs and ensure programs are aligned with the vision and policies in the updated RSWMP. The IWRP will be merged into the draft RSWMP document later this year.

4. Budget Impacts

Adoption of the proposed resolution will not have a direct fiscal impact. Any fiscal impact would occur through Council's regular program planning and budget processes for the Solid Waste and Recycling Department.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 06-3722.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING) RESOLUTION NO. 06-3717
REGIONAL SUPPORT OF THE “PLUG-IN”) Introduced by Councilor Burkholder
PARTNERS NATIONAL CAMPAIGN.)

WHEREAS, the over-reliance of the United States on foreign oil has become a serious and growing threat to the economic vitality and national security interests our country; and

WHEREAS, automobile emissions are a major contributing factor to global warming and smog, which threaten the health of our citizens and the sustainability of our planet; and

WHEREAS, the imbalance between oil resources and worldwide demand is creating increasing volatility in gasoline prices, which stands to overburden commerce, hurt economic growth and cause serious hardship to our citizens; and

WHEREAS, the technology exists today to build flexible-fuel “plug-in” hybrid electric automobiles, which could help reduce oil imports, fuel costs and automobile emissions by dramatic margins if they replaced conventional automobiles in large numbers; now therefore

BE IT RESOLVED by the Metro Council that Metro joins the Plug-in Partners National Campaign; and

BE IT FURTHER RESOLVED by the Metro Council that Metro makes a commitment to support local, state and federal policies that will promote flexible-fuel plug-in electric hybrid vehicles; and

BE IT FURTHER RESOLVED by the Metro Council that Metro will work with the local government, education, business and environmental communities to advocate for the purchase of flexible-fuel plug-in hybrid electric vehicles.

ADOPTED by the Metro Council this __ day of _____, 2006.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3717, FOR THE PURPOSE OF ENDORSING REGIONAL SUPPORT OF THE “PLUG-IN” PARTNERS NATIONAL CAMPAIGN.

Date: May 4, 2006

Prepared by: Kathryn Sofich

BACKGROUND

“Plug-In Partners,” begun in Austin, Texas, is a national grass-roots initiative to demonstrate to automakers that a market for flexible-fuel Plug-in Hybrid Electric Vehicles (PHEVs) exists. The goal of this initiative is to encourage local and state governments to work with utilities and environmental, consumer and business organizations to demonstrate the viability of a market for PHEVs through the development of rebates and incentives, “soft” fleet orders, petitions, and endorsements.

There are currently no commercially available PHEVs, but prototypes are in operation. In addition, traditional hybrid vehicles have been converted to plug-ins. Work at the Hybrid Center at the University of California at Davis has demonstrated that plug-in technology works. Despite this, the cost of the batteries needed to power a PHEV a sufficient distance is considered to be the stumbling block.

The Plug-In Partners campaign, which kicked off January 24, 2006 at the National Press Club in Washington, DC, is forming coalitions with local and state governments, utilities, businesses and non-profit organizations. To date, Plug-In Partners have received 676 “soft orders,” and 19 cities, 6 counties and local governments, 20 non-profits, 18 national/local environmental groups, and 123 public power utilities have signed on as partners.

In becoming a partner, Metro will pass a resolution of support, sign a letter of commitment, and make a “soft” fleet order. Making a “soft” fleet order says that we will “seriously consider” purchasing a certain amount of vehicles if they are produced by automakers. In addition, Metro will make a commitment to support local, state and federal policies that will promote flexible-fuel plug-in hybrid vehicles and work with the local government, education, business and environmental community to advocate for the purchase of flexible-fuel plug-in hybrid vehicles. This campaign supports the Metro Council’s goals of conserving resources and protecting the environment. In addition, this campaign compliments Metro’s Regional Travel Options program, which works to provide alternatives and awareness of alternatives to driving alone. Both programs provide options that reduce pollution and decrease dependency on and consumption of fossil fuels.

ANALYSIS/INFORMATION

1. Known Opposition: none
2. Legal Antecedents: none

3. Anticipated Effects:
 - A. Provides consistency with Metro's institutional goals of conserving resources and protecting the environment.
 - B. Provides the Council and Metro employees and staff the opportunity to speak publicly, on behalf of Metro, in favor of promoting the development of a market for flexible-fuel Plug-in Hybrid Electric Vehicles (PHEVs).

4. Budget impacts: None

RECOMMENDED ACTION

Councilor Burkholder recommends adoption of Resolution No. 05-3717.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 06-3720
OPERATING OFFICER TO ENTER INTO OPTIONS TO)
PURCHASE PROPERTIES IN THE NEWELL CREEK,)
LOWER TUALATIN RIVER HEADWATERS,)
FOREST PARK AND JOHNSON CREEK TARGET)
AREAS, AND INCLUDING A PROPERTY IN)
THE FOREST PARK TARGET AREA SUBJECT TO)
UNUSUAL CIRCUMSTANCES UNDER THE) Introduced by Chief Operating Officer
PROPOSED 2006 NATURAL AREAS BOND MEASURE) Michael J. Jordan with the concurrence
IMPLEMENTATION WORK PLAN) of Council President David Bragdon

WHEREAS, the Metro Council has taken a leadership role in identifying remaining natural areas in the Metro area and planning for their protection; and

WHEREAS, Resolution No. 06-3672B, “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection,” adopted by the Metro Council on March 9, 2006 (the “2006 Natural Areas Bond Measure”), recommended submission to the voters of a general obligation bond to preserve natural areas and clean water and protect fish and wildlife; and

WHEREAS, Resolution No. 05-3612, “For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to Be Issued in Connection with the Regional Parks and Greenspaces Program,” adopted by the Metro Council on September 29, 2005, directed staff to work on obtaining options to purchase specific properties approved by the Metro Council, as part of the preliminary work associated with the proposed funding measure; and

WHEREAS, in accord with Resolution No. 05-3612, Metro staff has identified opportunities to purchase specific properties in the proposed 2006 Natural Areas Bond Measure Target Areas, which properties are identified and further described in Exhibit A; and

WHEREAS, in accord with Resolution No. 06-3687, “For the Purpose of Authorizing the Chief Operating Officer to Enter Into Options to Purchase Property Under the Proposed 2006 Natural Areas Bond Measure in Accord With the Open Spaces Implementation Work Plan and Providing Funding,” adopted May 11, 2006, Metro Council approved spending for the purchase of option agreements or as earnest money for property in the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon passage of the 2006 Natural Areas Bond Measure and Metro Council approval, as directed by Resolution No. 05-3612; and

WHEREAS, expenditure authority exists in the Fiscal Year 2006-07 Adopted Budget totaling \$100,000 to pay for due diligence and provide earnest money for the entry into agreements to purchase property in the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon passage of the 2006 Natural Areas Bond Measure and Metro Council approval, as directed by Resolution No. 05-3612 as set forth on the schedule attached as Exhibit B; and

WHEREAS, all terms of the transactions contemplated herein shall be governed by the 1995 Open Spaces Implementation Work Plan, set forth in Metro Council Resolution No. 95-2228A "For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Open Spaces Implementation Work Plan," adopted on November 2, 1995; and

WHEREAS, the real estate appraisal of the Forest Park property was based upon an extraordinary assumption that constitutes an "unusual circumstance" requiring the specific approval of the Metro Council, as set forth in the Open Spaces Implementation Work Plan; now therefore,

BE IT RESOLVED THAT Metro Council hereby authorizes the Chief Operating Officer to enter into agreements of purchase and sale and/or agreements for options to purchase the properties identified in Exhibits A and B, conditioned upon passage of the 2006 Natural Areas Bond Measure and in accord with the parameters of the Open Spaces Implementation Work Plan.

ADOPTED by the Metro Council this _____ day of _____ 2006.

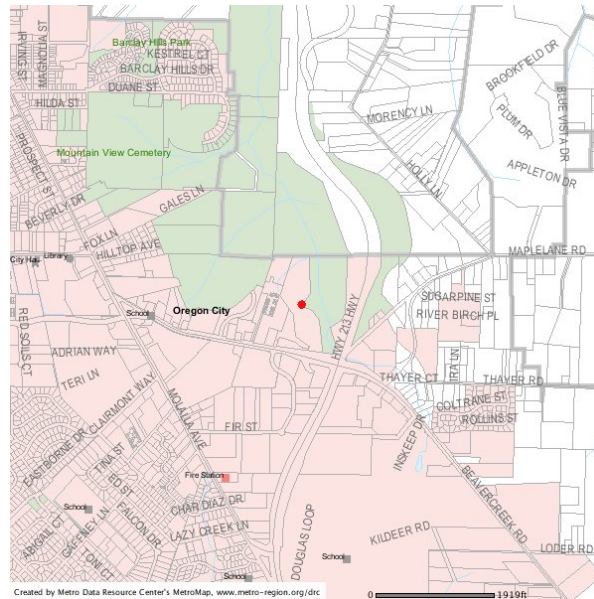
David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

EXHIBIT A
RESOLUTION NO. 06-3720

PROPERTIES IDENTIFIED AS
PURCHASE OPPORTUNITIES



Target Area: NEWELL CREEK CANYON

Description: This 12.77-acre parcel is located along the north side of Beaver Creek Road in Oregon City along the west side of Newell Creek Canyon. Metro owns adjacent land to the north, and the City of Oregon City owns adjacent land to the east. The property is currently improved with an apartment complex. The owners of this property are in financial distress and are looking to refinance their debt service. Due to recent land movement in the canyon, six to nine apartment buildings situated on approximately 6.0 acres of the property have been rendered uninhabitable and must be razed and removed.

The owners will agree to sell the six acres to Metro for appraised value. They will demolish and remove all building and parking lot improvements and will re-grade the surface to Metro’s satisfaction. They will also agree to grant Metro a public access easement through the apartment development so that Metro can utilize a portion of the six acres to provide a public trailhead for Newell Creek Canyon.

Acquiring this site will support several key goals of the 2006 Natural Areas Bond Measure, including protecting threatened fish and wildlife habitat along Newell Creek and providing a potential trail head for a future Newell Creek Canyon trail.

- Option Criteria Addressed:**
- Protects / Enhances riparian land, wildlife habitat, and wildlife species
 - Provides potential trailhead for future Newell Creek Canyon trail

Managers: Metro will manage the property

Sellers: Private Party

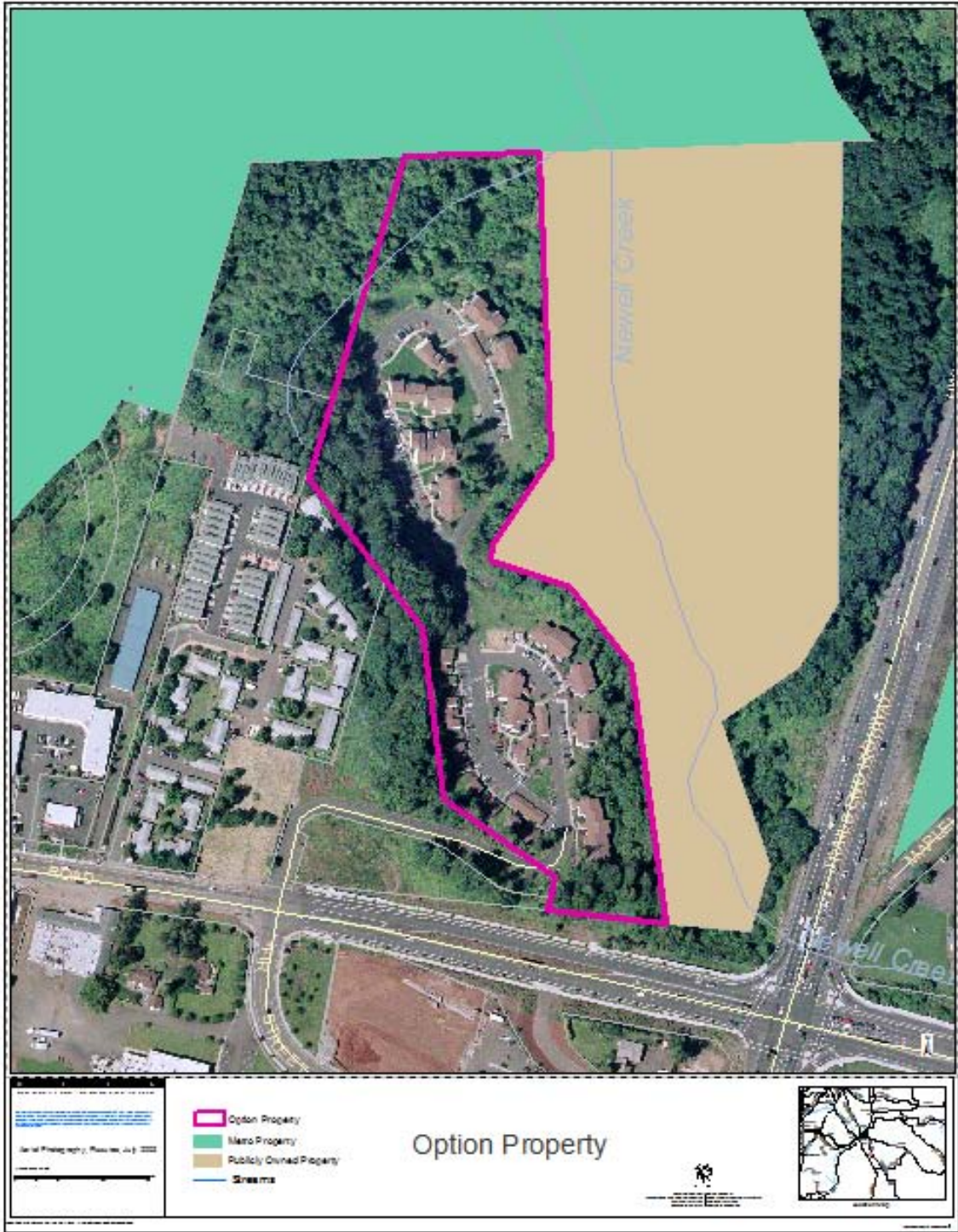
Size: Approximately 6.0 acres

UGB Inside

Stream Frontage: None

Option Price: \$1,000 in escrow for an exclusive 12-month option.

Conditions: Metro Council Approval, Appraisal and Environmental Review, Bond Measure





Target Area: LOWER TUALATIN RIVER HEADWATERS

Description: This 68.25-acre property is located along SW Hillsboro Highway in Scholls. Approximately half of this property lies within the 100-yr floodplain, and the property has over 2000 feet of frontage along both sides of the Tualatin River. The remainder of the property consists of forested slopes, and there is a dilapidated house situated on an upper terrace along SW Hillboro Highway.

The site is adjacent to west side of Metro’s Gotter Prairie Natural Area and adjacent to another 44.19-acre site recently optioned by Metro. The floodplain on this property has exceptional native vegetation communities. In fact, Metro mimicked much of this plant community in portions of the Gotter Prairie restoration. Taken together with the previously optioned 44.19-acre parcel, these two properties will add over 112 acres to Metro’s 114-acre Gotter Prairie Natural Area.

Acquiring this site will support several key goals of the 2006 Natural Areas Bond Measure by expanding the core area of protected habitat associated within the GPNA, protecting declining native oak habitat, and providing broader restoration opportunities such as expanded seasonal flooding to support a state-sensitive northern red-legged frog (*Rana aurora aurora*) population which breeds at the GPNA.

- Option Criteria**
- Adjacent to an important public owned natural area
- Addressed:**
- Protects / Enhances water quality of the Tualatin River
 - Protects / Enhances riparian habitat and wildlife
 - Provides broader restoration opportunities

Managers: Metro will manage this property

Sellers: Private Party

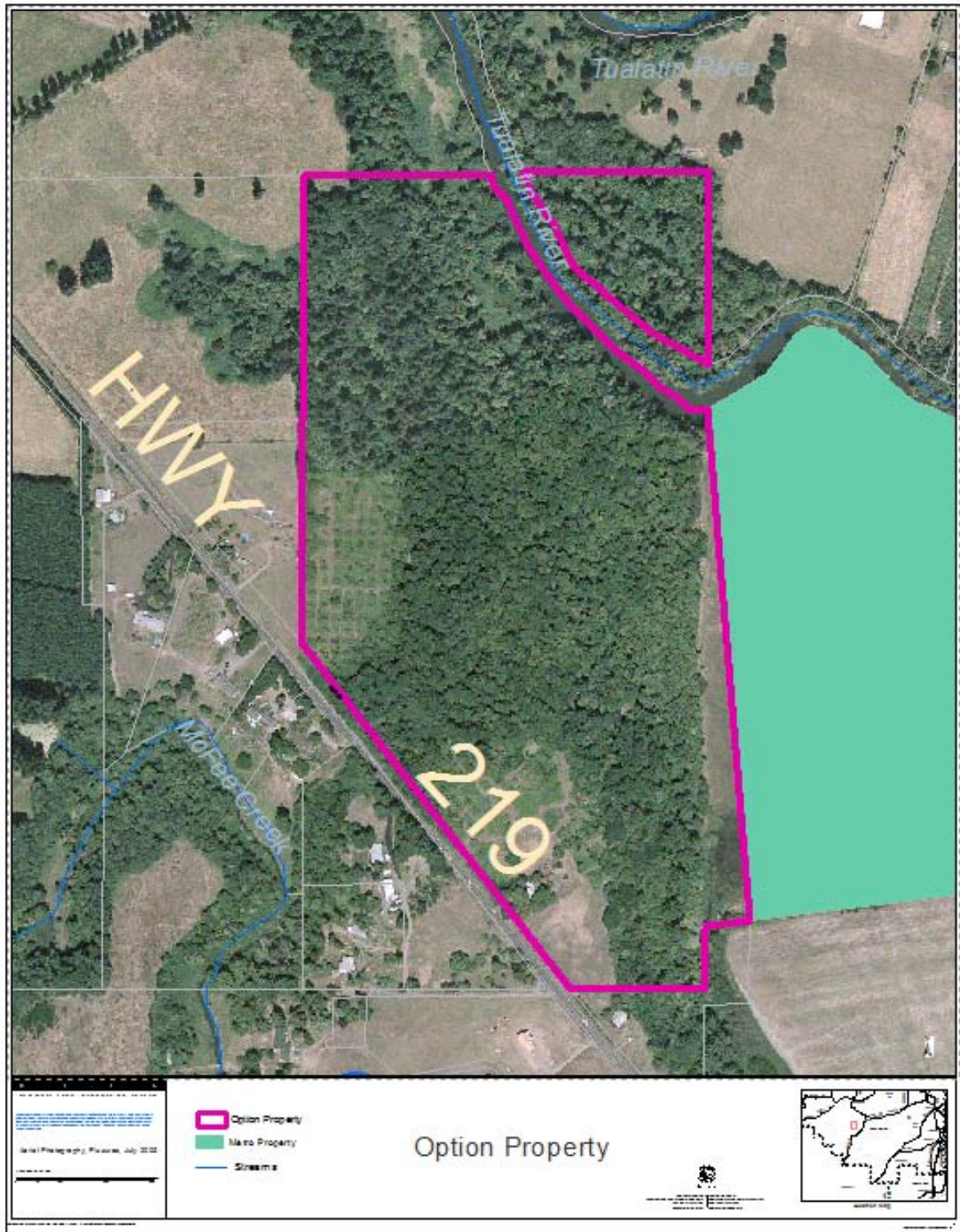
Size: 68.25 acres

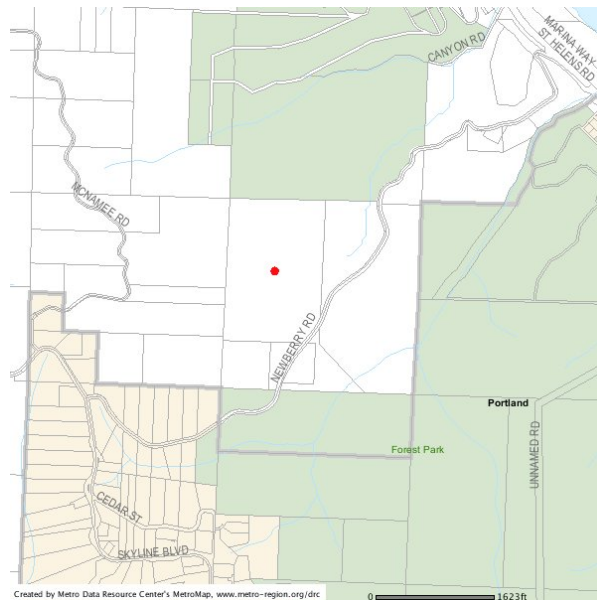
UGB Outside

Stream Frontage: Both sides of Tualatin River

Option Price: \$10,000

Conditions: Metro Council Approval, Appraisal and Environmental, Bond Measure





Target Area:

FOREST PARK

Description: This 57.5-acre parcel is located along NW Newberry Road. It is currently improved with two single-family residences clustered near Newberry Road with the remainder of the property containing a combination of open meadows and mixed coniferous and deciduous forest.

Metro's 267-acre Ennis Creek property is located adjacent to the northern boundary of this parcel, and Forest Park proper – including the northerly terminus of the Wildwood Trail – is located one property south of this parcel along both sides of NW Newberry Road. As such, this property represents a very important connection between Forest Park and the Ennis Creek property and provides a potential corridor for extension of the Wildwood Trail from the south side of NW Newberry Road to Metro's Ennis Creek property to the north.

The Trust For Public Land has agreed to fund the initial acquisition of this property in anticipation of the passage of the 2006 Natural Area Bond Measure and has signed an option with the landowner. The Trust has had the entire property appraised and is now willing to sell the entire 57.5-acre property to Metro. The real estate appraisal of this property was based upon an extraordinary assumption that constitutes an "unusual circumstance" requiring the specific approval of the Metro Council, as set forth in the Open Spaces Implementation Work Plan.

If this 57.5-acre parcel is not acquired now, it will be sold to a private party who will likely raze both residences and redevelop the property with two larger single-family residences set farther back from the road that would have a greater impact on the integrity of the site's natural

area features.

- Option Criteria**
- Addressed:**
- Adjacent to Metro's 267-acre Ennis Creek property
 - Represents an important connection between Forest Park proper and the Ennis Creek property
 - Potential to extend Wildwood Trail to Ennis Creek property
 - City of Portland and Friends of Forest Park strongly supports this acquisition

Managers: Metro will manage this property

Sellers: Private Party

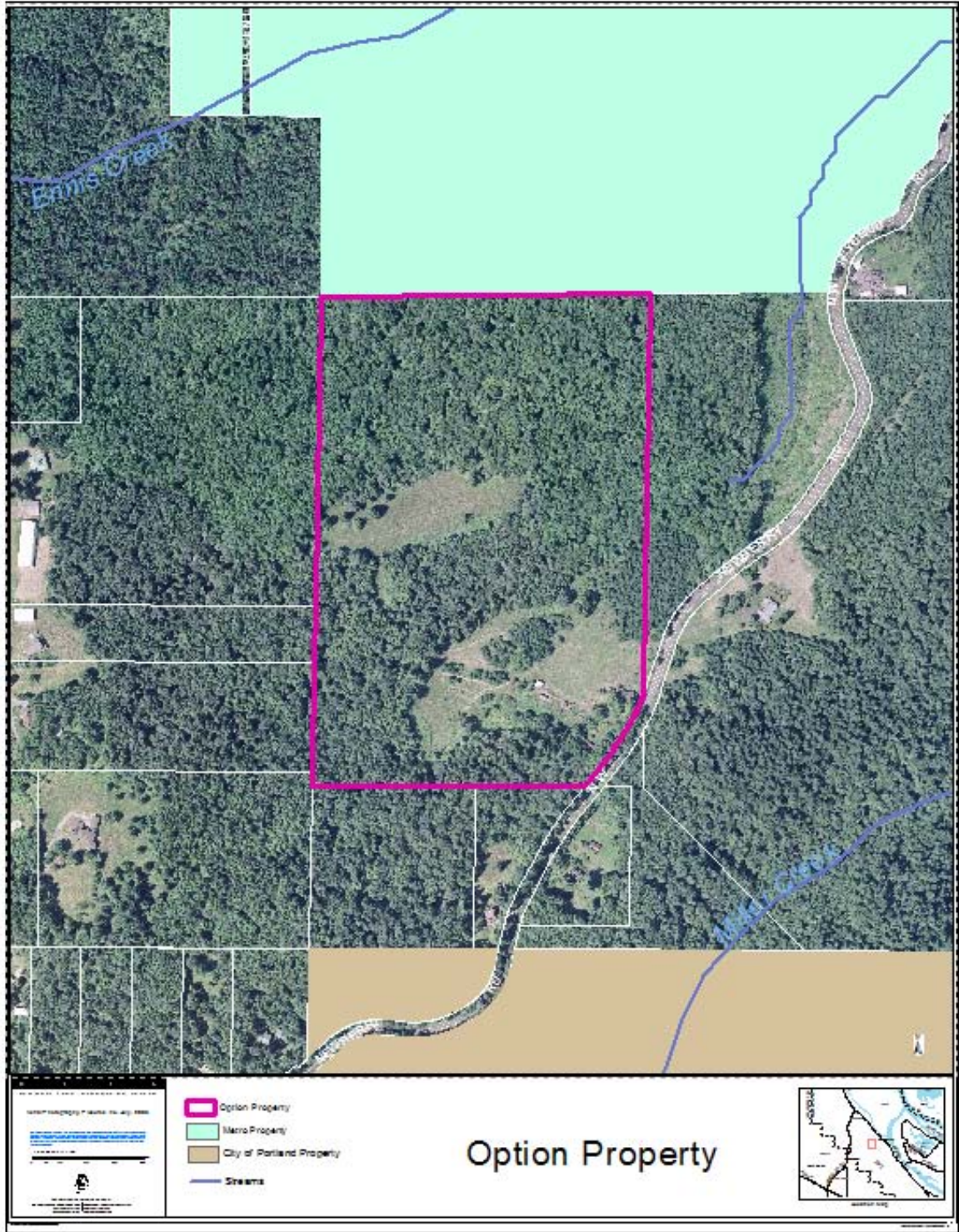
Size: 57.5 acres

UGB Outside

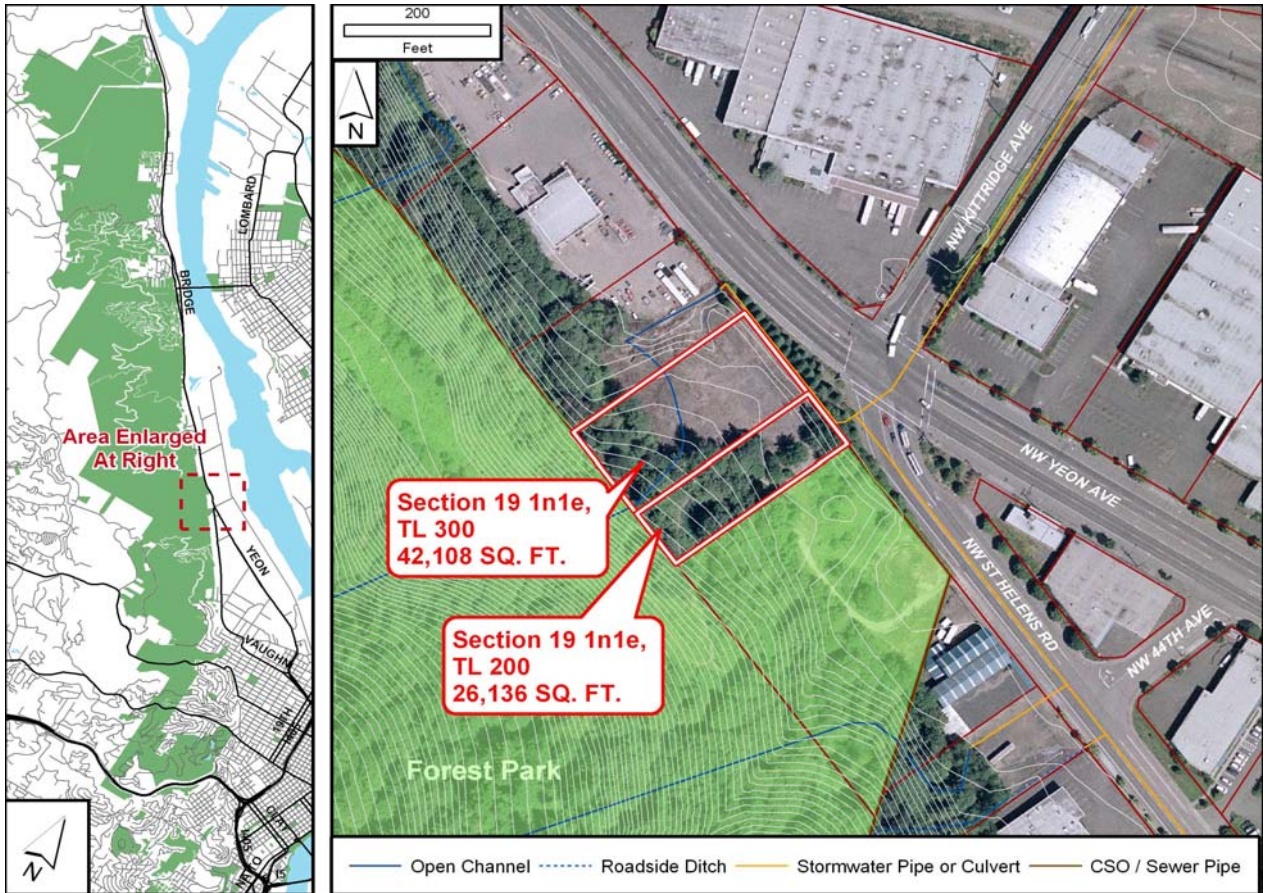
Stream Frontage: None

Option Price: \$0 The Trust For Public Land will provide initial funding until Bond Measure passes

Conditions: Metro Council Approval of "unusual circumstances" Environmental Review, Bond Measure



Option Property



Target Area: FOREST PARK REGIONAL TRAILHEAD

Description: This 2 acre parcel on NW St Helens Rd is adjacent to property proposed for a regional trailhead to Forest Park, (known as the PGE property). Ownership of the additional acreage at this site will solidify the capacity for improving the site. It will ensure adequate parking and facilities can be accommodated and facilitate an improved trail design for linkage with existing Forest Park trails, currently challenged by steep slopes.

The site is also home to many Oregon white oak and Pacific madrones and is traversed by a drainage of the Willamette River watershed.

Option Criteria Addressed:

- Protects Water Quality in the Willamette River Watershed
- Acquisition strongly supported by City of Portland, Friends of Forest Park
- Site of future regional trailhead to Forest Park

Managers: The City of Portland Bureau of Parks and Recreation will manage the property.

Sellers: Private Party

Size: 2 acres

UGB: Inside

Stream Frontage: Drainage only, Willamette River Watershed

Option Price: \$0

Conditions: Metro Council Approval, Bond Measure, Appraisal and Environmental



Target Area: JOHNSON CREEK – Springwater Plan District

Description: This 19-acre parcel on Johnson Creek and adjacent to the Springwater Trail between SE 252nd and is in the Springwater Plan District, City of Gresham’s newest Community. The ODFW Watershed Action Plan Team identified the site as including the best existing conditions along Johnson Creek. The area around the Creek is home to a large strand of cedars; the upland area has been used for horse grazing and will require restoration.

The site also includes the alignment of the planned Village Centre Trail, identified in the Springwater Plan.

There is a single-family residence and horse barn on the site along 252nd Avenue.

Protection of this site is strongly supported by the City of Gresham. Funding for acquisition of the parcel has been identified in future System Development Credits from the Springwater Plan District,

however access to these funds is not anticipated until 2012. Metro proposes to fund the acquisition with Regional Bond funds until SDC funds are available. The City of Gresham has agreed to acquire the parcel from Metro when funds are available, and not later than 10 years from the Closing date. In the interim period City of Gresham will manage the parcel the natural area of the parcel, whilst Metro will retain management of the residence and barn, currently leased to private parties

**Option Criteria
Addressed:**

- Protects Water Quality
- Includes alignment of proposed Village Center Trail in the Springwater Community Plan
- Acquisition strongly supported by City of Gresham, Johnson Creek Watershed Council
- Adjacent to Springwater Corridor
- Preserves connectivity for an urban wildlife or recreation corridor along Johnson Creek

Managers: City of Gresham and Metro will partner in management of the property.

Sellers: Private Party

Size: 19 acres

Stream Frontage: Johnson Creek

Option Price: \$5,000

Conditions: Metro Council Approval, Bond Measure, Appraisal and Environmental

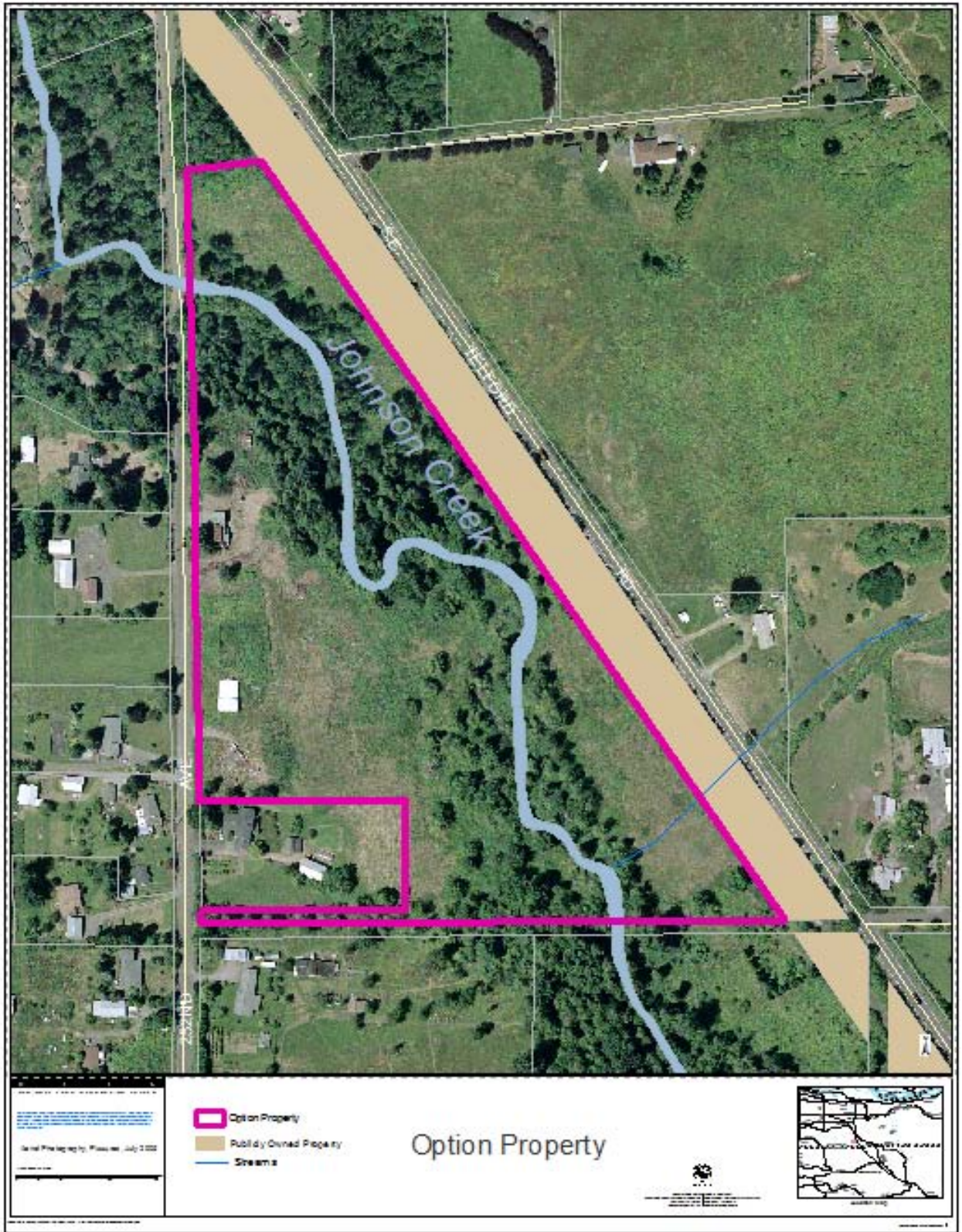


EXHIBIT B

RESOLUTION NO. 06-3720

FUNDING FOR OPTIONS

Target Area	Property Owner	Size (acres)	Estimated Option Funds Required
Newell Creek	Private Party	6.0	\$1,000
Lower Tualatin Headwaters	Private Party	68.25	\$10,000
Forest Park	Private Party	57.5	\$0
Forest Park	Private Party	2	\$0
Johnson Creek	Private Party	19.5	\$5,000
Total Option Funds Required			\$16,000
(this resolution)			

Previously Approved Options (negotiations ongoing)

Target Area	Property Owner	Size (acres)	Estimated Option Funds Required
Columbia Slough	Private Party	19.95	\$20,000
Columbia Slough	Private Party	26.6	\$2,000
Newell Creek	Private Party	50.0	\$500
Abernathy Creek	Private Party	7.05	\$1,000
Rock Creek	Private Party	41.81	\$5,000
Westside Trail	Private Party	11.81	\$2,250
Option Funds Approved – Not yet spent			\$30,750
(approved in prior resolutions)			

Total	\$46,750
(Appropriation Budget = \$100,000)	

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3720 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO OPTIONS TO PURCHASE PROPERTIES IN THE NEWELL CREEK, LOWER TUALATIN RIVER HEADWATERS, FOREST PARK, AND JOHNSON CREEK TARGET AREAS, AND INCLUDING A PROPERTY IN THE FOREST PARK TARGET AREA SUBJECT TO UNUSUAL CIRCUMSTANCES, UNDER THE PROPOSED 2006 NATURAL AREAS BOND MEASURE IN ACCORD WITH THE OPEN SPACES IMPLEMENTATION WORK PLAN.

Date: August 15, 2006

Prepared by: William Eadie
Hillary Wilton

BACKGROUND

Metro staff was directed by Metro Council on September 29, 2005 through Resolution No. 05-3612, "For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee, and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program," to obtain options to purchase specific properties approved by Council, as part of the preliminary work for the 2006 Natural Areas Bond Measure. As part of the FY 2006-07 Adopted Budget, the Metro Council approved spending up to \$100,000 for the purchase of options or as earnest money in preparation for the 2006 Natural Areas Bond Measure. As part of Resolution No. 06-3687, "For the Purpose of Authorizing the Chief Operating Officer to Enter Into Options to Purchase Property Under the 1995 Open Spaces Bond Measure and Proposed 2006 Natural Areas Bond Measure in Accord With the Open Spaces Implementation Work Plan and Providing Funding," Metro Council approved spending for the purchase of options or as earnest money in preparation for the 2006 Natural Areas Bond Measure.

Metro staff has identified opportunities to enter into purchase and sale agreements to acquire property in the proposed 2006 Natural Areas Bond Measure Target Areas, conditioned upon passage of the 2006 Natural Areas Bond Measure, Metro Council approval and funding to provide earnest money for these opportunities. Council approval is necessary to enter into these agreements.

NEWELL CREEK CANYON PROPERTY

Newell Creek is the major tributary to Abernethy Creek. Newell Creek Canyon is a Target Area identified in the 1995 Opens Spaces Bond Measure, and Abernethy Creek is a Target Area identified in the 2006 Natural Areas Bond Measure.

Staff has identified a 12.77-acre parcel that is located along the west side of Newell Creek Canyon and adjacent to Beaver Creek Road. Metro owns adjacent land to the north, and the City of Oregon City owns adjacent land to the east. The property is currently improved with an apartment complex. The owners of this property are in financial distress and are looking to refinance their debt service. Due to recent land movement in the canyon, a number of apartment buildings situated on approximately 6.0 acres of the property must be razed and removed.

The owners will agree to sell the six acres to Metro for appraised value. They will demolish and remove all building and parking lot improvements and will re-grade the surface to Metro's satisfaction. They will

also agree to grant Metro a public access easement through the remaining apartment development so that Metro can utilize a portion of the six acres to provide a future public trailhead for Newell Creek Canyon.

LOWER TUALATIN RIVER HEADWATERS PROPERTY

Watersheds in the southwest Chehalem Mountains retain significant wildlife habitat value, and acquisition of riparian lands within these headwaters areas will safeguard water quality in the lower Tualatin River Basin. The Lower Tualatin Headwaters is a Target Area identified in the 2006 Natural Areas Bond Measure.

Staff has identified a 68.25-acre property located along SW Hillsboro Highway in Scholls. Approximately half of this property lies within the 100-year floodplain and has over 2,000 feet of frontage along both sides of the Tualatin River. The remainder of the property consists of forested slopes, and there is a dilapidated house situated on an upper terrace along SW Hillboro Highway.

The site is adjacent to the west side of Metro's Gotter Prairie Natural Area (GPNA) and adjacent to another 44.19-acre site recently optioned by Metro. The floodplain on this property has exceptional native vegetation communities. In fact, Metro mimicked much of this plant community in portions of the Gotter Prairie restoration. Taken together with the previously optioned 44.19-acre parcel, these two properties will add over 112 acres to Metro's 114-acre Gotter Prairie Natural Area.

Acquiring this site will support several key goals of the 2006 Natural Areas Bond Measure by expanding the core area of protected habitat associated within the GPNA, protecting declining native oak habitat, and providing broader restoration opportunities such as expanded seasonal flooding to support a state-sensitive northern red-legged frog (*Rana aurora aurora*) population which breeds at the GPNA.

This acquisition is strongly supported by the Tualatin Riverkeepers.

FOREST PARK PROPERTY

Forest Park is the largest and most ecologically intact natural area in the metropolitan region and is considered by many to be the "crown jewel" of the region's natural area network. Forest Park is a Target Area identified in the 2006 Natural Areas Bond Measure.

Staff has previously identified a 57.5-acre parcel that is located along NW Newberry Road. This parcel is currently improved with two single-family residences clustered near Newberry Road with the remainder of the property containing a combination of open meadows and mixed coniferous and deciduous forest. The landowners are ready to place this property on the market for sale.

The Trust For Public Land (TPL) has agreed to provide the necessary funding to complete the initial acquisition of this property in anticipation of the potential passage of the 2006 Natural Area Bond Measure and has signed an option with the landowner. In the event of the passage of the 2006 Natural Area Bond Measure, the Trust has indicated its willingness to sell 52.5 acres of the entire 57.5-acre parcel to Metro at appraised value. On June 15, 2006 via Resolution 06-3708, "For the Purpose of Authorizing the Chief Operating Officer to Enter into Options to Purchase Property Under the Proposed 2006 Natural Areas Bond Measure in Accord with the Open Spaces Implementation Work Plan," Metro Council approved the purchase of 52.5 acres of this site from the TPL at appraised market value.

Subsequently, the Trust has had the entire property appraised and is now willing to sell the entire 57.5-acre property to Metro. The real estate appraisal of this property was based upon an extraordinary assumption that constitutes an "unusual circumstance" requiring the specific approval of the Metro Council, as set forth in the Open Spaces Implementation Work Plan.

One of the unique things about this property is that there are two single-family homes located on a single tax lot that predate land use regulations. Consequently, the owner of the property has a grandfathered right to replace each of the homes with newer homes if so desired. In fact, the landowners believe that they have a potential Measure 37 claim for a larger number of homesites but are not interested in pursuing that path, preferring to work with TPL and Metro to preserve the natural area features of the property.

The landowners intended to market the property as two potential tax lots, availing themselves of a Multnomah County code section that provides for a "lot of exception" partition process. They had already gone so far as to go through a preapplication meeting with the county planner to satisfy themselves that a new owner would indeed be able to complete the lot of exception.

In appraising the property, both the appraiser and review appraiser were aware of the "lot of exception" process and valued the property on this basis. However, since this assumption would have a substantial impact on value, they were required to call it out in the report as an "extraordinary assumption".

One of the existing structures on this property is the original homestead, which is quite old and in poor condition, and in the appraiser's opinion, would likely be torn down and replaced. In the event that TPL and Metro did not purchase this property, a private buyer would most likely do just that and relocate the home farther back from the road nearer the natural area portion of the property.

This acquisition is strongly supported by the Friends of Forest Park and the City of Portland.

FOREST PARK REGIONAL TRAILHEAD

Recreational use of Forest Park has grown dramatically over the years; it will continue to grow as the population increases. Lack of parking and trailhead amenities to provide access to this regional natural area is already a significant problem. Staff has identified a 2-acre parcel on NW St Helens Rd., adjacent to property proposed for a regional trailhead to Forest Park, (known as the PGE property). Ownership of this additional acreage will solidify the capacity for improving the site as a major trailhead. It will ensure adequate parking and facilities can be accommodated and facilitate an improved trail design for linkage with existing Forest Park trails currently challenged by steep slopes.

The site is also home to many Oregon white oak and Pacific madrones and is traversed by a drainage of the Willamette River watershed.

This acquisition is strongly supported by Friends of Forest Park, the City of Portland and the extensive community who utilize this resource.

JOHNSON CREEK

The City of Gresham referred this property to Metro. It is an opportunity to protect from development a 19-acre parcel with extensive Johnson Creek frontage and adjacent to the Springwater Trail. The site at SE 252nd is in the Springwater Plan District, City of Gresham's newest community. It contains a healthy habitat area along the creek frontage and the alignment of the planned Village Centre Trail, identified in the Springwater Community Plan.

The Oregon Department of Fish and Wildlife Watershed Action Plan Team have identified the site as a priority, for its water quality resource qualities and best existing conditions along Johnson Creek. The area around the creek is home to a large stand of cedars; the upland area has been used for horse grazing and will require restoration. There is a single-family residence and horse barn on the site along 252nd Avenue.

Funding for acquisition of the parcel has been identified in future System Development Credits from the Springwater Plan District, however access to these funds is not anticipated until 2008 – 2010. Metro proposes to fund the acquisition with 2006 Natural Areas Bond Measure funds until SDC funds are available. The City of Gresham has agreed to acquire the parcel from Metro when funds are available, and not later than 5 years from the Closing date. In the interim period City of Gresham will manage the parcel the natural area of the parcel, while Metro will retain management of the residence and barn, currently leased to private parties.

Acquiring this parcel represents a unique opportunity to leverage the availability of 2006 Natural Areas Bond Measure funds to protect important natural resources and water quality, before other funding sources are available.

Details of these options are outlined in Exhibits A and B of the Resolution.

ANALYSIS/INFORMATION

1. Known Opposition

None known.

2. Legal Antecedents

Resolution No. 06-3672B, “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisitions and Water Quality Protection”, adopted on March 9, 2006.

Resolution No. 05-3612, “For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program”, adopted on September 29, 2005.

Unusual circumstances as defined in The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 95-2228A (“For the Purpose of Authorizing the Executive Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Open Space Implementation Work Plan”), as amended by Resolution 96-2424 require Council approval prior to acquisition.

Resolution No. 06-3708, “For the Purpose of Authorizing the Chief Operating Officer to Enter into Options to Purchase Property Under the Proposed 2006 Natural Areas Bond Measure in accord with the Open Spaces Implementation Work Plan”, adopted on June 15, 2006.

Resolution No. 06-3719A, “For the Purpose of Authorizing the Chief Operating Officer to Enter into Options to Purchase Properties in the Fanno Creek, Abernethy Creek, Rock Creek and Westside Trail Target Areas”, adopted on July 13, 2006.

3. Anticipated Effects

Metro will enter into Purchase and Sale Agreements for properties as identified on Exhibit A.

4. Budget Impacts

As part of Resolution No. 06-3687, "For the Purpose of Authorizing the Chief Operating Officer to Enter into Options to Purchase Property Under the Proposed 2006 Natural Areas Bond Measure in Accord with the Open Spaces Implementation Work Plan," adopted on May 11, 2006, Metro Council approved spending for the purchase of options or as earnest money in preparation for the 2006 Natural Areas Bond Measure.

In the 2006-07 Adopted Budget, the Metro Council designated \$100,000 in the General Fund toward the purchase of options and to use as earnest money on properties that would be purchased upon passage of the 2006 Natural Areas Bond Measure.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 06-3720.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE) RESOLUTION NO. 06-3721
METRO DIVERSITY PLAN) Introduced by Chief Operating Officer,
) Michael J. Jordan, with the concurrence of
) Council President David Bragdon

WHEREAS, in 2005, Metro Council developed a strategic plan and critical success factors for the agency, including Workforce Excellence and “providing leadership in the community through our diversity practices;”

WHEREAS, the Metro Council is committed to supporting and promoting diversity within the agency, and ensuring success in identifying and achieving diversity initiatives in the core diversity functional areas of: Contracts and Procurement, membership on citizen advisory committees, Recruitment and Retention;

WHEREAS, in 2005, Metro Council convened a Diversity Action Team to ensure diversity initiatives are identified and achieved;

WHEREAS, the Metro Diversity Action Team developed the Metro Diversity Plan as a written statement of Metro’s commitment to diversity; now therefore

BE IT RESOLVED that the Metro Council adopts the Metro Diversity Plan as attached as Exhibit A.

ADOPTED by the Metro Council this 17th day of August, 2006

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Diversity Plan

**METRO
COUNCIL
LEADERSHIP
INITIATIVE**



METRO
PEOPLE PLACES

*Building workforce excellence –
demonstrating leadership through
diversity practices*

Metro's diversity program supports the Metro Council's critical success factor addressing workforce excellence by developing goals and objectives that align with the Council's stated objective to: "Provide leadership in the community through our diversity practices."

In addition, this program provides ancillary support to the critical success factor addressing communications and leadership excellence by enhancing diversity on Metro advisory committees in order to reflect the ethnicity and income distribution of the community we serve.

Principles

Metro strives to factor diversity and cultural competence into all we do. By doing so we improve the livability of the communities we serve, and enrich the quality of Metro's workforce. Metro respects and recognizes the significant benefits received from diversity such as may be expressed through racial, ethnic, religious, gender, cultural, disability, age, sexual orientation, gender identity and socioeconomic differences. The value of diversity is achieved through awareness, education and positive recognition of cultural differences within the workplace. These values are expressed in our cohesive relationships within the workplace and the community.

Performance measures

Metro's diversity efforts are most evident in three areas: 1) procurement; 2) membership on citizen advisory committees; 3) employee recruitment and retention. This program ensures Metro's success in identifying and achieving diversity initiatives in each of these areas. Performance measures for each of the three core areas are outlined in the annual budget document for this program.

Action team

In 2005, the Metro Council approved the convening of the Diversity Action Team (DAT), at the request of the Chief Operating Officer. The DAT is chaired by the Chief Operating Officer, and is made up of employee representatives from each of the three core areas outlined above, a department director to serve as liaison to senior management, and a Metro Councilor to serve as liaison to the Metro Council.

Diversity plan model elements

The plan model elements are outlined below. Metro's primary areas of focus are outlined in the current initiatives to ensure accountability and sustainability of the program, and compliance with applicable laws. Targeted initiatives will be incorporated over a five-year time line, paralleling the program's annual budget document.

Current initiatives, as of July 1, 2006

Chief Operating Officer (COO) accountability

Give the COO ultimate accountability for diversity and for ensuring that every department director makes diversity a personal priority. Ensure appropriate resources are made available, and assign diversity action team members with responsibility for carrying out diversity plan model elements.

Management performance evaluation

Integrate measurable diversity objectives into general business objectives, with a tie to management performance evaluations and compensation.

Diversity training

Establish ongoing diversity training programs (e.g., workforce culture, procurement practices) for the Metro Council, management and employees.

Recruitment programs

Implement recruitment, retention, coaching and/or mentoring programs for people of diverse backgrounds:

- Provide workplace internships focused on minority populations
- Work with professional organizations
- Identify internal organization champions
- Create partnerships with high schools, community colleges and universities.

Citizen committees

Ensure diverse representation on citizen committees.

Employment policies

Establish an inclusive and welcoming work environment. Develop policies that address racism and cultural insensitivity, affirmative action/equal employment opportunity (aa/eo), and diversity.

Procurement strategies

Implement strategies to increase opportunities for contracting for construction, goods and services, professional services, and public relations/community affairs:

- Establish a baseline of activity
- Develop a dialogue on this topic with vendors, suppliers and brokers who have demonstrated competence in diversity advancement
- Set targets and strategies to demonstrate advancement beyond the baseline
- Evaluate results and provide feedback.

Diversity Action Team

Michael Jordan
Chief Operating Officer

Susan McLain
Metro Councilor

Mike Hoglund
Solid Waste And Recycling
Department Director

Rachel Bertoni
MERC Human Resource
Manager

Pat Emmerson
Public Affairs and Government
Relations Public Involvement
Specialist

Karol Ford
Human Resource Recruitment
and Selection Manager

Cinna'Mon Williams
Contracts and Procurement
Analyst

Targeted initiatives: 5 Year Plan

Internal and external communication

- Ensure that Metro's vision, mission, values and diversity policy are clearly articulated both internally and externally.
- Ensure senior managers communicate regularly to internal and external stakeholders about diversity initiatives.

Community involvement

Stimulate community involvement.

- Increase opportunities for Metro Council and senior management to participate in diverse outreach activities.
- Increase Metro's sponsorship of diverse community activities (e.g., Say Hey, OAME events, Breakfast of Champions).
- Enhance youth involvement through collaborative venture with Worksystems, Inc. and Metro departments, by providing internships to underserved youth.

Employee survey

Conduct a regular cultural and attitude assessment of all employees

- Conduct employee satisfaction surveys
- Hold focus groups of employees

STAFF REPORT

IN CONSIDERATION OF RESOLUTION_NO. 06-3721, FOR THE PURPOSE OF ADOPTING THE METRO DIVERSITY PLAN

Date: August 17, 2006

Prepared by: Karol Ford

BACKGROUND

Metro's diversity efforts are most evident in three areas: Contracts and Procurement, membership on citizen advisory committees, and Recruitment and Retention. In 2005, Metro Council approved the convening of the Diversity Action Team (DAT). The DAT is chaired by the Chief Operating Officer, and is made up of employee representatives from each of the three core areas outlined above, Mike Hoglund, liaison to senior management, and Councilor Susan McLain, liaison to Metro Council. This program supports Metro Council's Critical Success Factor of Workforce Excellence by developing goals and objectives that align with Council's stated objective of "providing leadership in the community through our diversity practices," and ensures Metro's success in identifying and achieving diversity initiatives in each of the three core areas.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this resolution.
2. **Legal Antecedents:** This program ensures Metro compliance with local, state and federal regulations concerning diversity including Title VI and VII of the Civil Rights Act of 1964, as well as related contracts & purchasing laws and regulations, including Oregon Revised Statutes, Federal Regulations, and Metro Code 2.04.100 – 2.04.190.
3. **Anticipated Effects:** Adoption of the Metro Diversity Plan will provide direction to the Diversity Action Team in carrying out Metro Council's Critical Success Factor of "providing leadership in the community through our diversity practices."
4. **Budget Impacts:** The Diversity Action Team is submitting a budget amendment to request funding in support of Diversity Plan initiatives.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution # 06-3721.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING AN) RESOLUTION NO. 06-3724
APPLICATION FOR A WETLAND MITIGATION)
EASEMENT TO THE CITY OF WILSONVILLE) Introduced by Chief Operating Officer
AND MATRIX DEVELOPMENT CORPORATION) Michael J. Jordan, with the concurrence of
) Council President David Bragdon

WHEREAS, in May 1995, regional voters approved a \$135.6 million Open Spaces, Parks and Streams Bond Measure (the “1995 Open Spaces Bond Measure”) with a stated goal of acquiring land in 14 regional natural areas and six regional trails and greenway areas (“Target Areas”), and one Target Area identified during the implementation of the 1995 Open Spaces Bond Measure implementation was the Tonquin Geologic Area; and

WHEREAS, Metro purchased certain real property in the Tonquin Geologic Area with proceeds from the 1995 Open Spaces Bond Measure, including an approximate 28-acre parcel, consisting of multiple tax lots, that was donated to Metro by The Wetlands Conservancy subject to a Conservation Easement retained by the Wetlands Conservancy (“referred to herein as the Property”); and

WHEREAS, on November 6, 1997 the Metro Council adopted Resolution No. 97-2539B, “For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department” (“Easement Policy”), which provides for formal staff review under specified criteria of all proposed easements, rights-of-way and leases for non-park uses, with final review and approval by the Metro Council; and

WHEREAS, the City of Wilsonville (“City” or “Wilsonville”) is engaged in a transportation construction project known as the Boeckman Road – Tooze Road Connection Project (“Boeckman Road Extension Project” or “Project”) which Project strongly supports multiple local, regional and state transportation and land use goals; and

WHEREAS, the Project purpose is to provide a critical east-west transportation connection to address rapid population growth, relieve congestion on Wilsonville Road, and improve multi-modal connectivity and access to the Villebois development in the City of Wilsonville; and

WHEREAS, the Boeckman Road Extension Project is one of the planned strategies outlined in both the Metro Regional Transportation Plan and the City’s Transportation Systems Plan to meet the transportation demand from planned growth in the western portion of the City of Wilsonville; the Project is also an essential component for the redevelopment of the former F.H. Dammasch State Hospital property and is consistent with the legislatively approved Dammasch Transportation Efficiency Land Use Plan, ORS 426.508(3); and

WHEREAS, the Project will serve a significant compact, mixed-use development project at the Dammasch Hospital site (called Villebois) that will provide needed housing in Wilsonville and is consistent with the region’s 2040 Growth Concept and Regional Transportation Plan, as well as State objectives for compact development; and

WHEREAS, on January 10, 2002 the Metro Council adopted Resolution No. 02-3151, "For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Projects," which committed funding in the amount of \$1,956,625 each from Metro, Oregon Department of Transportation, the City and Clackamas County to the Sunnyside Road and Boeckman Road OTIA projects, with the further commitment that those agencies will seek other funding sources to directly offset that commitment and make the Boeckman Road Extension Project a first priority for project advancement; and

WHEREAS, on June 19, 2003 the Metro Council adopted Resolution No. 03-3335, "For the Purpose of Allocating \$53.75 Million of Transportation Priorities Funding for the Years 2006 and 2007, Pending Air Quality Conformity Determination," to award \$1,965,625 of 2006-07 Transportation Priorities funding to the City of Wilsonville for the Boeckman Road Extension Project, honoring the commitment made by Resolution No. 02-3151; and

WHEREAS, on December 11, 2003 the Metro Council adopted Resolution No. 03-3381A, "For the Purpose of Approving the 2004-07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area," to approve the 2004-07 Metropolitan Transportation Improvement Program ("MTIP"), programming \$1,965,625 of 2006-07 Transportation Priorities funds and \$3,932,625 of state modernization and Oregon Transportation Investment Act ("OTIA") funds for the Project; and

WHEREAS, the City has committed \$9,803,350 of local funds; and

WHEREAS, the City requires that Matrix Development Corporation (hereafter, "Matrix") perform wetlands mitigation in conjunction with their residential development in the Villebois master planned neighborhood; and

WHEREAS, the City and Matrix have submitted an easement application as set forth in Exhibit A attached hereto and incorporated herein ("Application") under the Easement Policy for a wetland mitigation easement over a portion of the Property, consisting of approximately 14 acres for wetland mitigation; and

WHEREAS, the Application cites the reason for the request is that Wilsonville needs to construct the Boeckman Road Extension Project, and to conduct related wetland mitigation in order to facilitate the completion of The Villebois Master Plan Neighborhood. As a result of the City's wetlands mitigation project utilizing property formerly intended to be used by Matrix, Matrix requires an alternate site for wetland mitigation; and

WHEREAS, pursuant to the Easement Policy, Metro Parks & Greenspaces staff, City staff and representatives of Matrix have consulted and determined that the appropriate course of action is to proceed by first removing the existing non-native reed canary grass and other noxious weeds on the Property either during the dry season of 2006 or 2007, while conducting further analysis of site hydrology and other factors of the Property. After further study it will be possible to determine if and how depressional wetlands and other alterations of the existing terrain can be constructed in order to achieve a more natural functioning wetland which will support native vegetation and exclude the re-introduction of non-native species; and

WHEREAS, in order to facilitate the acquisition by the City of all necessary property interests to establish the needed certainty to allow the construction of the Boeckman Road Extension Project it is appropriate to authorize the conceptual mitigation project described in the Application subject to the determination of the final design and feasibility; now therefore

BE IT RESOLVED BY THE METRO COUNCIL THAT:

1. The City of Wilsonville's and Matrix Development Corporation's Application for Easement/Right-of-Way/Lease for Non-Park Uses is approved, subject to the approval of a Wetland Mitigation Plan by the Chief Operating Officer and subject to the City and Metro obtaining any necessary approvals from any priority recorded leaseholders or easement holders on the affected Properties, and that the final easements are in forms approved by the Metro Attorney.
2. The Chief Operating Officer is authorized to grant a limited right-of-entry to Matrix and the City to allow the suppression of reed canary grass and other noxious weeds and to allow further study of the Property in order to develop an acceptable Wetland Mitigation Plan.
3. Upon approval by the Chief Operating Officer of the Wetland Mitigation Plan and determination of the final feasibility and design, the Chief Operating Officer is authorized to grant easements to Matrix and the City for the construction of the wetland mitigation project consistent with the proposal contained in the Application.

ADOPTED by the Metro Council this _____ day of _____ 2006.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 06-3724
**City of Wilsonville's and Matrix Development Corporation's Application for Easement/
Right-of-Way/Lease for Non-Park Uses Dated July 12, 2006**

[Placeholder]



**Application for Easement / Right-of-Way / Lease
For Non-Park Uses**

Applicant Name	Contact Person Name:
The City of Wilsonville and Matrix Development Corp.	Kristin Retherford
Address	Title
30000 Town Center Loop East	Urban Renewal Project Manager
City, State, Zip	Phone
Wilsonville, OR 97070	503-570-1539
Phone	Fax
503-682-4960	503-682-7025

Applicant shall fully and completely explain, describe and identify the elements of its proposed easement / right-of-way / lease, for non-park uses in accord with Metro Council Resolution No. 97-2539B, attaching additional materials if necessary, as set forth below.

Type of Request: Easement Right-of-Way Lease

Describe the purpose of your request:

The City of Wilsonville (City) is preparing to construct the Boeckman Road-Tooze Road Connector project (Boeckman Road project), which is an MTIP, STIP, and OTIA funded project. The purpose of this project is to improve transportation mobility regionally as well as in the City by providing east-west connectivity through the Coffee Lake Creek Basin and across Interstate 5. This project is one of the planned strategies to meet the transportation demand from planned growth in the western portion of the City.

In order to develop wetland mitigation required for the Boeckman Road project, the City is acquiring property from multiple property owners, including the Bischof/Lund family. The area to be acquired by the City from the Bischof/Lund parcel is part of a larger acquisition agreement between Matrix and the Bischof/Lund family to develop residential housing in the Villebois master planned neighborhood. Matrix had intended to use the area being acquired by the City for their wetland mitigation and for park development. Consequently, Matrix is now in need of an alternate location to develop the wetland mitigation needed for their residential development project.



Application for Easement / Right-of-Way / Lease For Non-Park Uses

The City and Matrix, as co-applicants, are requesting an easement from Metro allowing Matrix to construct a wetland mitigation site on tax lots 3S1W15 200 and 290. The Matrix wetland mitigation plan is attached as **Exhibit A**.

Describe proposed terms of your requested easement/lease /right of way:

Matrix Development Corporation proposes to enhance approximately 13.37 acres of wetland on Metro-owned property to offset approximately 3.93 acres of wetlands to be filled on property they own adjacent to the Metro parcel. The cost of this enhancement is estimated at \$365,492. This includes five years of monitoring after construction at a cost of approximately \$5,000 per year. It is the applicants' understanding that Metro is not in a position to begin enhancement work on the property at this time and that the mitigation project proposed by the applicants would provide a public benefit.

Identify location of proposal on a base map of not less than 1"=500' showing topographical lines at 10' intervals and include significant natural and man-made features of the area:

See attached **Exhibit A**.

Describe the size of easement requested in both dimension and total area required:

This application is for a Wetland Mitigation Easement over Tax Lots 3S 1W 15 200 and 290. County tax records show that Tax Lot 200 is 16.36 acres and Tax Lot 290 is 3 acres. The actual area needed for the proposed mitigation is approximately 14.00 acres.

Dimensions are irregular as shown on the attached **Exhibit B** (Tax lot map).

Describe all components of your proposed use (grading, fill and removal, sub-surface elements, structures, etc.):

The principal goal of the proposed wetland mitigation plan is to enhance approximately 13.37 acres of degraded and/or cropped wetland within the Coffee Lake valley bottom. Wetlands in the project area have experienced substantial vegetative and hydrologic alteration associated with



Application for Easement / Right-of-Way / Lease For Non-Park Uses

agricultural activities. Regional interest in large-scale restoration of the Coffee Lake valley bottom wetlands is significant and the applicant's approach toward mitigation has been prepared with this in mind. The proposed mitigation will facilitate future large-scale restoration. Measures that are incongruent or would otherwise complicate future efforts to achieve site conditions similar to the probable historic condition have been excluded from design consideration.

Hydrology: A substantial alteration to hydrology in the project area is not possible without the ability to dramatically alter the hydrology of neighboring parcels of land. Consequently, this mitigation plan proposes actions that will not affect flood frequency, magnitude, or risk to nearby private properties. This plan also proposes to enhance existing wetlands in a manner that serves to facilitate larger scale future restoration efforts. Minor excavation in this area will facilitate depression wetland features and intersect the groundwater table in the area during significant portions of the year.

Vegetation: The proposed mitigation approach will permanently modify land use in the project area to conserve native wetland habitat. Invasive reed canarygrass is widespread in the area. This mitigation will seek to realistically reduce the prevalence of this species on-site and establish native shrub diversity. The management of the reed canarygrass will serve the specific purpose of enabling establishment of native species. Prior treatment of reed canarygrass in the mitigation site is important for plant diversity, long-term success, reduced future maintenance costs, and will aid in the establishment of native shrubs and trees during the first 5 years.

Prior to planting the plan proposes reed canarygrass treatment that includes:

- Mowing the entire mitigation site as soon as practicable.
- Spraying state approved non-specific herbicide.

Describe the existing conditions of the site:

The site consists of scrub-shrub wetlands and reed canary grass-dominated wetlands associated with the Coffee Lake Creek wetlands complex. The wetlands have been disturbed by



Application for Easement / Right-of-Way / Lease For Non-Park Uses

plowing, planting, and the construction of ditched drainage-ways. The site is dominated by open fields and is generally unobstructed by trees.

Describe the proposed modifications to the site that would be required to accommodate your request (e.g., tree removal, soil disturbance, stream crossing, etc.):

Excavation and grading at the site will likely be accomplished with a variety of heavy equipment. A track-mounted excavator will be used for bulk excavation and shaping. Excess excavation spoils will be loaded into trucks for off-site disposal at an upland location in a legal manner. Small bulldozers and wheel-mounted backhoes using various attachments may be used for finish grading and site cleanup. Various wheel-mounted equipment and manual labor may be used during installation of prescribed plantings. Erosion control measures will be consistent with best management practices will be placed prior to any soil disturbing activity on the site to prevent construction impacts to adjacent areas.

Describe your proposed project schedule and phasing:

Mowing and spraying may begin as early as the summer of 2006. Implementation of the grading element of the mitigation plan will be completed during the course of a single summer construction season in 2008. The timing of the implementation is dependent on several factors, including availability of all required project permits and other factors. Site planting will be accomplished during the fall or spring periods following the completion of grading activity.

Explain your need for ongoing access. What is your proposal for accommodating this need?

Applicants will need access to the wetland mitigation site for at least five years after it has been constructed. This will include visits to monitor the site, and follow-up maintenance activities. Prior to construction of the wetland mitigation site, we will need to prepare it. No later than Summer 2007 the site will need to be mowed and sprayed to control invasive species.



**Application for Easement / Right-of-Way / Lease
For Non-Park Uses**

Describe your ongoing maintenance requirements:

Same as above.

Describe other reasonable alternative routes that avoid the park or natural area property but are believed to not be feasible:

N/A

What is the public benefit of this lease, easement or right-of-way?

The public will benefit from private expenditure of over \$350,000 to enhance wetlands on public owned land. This easement will also benefit the public by facilitating construction of the Boeckman Road project, which is regionally supported.

Include any other relevant information describing and quantifying your proposal: None

By completing, executing and submitting this Application, Applicant hereby agrees to pay all Metro costs associated with processing, reviewing, analyzing, negotiating, drafting, approving, conveying and assuring compliance with the request hereunder and any easement, right-of-way or lease approved or denied hereby, in accord with Metro Council Resolution No. 97-2539B, unless waived by the Metro Council via resolution adopted at public session.

APPLICANT

METRO
Received and Accepted

By: *Kristin Betherford*

By: _____

Date: *7-12-06*

Date: _____

*Urban Renewal Project
Manager*

City of Wilsonville

Contact For Questions:

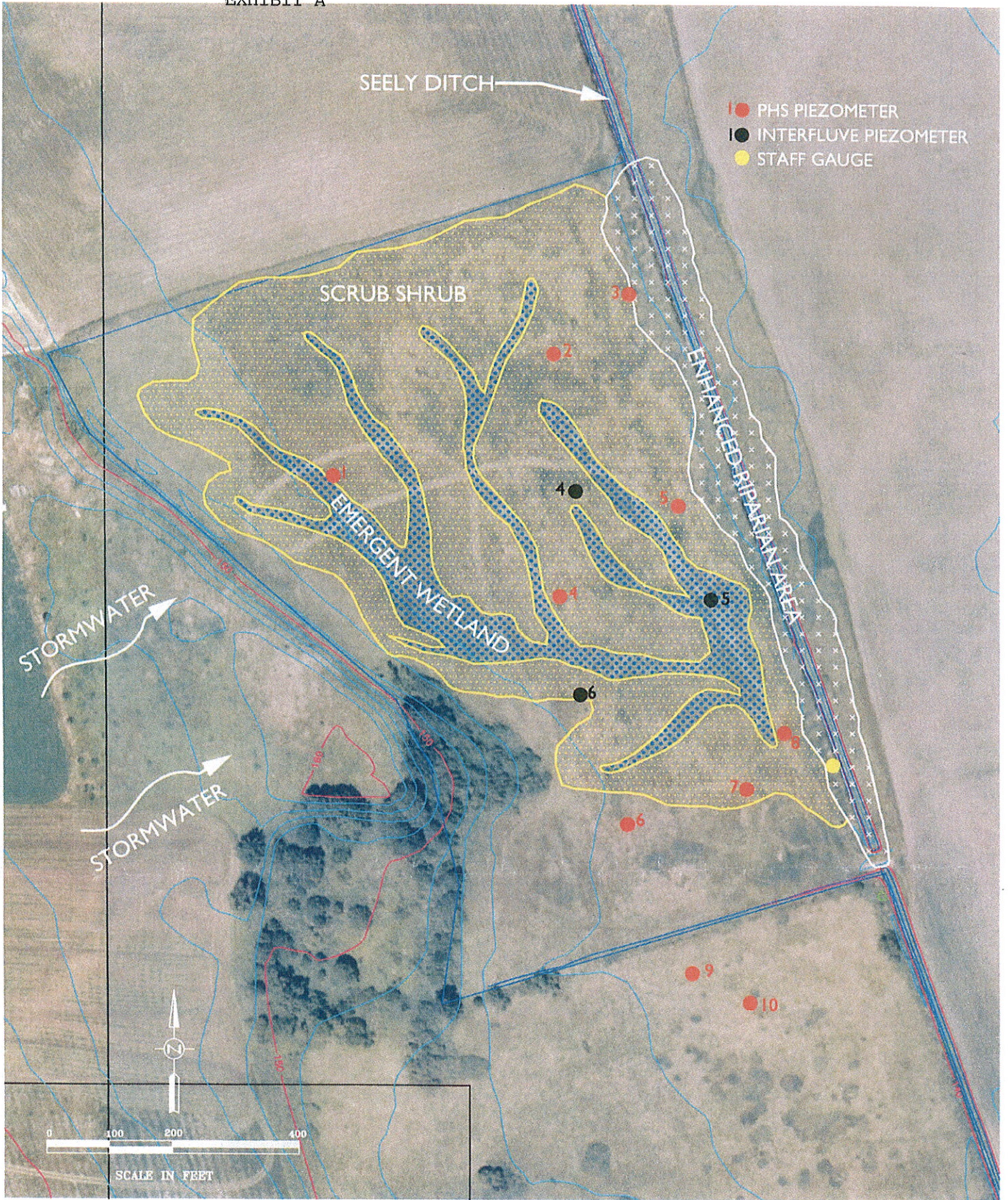


METRO
OPEN SPACES
PEOPLE PLACES

**Application for Easement / Right-of-Way / Lease
For Non-Park Uses**

METRO
Regional Parks & Greenspaces Department
Attn: Laurie Wulf
600 NE Grand Avenue
Portland, Oregon 97232-2736
Telephone: 503/797-1850
Facsimile: 503/797-1849
E-Mail: wulfi@metro.dst.or.us

EXHIBIT A



VILLEBOIS-MATRIX CONCEPTUAL WETLAND MITIGATION PLAN



SECTION 15 T.3S. R.1W. W.M.
CLACKAMAS COUNTY
1" = 400'

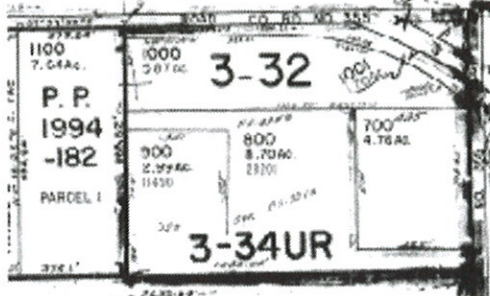
D.L.C.'S
ROBERT V. SHORT NO. 46
SAMUEL B. FRANKLIN NO. 50

3 IW 15
WILSONVILLE

1500
305-01

1500

SEE MAP 3 IW 10
1/4 COR.



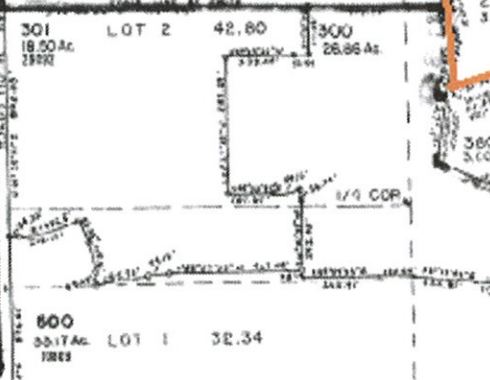
CANCELLED

501	800
502	1701
2980	2500
170	2001
190	2400
280	250
490	2301
480	2400
	2401
	1201
	1700
	1702 THRU 1710
	2200
	2202
	2203
	2200
	2201
	2700
	2701
	580
	2000
	500
	1201
	2903E1
	390
	2800E10
	2904
	160
	2903

28000

SEE MAP 3 IW 10

PLAT
3-33UR



29000
3000
4.34
RL
MAP 3 IW 14

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3724 FOR THE PURPOSE OF APPROVING AN APPLICATION FOR A WETLAND MITIGATION EASEMENT TO THE CITY OF WILSONVILLE AND MATRIX DEVELOPMENT CORPORATION

Date: August 17, 2006

Prepared by: Jim Desmond

BACKGROUND

Resolution No. 06-3724 requests authorization from Metro Council to approve an application for easement for the purpose of wetland mitigation on Metro property for the City of Wilsonville and Matrix Development Corporation.

On November 6, 1997 the Metro Council adopted Resolution No. 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department" ("Easement Policy"), which provides for formal staff review under specified criteria of all proposed easements, rights of way and leases for non-park uses, with final review and approval by the Metro Council.

Metro acquired certain real property in the Tonquin Geologic Area with proceeds from the 1995 Open Spaces Bond Measure, including a 28-acre parcel donated to Metro by The Wetlands Conservancy. The donated property was received encumbered with a conservation easement.

The City of Wilsonville ("City") is engaged in a transportation construction project known as the Boeckman Road – Tooze Road Connection Project ("Boeckman Road Project" or "Project") that supports multiple regional transportation and land use goals. The project purpose is to provide a critical east-west regional connection through the Coffee Lake Basin and across Interstate 5 to address rapid population growth, relieve congestion on Wilsonville Road, improve multi-modal connectivity and support the Villebois development in the City of Wilsonville.

Through the approval of the 2004-07 Metropolitan Transportation Improvement Program (MTIP), Metro Council authorized programming of state and federal funds for the Boeckman Road Extension Project. On November 14, 2005 in support of the proposed Boeckman Road Project, Metro Council approved Resolution No. 05-3630, "For the Purpose of Approving an Application for Easement/Right of Way/Lease to the City of Wilsonville for the Construction of the Boeckman Road Extension Project."

As the lead entity for the development of the road project, City of Wilsonville is responsible for providing wetland mitigation for anticipated impacts of the road project. To develop wetland mitigation for the Boeckman Road project, the City is acquiring property from the Bischof/Lund family. Matrix Development Corporation ("Matrix") had an acquisition agreement with the Bischof/Lund family that included the area the City needed for their wetland mitigation purposes. Consequently, Matrix is now in need of an alternate location to develop the wetland mitigation needed for their residential development project within the Villebois development.

The City and Matrix identified the Metro property 28-acre land parcel adjacent to the proposed Matrix development as opportunity for meeting their mitigation needs as well as enhancing the natural resources to the benefit of the public. To offset filling 3.9 acres of wetland in developing their property, Matrix proposes to enhance 13.4 acres on Metro property.

The proposed mitigation project is conceptual at this time as outlined in the application. The conceptual design appears feasible and appropriate for the site. The estimated cost of the wetland mitigation project provided by the applicant is approximately \$365,500. Until additional site information is gathered, particularly pertaining to site hydrology, a final design will not be developed. It is anticipated that the feasibility study and final design will be completed within a year. At that time, Metro's Chief Operating Officer will review the Wetland Mitigation Plan in terms of its feasibility and determine if the design will yield the appropriate enhancement qualities, will function long-term after the applicants' initial 5-year maintenance obligations are met, and be compatible with natural resources management of adjacent Metro properties.

If the City and Matrix easement application is approved by Metro, the City and Matrix must obtain other approvals before construction could begin on Metro properties: (1) The Wetlands Conservancy must release the City and Matrix from its Conservation Easement on that portion of the Metro property encumbered by that easement, and (2) the City and Matrix must obtain all permits necessary for the Matrix residential development, including a wetland fill/removal permit from U.S. Army Corps of Engineers and Oregon Division of State Lands.

It is anticipated that suppression of noxious and pest plants on the site, especially reed canarygrass, is necessary for long-term success of the proposed wetland mitigation project. Effective weed suppression requires a minimum of 1-year effort. The City and Matrix propose to conduct weed suppression on the proposed mitigation at their own expense with no obligations prior to approval of the anticipated Wetland Mitigation Plan.

As co-applicants, the City and Matrix are requesting an easement from Metro for the development of a wetland mitigation project on Metro property subject to (1) approval of a Wetland Mitigation Plan by the Chief Operation Officer, (2) the City and Matrix obtaining any necessary approvals from any priority recorded leaseholders or easement holders on the affected Metro properties, and (3) the final easements are in forms approved by Metro Attorney.

The City and Matrix easement application was deemed complete and evaluated according to guidelines set forth in Resolution No. 97-2539B.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:**

Metro Council Resolution **No. 02-3151**, "For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Projects"

Metro Council Resolution **No. 03-3335** "For the Purpose of Allocating \$53.75 Million of Transportation Priorities Funding for the Years 2006 and 2007, Pending Air Quality

Conformity Determination”, to award \$1,965,625 of 2006-07 Transportation Priorities funding to the City of Wilsonville for the Boeckman Road Extension Project.

Metro Council Resolution **No. 03-3381A**, “For the Purpose of Approving the 2004 – 07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area”

Metro Council Resolution **No. 05-3630**, “For the Purpose of Approving an Application for Easement/Right OF Way/Lease to the City of Wilsonville for the Construction of the Boeckman Road Extension Project.

3. Anticipated Effects:

- A. Approval of the easement will allow the City and Matrix to complete their wetland mitigation obligations associated with the construction of the Boeckman Road Extension Project and residential development in the Villebois development.
- B. Enhancement of Metro’s wetland parcel in the Coffee Lake Basin will occur at no expense to Metro where wetland enhancement funds are not currently available to Metro.

4. Budget Impacts: None.

RECOMMENDED ACTION

Metro Chief Operation Officer Michael Jordan recommends that the requested Easement Application be approved, subject to the conditions outlines herein and recommends passage of Resolution No. 06-3724.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER RELATING TO THE ROGER J. & ANN M. MIRACLE CLAIM FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)) Resolution No. 06-3706) Introduced by Chief Operating Officer Michael Jordan with the concurrence of Council President David Bragdon

WHEREAS, Roger J. and Ann M. Miracle filed a claim for compensation under ORS 197.352 (Measure 37) contending that Metro regulations had reduced the fair market value of property they own in the city of Damascus; and

WHEREAS, the Chief Operating Officer reviewed the claim and submitted reports to the Metro Council, pursuant to section 2.21.040 of the Metro Code, recommending denial of the code for the reason that the Metro regulation that is the basis for the claim did not reduce the fair market value of the claimants' property; and

WHEREAS, the Metro Council held a public hearing on the claim on August 17, 2006, and considered information presented at the hearing; now, therefore

BE IT RESOLVED that the Metro Council

1. Enters Order 06-004, attached to this resolution as Exhibit A, which denies the claim for compensation.
2. Directs the Chief Operating Officer ("COO") to send a copy of Order No. 06-004, with Exhibit A attached, to the claimants, persons who participated in the public hearing on the claim, Clackamas County and the Oregon Department of Administrative Services. The COO shall also post the order and Exhibit A at the Metro website.

ADOPTED by the Metro Council this 17th day of August, 2006

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 06-3706

Order No. 06-004

RELATING TO THE ROGER J. & ANN M. MIRACLE CLAIM
FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

Claimants: Roger J. and Ann M. Miracle

Property: 9390 SE Kingswood Way, Damascus, Oregon;
Township 1S, Range 3E, Section 27A, Tax Lot 201 (map attached)

Claim: Temporary 20-acre minimum size for creation of new lots and parcels in Title 11 of the Urban Growth Management Functional Plan has reduced the value of the claimant's land.

Claimants submitted the claim to Metro pursuant to ORS 197.352 (Measure 37). This order is based upon materials submitted by the claimants and the reports prepared by the Chief Operating Officer ("COO") prepared pursuant to section 2.21.040.

The Metro Council considered the claim at a public hearing on August 17, 2006.

IT IS ORDERED THAT:

The claim of Roger J. and Ann M. Miracle for compensation be denied because it does not qualify for compensation for reasons set forth in the reports of the COO.

ENTERED this 17th day of August, 2006.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

**CLAIM FOR COMPENSATION
UNDER BALLOT MEASURE 37
AND METRO CODE CHAPTER 2.21**

REVISED REPORT OF THE METRO CHIEF OPERATING OFFICER

**In Consideration of Council Order No. 06-004
For the Purpose of Entering an Order
Relating to the Measure 37 Claim of Roger and Ann Miracle**

August 2, 2006

METRO CLAIM NUMBER: Claim No. 06-004

NAME OF CLAIMANT: Roger and Ann Miracle

MAILING ADDRESS: Barton C. Bobbitt
Attorney at Law
4380 SW Macadam Avenue, Suite #500
Portland, OR 97239-6412

PROPERTY LOCATION: 9390 SE Kingswood Way, Damascus,
Clackamas County, Oregon

LEGAL DESCRIPTION: T1S R3E Section 27A Tax Lot 201

DATE OF CLAIM: February 1, 2006

I. CLAIM

Claimants Roger and Ann Miracle seek compensation in the amount of \$2,400,000 for a claimed reduction in fair market value of property owned by the claimant as a result of enforcement of Metro Code Section 3.07.1110 C of Title 11. In lieu of compensation, claimant seeks a waiver of that regulation so claimant can apply to the City of Damascus to divide the 11.34-acre subject property into lots of at least one acre and to allow a single family dwelling to be developed on each lot that does not already contain a dwelling. The subject property is currently undeveloped.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on May 19, 2006. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at www.metro-region.org.

II. SUMMARY OF COO RECOMMENDATION

The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report. The facts and analysis indicate that Metro's action to bring claimants' land into the Urban Growth Boundary (UGB), designate it Inner Neighborhood (allowing high-density residential development), and applying a 20-acre minimum lot size temporarily while planning is completed did not reduce the fair market value of claimants' property.

III. TIMELINESS OF CLAIM

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from a land use regulation enacted *prior* to the effective date of Measure 37 (December 2, 2004), within two years of that date, or of the date a public entity applies the regulation to the property as an approval criterion in response to an application submitted by the owner, whichever is later; or
2. For claims arising from a land use regulation enacted *after* the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the regulation, or of the date the owner of the property submits a land use application for the property in which the regulation is an approval criterion, whichever is later.

Findings of Fact

The claimant submitted this claim on February 1, 2006. The claim identifies Metro Code section 3.07.1110 C as the basis of the claim. The Metro Council added the regulation that gives rise to this claim on September 10th, 1998 by Ordinance 98-772B.

Metro Council applied the regulation to the claimants' property on December 5, 2002 (effective March 5, 2003), by Ordinance No. 02-969B, prior to the effective date of Measure 37 (December 2, 2004). This ordinance added 18,638 acres to the Urban Growth Boundary, primarily in the Damascus urban expansion area that includes the claimants' property. This ordinance also designated the claimants' property as Inner Neighborhood.

Conclusions of Law

Metro adopted the regulation that gives rise to this claim prior to the effective date of Measure 37, and claimants filed the claim within two years of the effective date of Measure 37. The claim, therefore, is timely.

IV. ANALYSIS OF CLAIM

1. Ownership

Metro Code section 2.22.020(c) defines "owner" to mean the owner of the property or any interest therein. "Owner" includes all persons or entities who share ownership of a property.

Findings of Fact

The claimants acquired an ownership interest in 9.32 acres of the subject property through a purchase contract executed December 30, 1977, and have had a continuous ownership interest since that time. The claimants acquired an ownership interest in the remaining 2.02 acres of the subject property through an addendum to the 1977 purchase contract executed on June 2, 1980, and have had a continuous ownership interest since that time. Attachment 1 is a site map of the subject property (ATTACHMENT 1). The subject property is 11.34 acres and is undeveloped.

Conclusions of Law

The claimants, Roger and Ann Miracle, are owners of the subject property as defined in the Metro Code.

2. Zoning History

The first zoning of the property was Rural (Agricultural) Single Family Residential District (RA-1), applied on September 8, 1964. The property was rezoned Rural Residential Farm Forest 5-Acre (RRFF-5) on June 19, 1980.

3. Applicability of a Metro Functional Plan Requirement

Findings of Fact

In 2002, Metro Council expanded the UGB by adopting Ordinance No. 02-969B, including the claimants' property in the UGB expansion area.

Section 3.07.1110 C of Metro's Code prohibits any division of land into lots or parcels smaller than 20 acres, except for public schools or other urban services, pending adoption of urban comprehensive plan designations and zoning.

The City of Damascus adopted Resolution No. 05-69 on December 19, 2005, waiving certain land use regulations specified in Exhibit B (Staff Report), allowing the claimants to apply to the City of Damascus to divide their property into lots of at least one acre in size and to allow a single-family dwelling to be constructed on each lot not already containing a dwelling, consistent with RA-1 zoning in effect when the claimants acquired the property in 1977 and 1980.

Prior to its inclusion within the UGB in 2002, the property was subject to the state-required 20-acre minimum lot size. This requirement was adopted by the Land Conservation and Development Commission on April 29, 1992 and applies to lands located within one-mile of the urban growth boundary.

Conclusions of Law

Section 3.07.1110 C of the Metro Code applies to the subject property and became applicable after the claimant acquired the property. Thus, the section did not apply to the subject property at the time claimant acquired it. The section does not allow the claimants to partition or subdivide their 11.34-acre property until the City of Damascus adopts its comprehensive plan.

4. Effect of Functional Plan Requirements on Fair Market Value

Findings of Fact

Section 2.21.040(d)(5) requires the Chief Operating Officer (COO) to determine whether the temporary 20-acre minimum size for the creation of new lots or parcels applicable to territory newly added to the UGB has reduced the value of claimants' land. The COO's conclusion is based upon the analysis of the effect of Metro's action contained in ATTACHMENT 2 (Metro Memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel dated May 19, 2006 (Conder Memo)).

Claimants have submitted comparable sales data to support their assertion that the temporary 20-acre minimum size has reduced the value of their property by \$2,400,000. From that data, claimants assert that the property's current fair market value (FMV), with the temporary 20-acre minimum size in place, is \$300,000. Based on the data, claimants assert that a one-acre parcel for a homesite has a current FMV of \$300,000. County zoning at the time of purchase (1977 and 1980) allowed creation of one-acre homesites. Claimants believe they could have received approval of nine homesites. Hence, they multiply \$300,000 times the nine homesites they could have created, yielding a value of \$2,700,000. From this value claimants subtract \$300,000 for the asserted fair FMV of the one parcel that is buildable under current regulations. This calculation yields the claimed reduction in FMV of \$2,400,000.

The Conder Memo analyzes the claimant's information and applies two different methods for determining the effect of Metro's action on the value of claimant's property.

A. "Comparable Sales" Method

This method compares the value of the property in its current regulatory setting with its value today as though Metro's action had not happened, using transactions involving comparable properties in both "before" and "after" scenarios. Under the "before" scenario, the property would be outside the UGB with the zoning that applied at the time of the application of Metro's regulation: 11.34 acres zoned RRFF-5 (Rural Residential-Farm/Forest, five acre minimum lot size). In addition, the Land Conservation and Development Commission had in effect a 20-acre minimum for land divisions, effectively limiting the 11.34 acres to one dwelling unit. Given these zoning requirements, claimants would not have been able to obtain approval to divide their 11.34-acre property but would be eligible for one single-family dwelling.

Under the "after" scenario (current regulatory setting), the land lies within the UGB; it is designated Inner Neighborhood; and it is subject to a temporary 20-acre minimum lot size to preserve the status quo while the City of Damascus completes the comprehensive planning necessary to allow urbanization of the previously rural (outside the UGB) land. The comparable sales method assumes claimants will be able to use the property for high-density residential development (ranging from 23 to 34 residential lots on the buildable portions of the subject property).

Table 4 of the Conder Memo compares today's value of the property before and after Metro's action, adjusting in both cases for costs of development and limitations on development of the site that a prudent investor would take into account. The table shows that the FMV of the

property under existing regulations greatly exceeds the value of the property under RRF-5 zoning outside the UGB. The analysis using this methodology indicates that the current regulatory setting has not reduced the FMV of the Miracle property.

B. Alternative Method Using Time Trend Data Suggested by Plantinga/Jaeger

The Condor Memo uses time-series data to determine whether the application of Metro regulations to the property reduced its value. The data show values before and after Metro's inclusion of the property in the UGB and application of Metro's regulations. The data are displayed in Table 3 of the memo. There is no indication from the data that Metro's regulations reduced the value of the property. The data show that the property continued to increase in value after March 5, 2003, the date the regulations became applicable to the property. Figure A of the memo depicts the data graphically.

C. The Statewide Planning Goals

As noted above, at the time claimants acquired the parcels comprising the subject property (1977 and 1980), Clackamas County zoned the property RA-1, Rural Agriculture – 1 Acre. The claimants assert that they could have divided their 11.34-acre parcel into nine lots under RA-1 zoning, and bases the valuation of his property on this assumption. This assumption, however, is incorrect.

The statewide planning goals were adopted by the Land Conservation and Development Commission and became effective on January 25, 1975. As of the time claimant acquired the subject property in 1977, LCDC had not yet acknowledged the Clackamas County Comprehensive Plan or its zoning ordinances. Thus, the goals applied directly to claimants' property when they bought it. Given the soils on the property, it was subject to Goal 3 (Agricultural Lands) and 4 (Forest Land), among other goals. Had claimants applied to the county for approval of a nine-lot subdivision, the county would have had to apply statewide planning Goals 3 and 4 to the application. Given that neither goal would have permitted the land division, the county would have had to deny it.

Claimants' assumption, therefore, that the FMV of their property should be based upon their ability to divide it into nine homesites is not supported by the regulations in place at the time of their acquisition.

Conclusions of Law

The comparable sales method compares the value of similarly situated properties before and after the application of Metro's regulations. The Plantinga-Jaeger method as applied in this case measures the assessor's real market value of the property before and after Metro's March 5, 2003, action. The Plantinga-Jaeger method provides a clearer and more accurate answer to the question posed by Measure 37: did Metro's action reduce the FMV of the Miracle property? Application of the method shows that the FMV of the Miracle property continued to rise after Metro included it in the UGB with the Inner Neighborhood designation and the temporary 20-acre minimum lot size.

Property value data indicate that Metro's action to bring claimants' land into the UGB, designate it Inner Neighborhood (allowing high-density residential development), and apply a 20-acre

minimum lot size temporarily while planning is completed did not reduce the FMV of their property.

5. Exemptions under ORS 197.352(3)

Findings of Fact

Section 3.07.1110 C of the Metro Code does not restrict or prohibit a public nuisance, the selling of pornography or nude dancing, is not intended to protect public health or safety, and is not required to comply with federal law.

Conclusions of Law

Section 3.07.1110 C of the Metro Code is not exempt from Measure 37 under ORS 197.352(3).

6. Relief for Claimant

Findings of Fact

The Metro Council has appropriated no funds for compensation of claims under Measure 37. Waiver of Metro Code Section 3.07.1110 C to the subject property will allow the claimant to apply to the City of Damascus to divide the subject property into one acre lots and to develop a single family dwelling on each lot that does not already contain a dwelling. The effect of development as proposed by the claimant will be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

Conclusions of Law

Based on the record, the claimant has not established that he is entitled to relief in the form of compensation or waiver of the interim 20-acre minimum lot size requirement under Metro Code Section 3.07.1110 C.

Recommendation of the Chief Operating Officer

The Metro Council should deny the Miracle claim for the reason that the Council's Ordinance No. 02-969B did not reduce the value of the Miracle property.

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Roger and Ann Miracle Property


Attachment 2: Metro Memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Roger and Ann Miracle Measure 37 Claim," dated July 28, 2006

Attachment 3: Sample Area of 2004-2005 Sales Data for Damascus UGB Expansion Area and One Mile Buffer, Clackamas County, OR

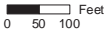
Attachment 4: Roger and Ann Miracle Measure 37 Claim Submittal to Metro

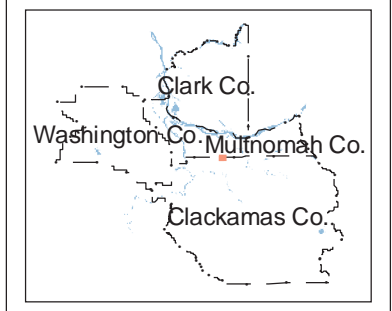
Resolution No. 06-3706
Attachment 1 COO Report

Site Map Miracle Measure 37 Claim

 Subject Property

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

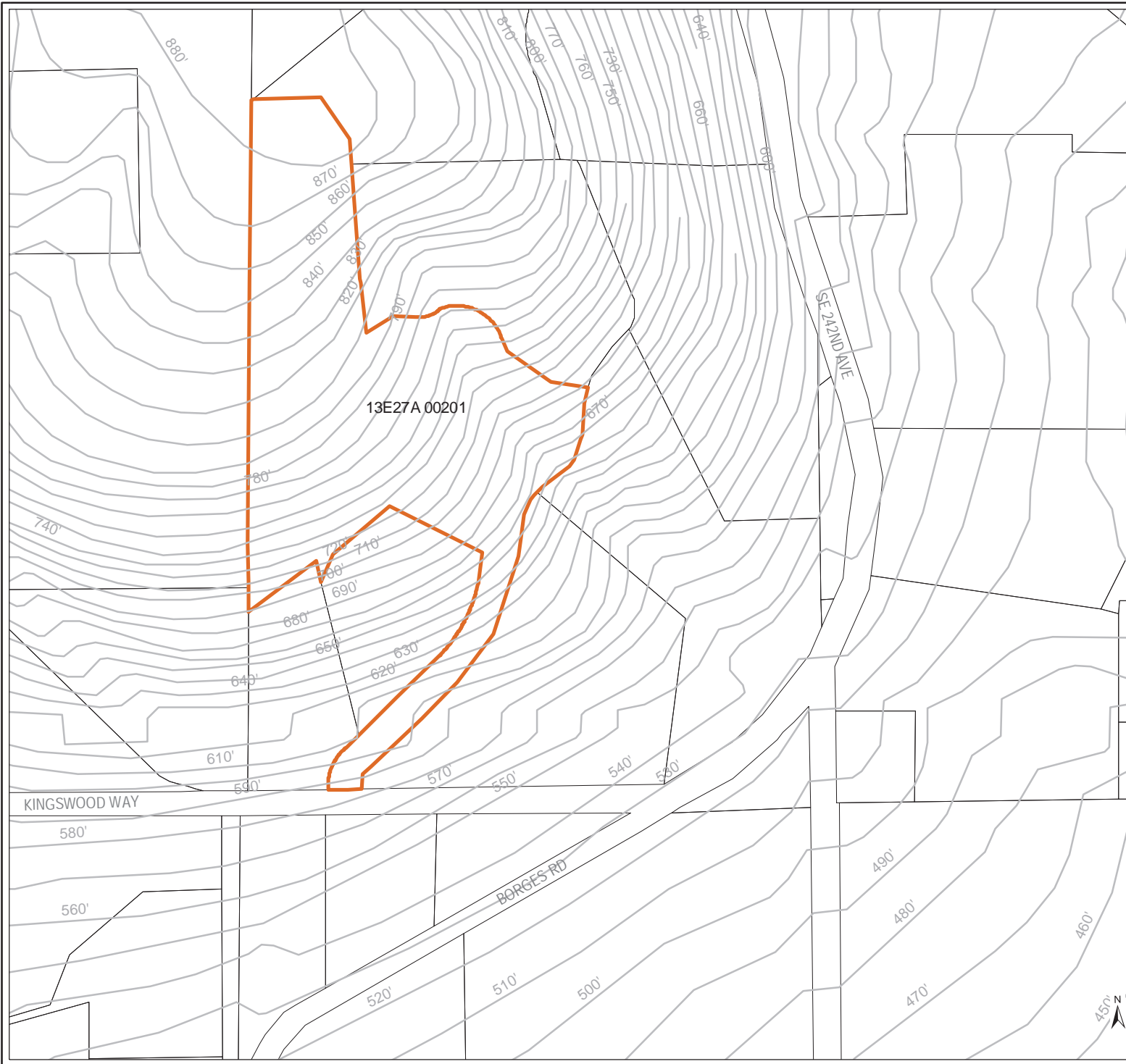
1 inch equals 0.06 miles
 Feet
0 50 100



Location Map



METRO DATA RESOURCE CENTER
600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL (503) 797-1742 | FAX (503) 797-1909
drc@metro.dst.or.us | www.metro-region.org



Resolution No. 06-3706
Attachment 2: Revised Report of the Chief Operating Officer

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1794



METRO

July 28, 2006

To: Paul Ketcham, Principal Regional Planner
Richard Benner, Senior Staff Attorney

From: Sonny Conder, Principal Regional Planner
Karen Hohndel, Associate GIS Specialist

Subject: Valuation Report on the Roger & Ann Miracle Measure 37 Claim

Conclusion:

Per your request we have conducted a valuation analysis of the Miracle Measure 37 Claim. The Metro designation of "Inner Neighborhood" applies to the Miracle Claim. We conclude, using the comparable sales method of determining possible reduction in value, that the Metro action of including the 11.34 acre property inside the UGB, designating it "Inner Neighborhood" and imposing a temporary 20 acre minimum lot size for development did not produce a material loss of value for the subject property¹. In all likelihood, the action produced an increase in value for the claimant's property.

Using the a time series variation of the Plantinga-Jaeger method of determining property value loss due to regulation indicates no loss of value for the 11.34 acre parcel. This conclusion rests on the observation that the assessor's market value for that particular property has continued to increase since the Metro 2003 regulation.

¹ We use the term "material" in the accounting/auditing sense that given the statistical variability inherent in the data there is no difference between two measurements of land value.

Moreover, the entire class of comparably sized RRFF-5 acre lot size designated parcels within the expansion area has continued to increase since the Metro 2003 regulation.

The Plantinga-Jaeger method as applied in this case measures the value of the property before and after Metro's March 5, 2003, action. The comparable sales method compares today's value of similarly situated properties under current regulations with today's value under the regulations in place before Metro's action. The Plantinga-Jaeger method provides a clearer and more accurate answer to the question posed by Measure 37: did Metro's action reduce the FMV of the Miracles' property? Application of the method shows that the FMV of the Miracles' property continued to rise after Metro included it in the UGB with the "Inner Neighborhood" designation and the temporary 20-acre minimum lot size. Thus, the Metro Council should deny the Miracles' claim for compensation or waiver.

We consider the time trend and Plantinga - Jaeger methods to be consistent approaches to determining whether a claimant has experienced a property value loss due to a particular government regulation. As we have noted elsewhere, the comparative sales method yields an estimate of what a particular property owner may gain; not an estimate of what they have lost.

Conceptual Understanding for Basis of Property Value Analysis:

We understand the present Measure 37 valuation problem to consist of making two property value estimates. These are:

1. Estimate the fair market value of the property subject to the regulation that the claimant contends has reduced the value of his property.
2. Estimate the fair market value of the property prior to the date Metro first applied the regulation to the claimant's property.

Metro Ordinance No. 02-969B applied a set of new regulations to the claimant's property. First the ordinance brought claimant's property into the region's urban growth boundary, making the property eligible for urban residential densities on the parcel rather than rural low-density development. The parcel was designated "Inner Neighborhood", allowing residential use on the property. Third the ordinance applied a temporary 20-acre minimum lot size to protect the status quo while local governments complete amendments to comprehensive plans to allow urban development. Within this overall framework any particular property may have a substantial range of development types and lot sizes. Implicit in this design designation is the availability of urban level capital facilities including sanitary sewers, storm water retention and

management, water distribution, streets, roads, parks and other infrastructure and services associated with urban living. All development is assumed to occur in compliance with all health and safety regulations.

The zoning at the time of Metro regulatory action was the Clackamas County designation of RRFF-5 on the 11.34-acre parcel. This land use designation is a rural designation allowing one dwelling unit per five acres on RRFF-5. In addition the State had in effect a 20-acre minimum for lot subdivision, effectively limiting the 11.34 acres to one additional dwelling unit. All development under RRFF-5 must conform to applicable health and safety regulations. Most significant is that the reference default land use must be outside the present UGB in a rural setting. While seeming to be a subtle distinction, the requirement of a rural setting outside the UGB is conceptually pivotal to the valuation. To use RRFF-5 equivalent land inside the UGB as a basis for valuation includes the property value increasing amenity effects of urban services and infrastructure. It is logically contradictory to argue that inclusion inside the UGB and designation of the land for urban purposes has reduced a property's value but to include those very effects in the estimate of the property value without the subject action.

Alternative Method of Computing Property Value Loss Resulting From Regulation

Estimating loss of property value using the usual appraisal method of "comparative sales" has been the subject of substantial criticism. Andrew Plantinga and William Jaeger², economists at OSU, have written papers pointing out that using the method of comparative sales does not compute the loss due to regulation. Rather the estimated "value loss" is actually the gain resulting from obtaining an exemption to the general rule. To better understand their arguments, we may think of the comparative sales method of determining an economic loss as equivalent to determining the value of issuing someone a special license or franchise to carry out an economically valuable function that others may not do. For instance, licenses to operate taxi cabs in New York are seldom issued and in great demand. As a result the license itself has acquired

² Andrew Plantinga, *Measuring Compensation Under Measure 37: An Economist's Perspective*, Dec. 2004, 15 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: plantinga@oregonstate.edu).

William K. Jaeger, *The Effects of Land Use Regulations of Land Prices*, Oct. 2005, 38 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: wjaeger@oregonstate.edu).

Also: William K Jaeger, *The Effects of Land-Use Regulations on Property Values*, **Environmental Law**, Vol. 36:105, pp. 105 - 127, Andrew J. Plantinga, et. al., *The effects of potential land development on agricultural land prices*, **Journal of Urban Economics**, 52, (2002), pp. 561 - 581. and Sonny Conder and Karen Hohndel, *Measure 37: Compensating wipeouts or insuring windfalls?*, **Oregon Planners' Journal**, Vol. 23, No 1. Dec. - Jan 2005. pp. 6 - 9.

substantial economic value. An example closer to home is the value of an Oregon Liquor License prior to more liberal issuing standards in the 80's. In the 1950's through roughly the 70's, an Oregon Liquor License for a restaurant or bar vastly increased the property value of the establishment that had one. Plantinga and Jaeger argue that the value of the property hinges on scarcity resulting from regulation. If everyone had a taxi cab or liquor license, they would have no value. From an economic perspective, using a method that really measures value gained from regulation is not the same as determining economic loss resulting from regulation.

Plantinga and Jaeger go on to suggest an economically appropriate measure of loss resulting from subsequent land use regulation. Their method is grounded in the well-established and tested Theory of Land Rent. Simplified a bit the Theory of Land Rent holds that the value of land at any particular time is the future net profit from the land used in its most efficient allowable use. The market also adjusts (discount factor) this value to account for time and uncertainty as to future uses. What this means is that the original sales price incorporates future expectations about how the land might be used. If we take the original sales price and bring it up to the current date by using an appropriate price index, we are able to measure in today's prices what the land was worth when it was purchased under the original regulatory requirements.

As Metro's regulatory action was taken in 2003, we have actual time series data to determine if the subject property experienced a loss of value after Metro's action. Consequently, we need not index the original sales price as we can observe whether the value actually decreased or not. We are able to make these observations for the particular property and for the entire class of subject properties within the Damascus expansion area. In essence the simplest approach to answering the question of whether a property lost value as a result of Metro's regulation is to measure whether the property value decreased following Metro's action.

This method allows a consistent computation of property loss due to subsequent regulatory changes. At the same time it avoids awarding particular property owners a bonus that was not anticipated in the original purchase price. Owners are compensated for what they lost; but they are not awarded an extra benefit owing to unanticipated growth, infrastructure investment or regulatory changes that happen after the application of Metro's regulations.

Property Valuation Analysis Procedure:

Our property valuation analysis procedure consists of the following steps.

- Briefly describe the property and make a prudent assessment of development limitations to establish a likely range of development capacity under both “Inner Neighborhood”, and RRFF-5 with 20-acre minimum subdivision restrictions assuming health and safety regulations are enforced.
- Estimate value of property based on recent sales (2004,2005,2006) of lots and existing properties inside the Damascus expansion area of “Inner Neighborhood” development configurations including a 10 year discount factor for lag time in service provision.
- Based on recent sales (2005) of property in a buffer zone extending 1 mile outside the present UGB within Clackamas County determine the value of residential property on lots of 5 to 15 acres in size. This procedure establishes a reasonable range of values for residential properties of RRFF-5 configuration in a rural setting.
- Provide an alternative determination of loss of value of the Miracle property based on time series before and after Metro’s regulatory action.
- Evaluate the lot value and home value comparables submitted as evidence with the Miracle Measure – 37 claim. Comment on whether those estimates are logically relevant to establish a Measure 37 property value loss assertion.
- Provide and compare estimates of the value of the subject property as of 2006 with Metro’s “Inner Neighborhood” designation versus Clackamas County’s RRFF-5.

Roger Miracle Property Description:

The subject property consists of 11.34 acres immediately north of Kingswood Way the 235th block in the community of Damascus. Clackamas County Assessor data show it as a 11.34 acre parcel with no structures. Assessor appraised value as of 2005 is \$169,871. Data submitted with the claim indicate 9.32 acres of the property was purchased in 1977 and 2.02 acres purchased in 1980. Purchase prices were \$2,000 for the 9.32 acres and \$2,500 for the 2.02 acres.

Visual inspection from Kingswood Road and the access road on to the property and air photo inspection as well as relevant GIS data indicate that the property poses substantial limitations to development; the full extent of which would require sanitation, geotechnical and civil engineering professionals to fully delimit and elucidate. The salient limiting feature for development on the property are the steep slopes comprising upwards of 5 acres of the property. In addition single-family dwellings have already been constructed on several lots at the base of the slope and adjoining the property on the southwest. Steep slopes constitute a limiting factor for both the “Inner Neighborhood” designation. Visual inspection of the property

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Attachment 2: Revised Report of the Chief Operating Officer

substantiates that it should be considered view property as it has wide vistas to the south and east.

Again, it is not in our professional capacity to assert with authority any definitive estimate of what the site limitations are; but rather to reflect what any prudent property investor must consider when pricing raw land. This holds true for both Metro's "Inner Neighborhood" and the default use of RRFF-5

Land Use Capacity Estimates - 11.34 Parcel:

For purposes of determining “Inner Neighborhood” capacity we assume that all land between the 620 and 800-foot contours are not buildable. This reduces buildable land for “Inner Neighborhood” to 5.7 acres. For RRFF-5 we legally are limited to 1 dwelling unit capacity so there are not relevant restrictions.

Based on similar terrain and developments in the UGB expansion area within the City of Happy Valley we calculate that with “Inner Neighborhood” given a range of lot sizes of 5,000 - 12,000 sq. ft., 4 - 6 lots per acre could be constructed on the buildable acreage. This assumes urban level infrastructure and design flexibility in lot shape and structure placement on the lot.

For the RRFF-5 designation we assume by definition 1 buildable unit for the property.

In sum we expect the property with Metro’s Inner Neighborhood designation to yield 23 (4 times 5.7 acres) to 34 (6 times 5.7 acres) residential lots ranging from 5,000 to 12,000 sq. ft. in size. The RRFF-5 designation yields 1 buildable rural lot of 11.34 acres in size.

Current Value Estimate of “Inner Neighborhood” Buildable Lots in Damascus Expansion Area:

In order to establish a reasonable range of lot values for developing urban areas with infrastructure and nearby urban services, we evaluated all recent sales (year 2005) of land and lots within the Damascus UGB expansion area. As detailed in relevant data file and confirmed by the Clackamas County Assessor’s office, one area is under development. It consists of 38 acres that was included in the expansion area and annexed to Happy Valley. Data indicate that 152 lots of 7000 - 10000 sq. ft. have been sold for \$22.6 million for an average of \$149,000 per lot. The lot price range was from \$127,000 to \$175,000. The lots in question are ready to build lots with complete urban services inside the City of Happy Valley. They were also designated “Inner Neighborhood” when included within the UGB and subsequently zoned to R10 by the City of Happy Valley.

Since these lots were located in the urbanized, extreme western portion of the expansion area, we also examined 97 SFR year 2005 sales of properties designated Inner Neighborhood within the entire expansion area. Many of these sales occurred on properties that remain substantially rural in character without full urban services. Relevant summary results are in Table 1 below.

Table 1: Summary Property Value Data - Damascus Area Residential Sales

Average Lot Size:	1.02 acres
Median Lot Size:	0.95 acres
Average Lot Value:	\$119,000
Median Lot Value:	\$124,000
Average Total Prop.	\$300,000
Median Total Prop.	\$288,000
Average House Size:	2,450 Sq. Ft.
Median House Size:	2,350 Sq. Ft.

When we adjust for lot size, view property and the availability of full urban services, the data support a lot value range of \$150,000 to \$175,000 per buildable lot in 2005 dollars for “Inner Neighborhood” type development on the subject property. This value range encompasses a range of housing types and neighborhood conditions.

Current Value Estimate of “20 Acre Minimum Buildable Lots” in the 1 Mile Buffer Area Outside the UGB:

To establish the value range for “20 Acre Minimum” size lots with RRF5 zoning within the Clackamas rural area we selected all residential properties that sold in 2004 and 2005 within the 1 mile buffer zone with a lot size of 5 to 15 acres. These comprised 17 properties and their summary statistics are included below in Table 2.

Table 2: Summary Property Value Data - Clackamas County 1 Mile Buffer RRF5 Zoning 5 - 15 Acre Lots with Recent Sales

Average Lot Size:	7.3 acres
Median Lot Size:	6.3 acres
Average Lot Value:	\$26,435
Median Lot Value:	\$22,297

The data suggest that the Miracle property with a 20 acre minimum lot size restriction that limits the property to 1 residential unit would be worth \$252,800 to \$299,800.

Alternative Valuation of Miracle Property Using the Time Trend Method Suggested by Plantinga and Jaeger.

OSU economists Andrew Plantinga and William Jaeger have challenged the “comparable sales” approach of traditional appraisal methods. They have pointed out that it really measures the value obtained by an exception to the current rule; rather than a measure of economic loss suffered as a result of government land use regulation. Since the subject Metro regulatory change was recent (2003), we have before and after time series data to determine whether the Miracle property actually experienced a loss of value after the Metro regulation.

Accordingly, we have tabulated property value data for the entire expansion area from assessor’s records for the years 2000 through 2006. We present the data for the Miracle 20 acre minimum property specifically and for all RRFF-5 designated properties within the expansion area between 5 and 15 acres in size. Table 3 below depicts the results by year.

Table 3: Miracle Property Value and Expansion Area Property Values 2000 - 2006

Year	Miracle Value	Average All 5 - 15 Acre RRFF-5
2000	6,841	9,138
2001	11,861	17,357
2002	12,441	18,854
2003	12,565	19,194
2004	13,188	20,280
2005	13,934	21,515
2006	15,054	23,275

Both the Miracle property assessor’s market value and the average value of all RRFF5 tax lots within the study area increase steadily from 2003 through 2006. There is no evidence that Metro’s action of including the property within the Urban Growth Boundary and imposing a temporary minimum lot size of 20 acres has reduced property values. Figure A shows Table 3 graphically.

Evaluation of Miracle Claim of Comparable Properties

The basis for the Miracle property value loss claim rests on a market value estimate of \$300,000 per developed, ready to build lot assuming 9 buildable lots are available on the property. From this total is subtracted \$300,000 to account for the one buildable lot of 11.34 acres currently permitted. To support the estimate of \$300,000 per buildable lot, 7 properties are submitted as comparable¹. Of the seven, six of these properties are

¹ Parenthetically, all of these properties are identical to or in the same neighborhoods as the properties that were submitted as comparable in the Darrin Black Claim.

located inside of the Urban Growth Boundary. Six are located within either Happy Valley or Gresham and all occupy prestige neighborhood locations with hilltop views or sweeping vistas. Examination of the Miracle property reveals the site as potentially a prestige neighborhood with a view and potential amenities. However, RRFF-5 is the rural default land use and cannot include urban design amenities. Even areas with view locations in rural areas have property values well below similar areas within urban settings. Whether the area evolves into a prestige urban neighborhood with full amenities remains problematic. As the data in Table 1 underscore, lot values are presently well below the \$300,000 per lot level.

Significant in the valuation of the Miracle property is the assumption that one may count the increase in value associated with being included within the UGB to assert a loss resulting from being included within the UGB.

Table 4 compares the current raw land values for the 11.34-acre property with Inner Neighborhood usage to the value of the property with rural usage (RRFF-5 zoning with a 20-acre minimum lot size allowing construction of one single-family dwelling).

Table 4: Comparison of Estimated Market Value of Raw Land for Inner Neighborhood and RRFF5 Land Uses

Inner Neighborhood	
Low Yield:	23 DU
Low Range Lot Value:	\$150,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$100,000
Total Raw Land Value (23x100,000):	\$2,300,00
Current Market Value per acre for 11.34 acres	
Discounted 10 years:	\$108,000
High Yield:	34 DU
High Range Lot Value:	\$175,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$125,000
Total Raw Land Value (34x125,000):	\$4,250,000
Current Market Value per acre for 11.34 acres	
Discounted 10 years:	\$199,700
20 Acre Minimum	
Low Range:	
Allowable Yield with 20 Acre Min.	1 DU
Low Value per Acre:	\$22,297

Resolution No. 06-3706
Attachment 2: Revised Report of the Chief Operating Officer

Total Value (11.34 x 22,297)	\$252,800
High Range:	
High Value per Acre:	\$26,435
Total Value (11.34 x 26,435)	\$299,800

We estimate the current raw land value of the Miracle property with Inner Neighborhood designation to range from \$108,000 per acre to \$200,000 per acre. The same property used as Rural Residential in a rural setting with a 20-acre minimum would yield \$22,300 to \$26,400 per acre. In other words the most optimistic rural valuation falls well below the most pessimistic Inner Neighborhood valuation. Given these results we would conclude that the Inner Neighborhood designation has not reduced the value of the property; quite the contrary it has most likely increased the value.

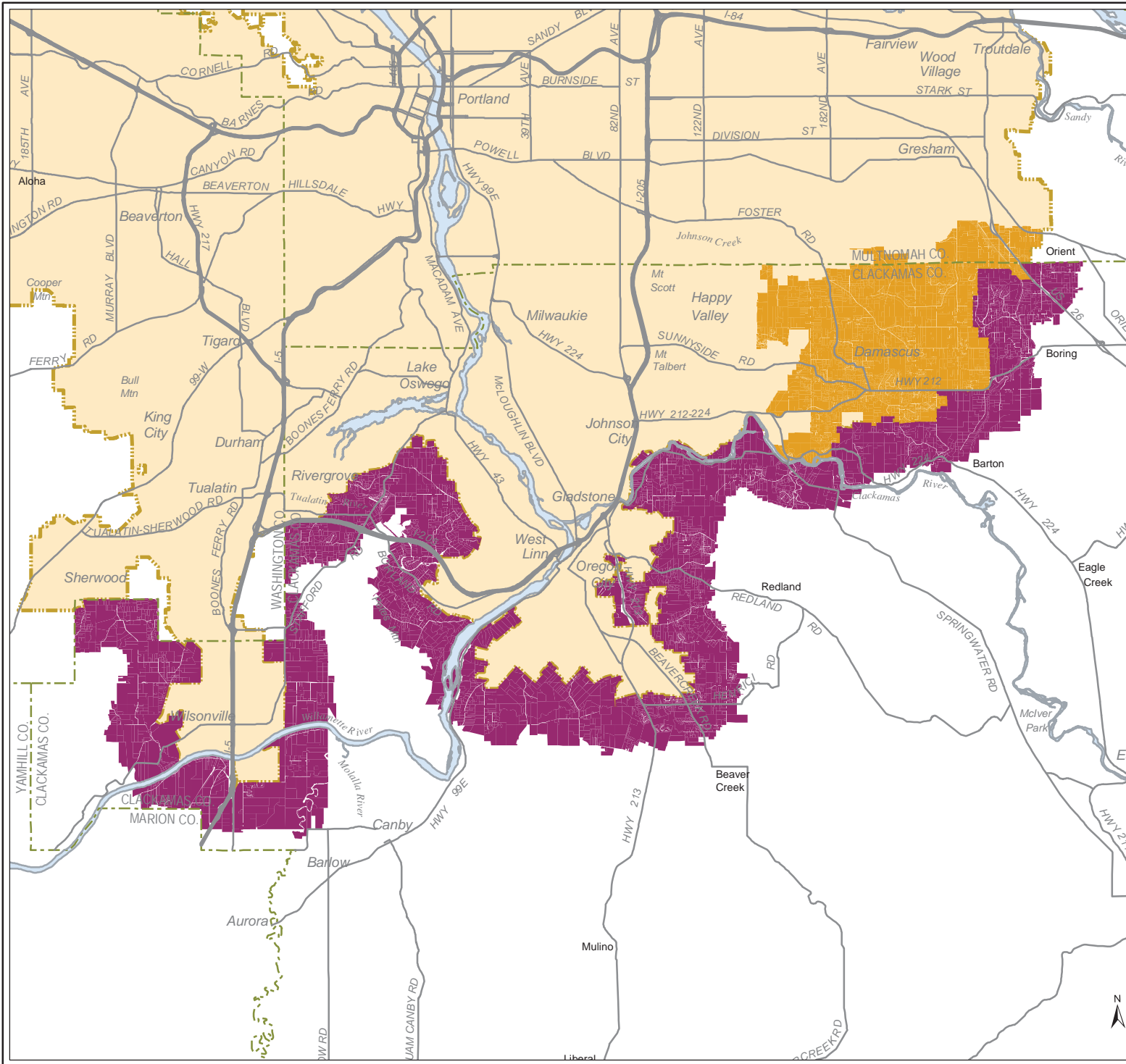
Moreover, in terms of establishing economic loss the land values per acre established using the time trend Plantinga-Jaeger method shows land values increasing steadily since 2003. Clearly, under no circumstances has any regulatory change to the Miracle property reduced its value. Again, the contrary is the case. Growth, infrastructure investment and regulation necessary to orderly growth have produced increases in property values well in excess of any alternative investment for the Miracle property.





The Plantinga-Jaeger method as applied in this case measures the value of the property before and after Metro's March 5, 2003, action. The comparable sales method compares today's value of similarly situated properties under current regulations with today's value under the regulations in place before Metro's action. The Plantinga-Jaeger method provides a clearer and more accurate answer to the question posed by Measure 37: did Metro's action reduce the FMV of the Miracles' property? Application of the method shows that the FMV of the Miracle property continued to rise after Metro included it in the UGB with the Inner Neighborhood designation and the temporary 20-acre minimum lot size. In short, the Metro regulations did not reduce the FMV of the Miracle property.

Figure A: Time Trend of Miracle Property Compared to All RRFF-5 in Area



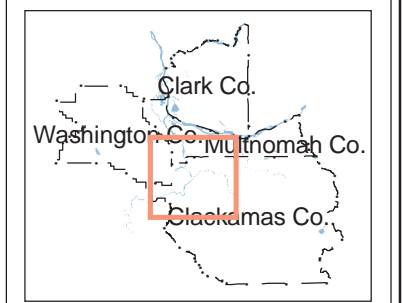
Sample Area of 2004-2005 Sales Data for Damascus UGB Expansion Area and One Mile Buffer, Clackamas County, OR



-  Damascus UGB Expansion Area
-  One Mile Buffer
-  County Line
-  Inside Metro UGB

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1 inch equals 3.31 miles
0 1 2 Miles



Location Map



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TEL (503) 797-1742 FAX (503) 797-1909
drc@metro.dst.or.us | www.metro-region.org



METRO

Richard P. Benner
Tele: (503) 797-1532
FAX: (503) 797-1792

May 12, 2006

Barton C. Bobbitt
ATTORNEY AT LAW
4380 SW Macadam Avenue, Suite #500
Portland, Oregon 97239-6412

Re: *Miracle M 37 Claim*

Dear Mr. Bobbitt:

Metro is in the midst of evaluating the Measure 37 claim of Roger and Ann Miracle. We are not able to determine the purchase prices of the parcels that comprise the Miracles' ownership from the materials you submitted. This information is important to our analysis of reduction in the fair market value. Please submit some documentation of the purchase prices so we can complete our analysis.

Thank you.

Very truly yours,

Richard P. Benner
Senior Attorney
Office of the Metro Attorney

cc: ~~Paul Ketcham, Metro Planning Department~~
Karen Hohndel, Metro Planning Department

RPB:kvw
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METRO

Richard P. Benner
Tele: (503) 797-1532
FAX: (503) 797-1792

March 27, 2008

Barton C. Bobbitt, P.C.
ATTORNEY AT LAW
4380 SW Macadam Avenue, Suite #500
Portland, Oregon 97239-6412

Re: *Measure 37 Claim – Roger & Ann Miracle*

Dear Mr. Bobbitt:

Metro received the claim you filed with Clackamas County on behalf of Roger and Ann Miracle on February 2, 2006. I have enclosed a copy of the Metro claims process, which includes the contents of a claim for filing with Metro.

As I mentioned on the telephone this afternoon, Metro will use the February 2 date as the claim date for the running of the 180 days for processing.

Please call me (503.797.1532) if you have questions about the claims process or the claim itself.

Very truly yours,

Richard P. Benner
Senior Attorney
Office of the Metro Attorney

Enclosure: Claims Process

cc: Dan Cooper, Metro Attorney
Paul Ketcham, Metro Planning Department

RPB:kvw
m:\attorney\confidential\7.2.2.16.25\030806bcb.001

CHAPTER 2.21

CLAIMS UNDER BALLOT MEASURE 37

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing a Claim
2.21.040	Review of Claim by Chief Operating Officer and Recommendation
2.21.050	Hearing on Claim before Metro Council
2.21.060	Action on Claim by Metro Council
2.21.070	Conditions on Compensation or Waiver
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 37. Metro adopts this chapter in order to afford property owners the relief guaranteed them by Ballot Measure 37 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement Measure 37 faithfully and in concert with its other responsibilities, including its Charter mandate to protect the environment and livability of the region for current and future generations.

(Ordinance 05-1087A, Sec. 1.)

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by a written certificate.

(b) "Family member" means the wife, husband, son, daughter, father, brother, brother-in-law, sister, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner of

location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;

- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
- (4) A copy of any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the land use regulation that applied to the property at the time the claimant acquired the property;
- (6) An appraisal that shows the reduction in value of the property that the claimant believes resulted from the land use regulation that restricts the use of the property and the methodology used in the appraisal, such as comparable sales data;
- (7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and
- (8) A statement whether the claimant is filing claims with other public entities involving the same property.

(c) A claim shall not be considered complete for purposes of subsections (4) and (6) of Ballot Measure 37 until the claimant has submitted the information required by this section.

(Ordinance No. 05-1087A, Sec. 1.)

2.21.040 Review of Claim by Chief Operating Officer and Recommendation

(a) The COO shall review the claim to ensure that it provides the information required by Section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide

or conditions apply to the proposed use under the regulation;

- (4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from Ballot Measure 37 under subsection 3 of the measure; and
- (5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt from Ballot Measure 37, the regulation restricts the proposed use and the restriction has reduced the value of the property.

(e) The COO may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of Ballot Measure 37, and to assist in the development of a recommendation regarding appropriate relief if the claim is found to be valid.

(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (b) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.

(g) The COO shall provide the report to the Council, the owner and other persons who request a copy. If the COO determines that the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

(Ordinance No. 05-1087A, Sec. 1.)

2.21.050 Hearing on Claim before Metro Council

(a) The Metro Council shall hold a public hearing on the claim before taking final action. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim under Section 2.21.030.

2.21.070 Conditions on Compensation or Waiver

(a) The Metro Council may place any conditions on its action under Section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the purposes of this chapter. The Council shall place a condition on a decision under Section 2.21.060(a)(2) or (3) that the decision constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.

(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under Section 2.21.060(a)(2) or (3).

(Ordinance No. 05-1087A, Sec. 1.)

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under Section 2.21.060, the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

(Ordinance No. 05-1087A, Sec. 1.)

BARTON C. BOBBITT

HOWARD I. BOBBITT
(1912-1999)

BARTON C. BOBBITT, P.C.

ATTORNEY AT LAW
4380 S.W. MACADAM AVENUE
SUITE 500
PORTLAND, OREGON 97239-6412

RESOLUTION NO. 06-3796
DIRECT LINE (503) 517-9202
Attachment #1 COG Report
PHONE (503) 223-2321
FAX (503) 294-6051

EMAIL:BBob924517@AOL.com

February 1, 2006

**Via Certified Mail with
Return Receipt Requested**

Mr. Michael Jordan, CEO
METRO
600 NE Grand
Portland, OR 97232-2736

Re: Measure 37 Claim - Roger & Ann Miracle

Dear Mr. Jordan:

This firm represents Mr. & Mrs. Miracle who are owners of certain property located in Damascus, Oregon. I am enclosing herein an original Measure 37 claim which has been filed with Clackamas County Planning Division and the State of Oregon. I am also enclosing herein a copy of the Staff Report which was adopted by the City Council on December 5, 2005 which provided for a waiver of the restrictions upon the property. The claim was filed with Clackamas County/City of Damascus, on October 3, 2005 and the 180 period provided under Section 4 of Measure 37 will expire on April 2, 2006. The City of Damascus, in their resolution, specifically provided under the additional comments, that:

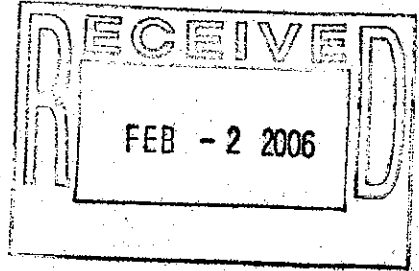
1. METRO will also have to evaluate a claim for this property. The Urban Growth Management Functional Plan includes restrictions on the development of lands within Portland Metropolitan Urban Growth Boundary that are now planned or zoned for urban growth uses. Therefore, this claim has been submitted to METRO for their evaluation.

I have also attached to the Measure 37 claim a statement alleging the claim of diminished value because of the effect of the restrictions upon the subject property by the Urban Growth Management Functional Plan.

Thank you for your courtesies.

Very truly yours,

Barton C. Bobbitt, P.C.



Measure 37 Claims Distro List:

- Dan Cooper
- Dick Benner
- Docket-OMA
- Lydia Neill

RECEIVED
FEB - 2 2006

BCB/seb
cc: client

OFFICE OF METRO ATTORNEY

C:\Client Files\1215.7\Jordan.01.wpd

PLANNING DIVISION STAFF REPORT
TO THE DAMASCUS CITY COUNCIL
MEASURE 37 CLAIM

RECEIVED
NOV 28 2005
CITY OF DAMASCUS

File Number: ZC286-05
Report Author: Jennifer Hughes, Senior Planner
Hearing Date: December 5, 2005
Report Date: November 23, 2005

Claimant(s): Roger and Ann Miracle

Date Filed: October 4, 2005

180-Day Processing Deadline: April 2, 2006

Legal Description: T1S-R3E-SECTION 27A-TAX LOT 201

Location: 9390 SE Kingswood Way, Damascus

Proposal/ Relief Requested: The claimants request compensation in the amount of \$2,400,000 as a result of a reduction in fair market land value caused by the enforcement of land use regulations. In the alternative, the claimants request to divide the subject property into lots with a minimum lot size of one acre and develop a single-family dwelling on each lot.

Ownership History/Date Acquired by Claimant(s): The claimants acquired an ownership interest in 9.32 acres of the subject property through a purchase contract executed on December 30, 1977, and have had a continuous ownership interest since that date. The claimants acquired an ownership interest in the remaining 2.02 acres of the subject property through an addendum to the 1977 purchase contract executed on June 2, 1980, and have had a continuous ownership interest since that date.

Zoning History: The first zoning of the property was Rural (Agricultural) Single Family Residential District (RA-1), applied on September 8, 1964. The property was rezoned Rural Residential Farm Forest 5 Acre on June 19, 1980.

Reduction in Land Value: The claimants assert that the inability to divide the property and develop single-family dwellings has reduced the property's value by \$2,400,000. The claimants have submitted a comparative market analysis to substantiate the reduction in value. This is sufficient to verify that the inability to divide the property to create

additional building lots results in a loss in property value, although the exact amount of the loss is unknown.

Discussion: The subject property is approximately 11.34 acres and is undeveloped.

The property currently is zoned RRFF-5. The RRFF-5 zone typically has an average minimum lot size standard of five acres; however, the subject property is within the Urban Growth Boundary, where the RRFF-5 zone imposes a 20-acre minimum lot size. Even with a five-acre minimum lot size standard, the subject property could not be divided because it is part of a flexible-lot-size partition of a 15.34-acre parcel recorded in 1993. The 15.34-acre parcel was only eligible for division into three parcels under the RRFF-5 zone.

The property was zoned RA-1 when the claimants acquired it in 1977 and 1980. The RA-1 zone has a minimum lot size of one acre.

The current RRFF-5 zoning has resulted in a reduction in land value as compared to the RA-1 zoning in effect when the claimants acquired the property. The facts discussed above demonstrate a valid Measure 37 claim.

Remedy: The City Council must decide whether to compensate for the reduction in value, or modify, remove or not apply the land use regulations that have caused the reduction in value. If permission to divide the property and develop additional dwellings is not granted, the claimant requests compensation of \$2,400,000. The city has no funds allocated to provide compensation.

Recommendation: Based on the facts discussed above, staff recommends the City Council do the following, in order to allow the subject property to be divided into a maximum of 13 lots and to allow a single-family dwelling to be developed on each lot not already containing a dwelling:

- Find the claim valid
- Not apply to the subject property the following land use regulations:
 - Subsection 309.07(D) of the Damascus Zoning and Development Ordinance (minimum lot size standard of the RRFF-5 zone within the Portland Metropolitan Urban Growth Boundary)
 - Subsection 309.08(B) of the Damascus Zoning and Development Ordinance (ZDO) (minimum lot size standard of the RRFF-5 zone)
 - Subsection 902.01.B of the ZDO (minimum lot size restrictions and exceptions)
 - Subsection 1014.04.B (minimum lot size restrictions for flexible-lot-size developments)

- Subsections 1020.04.A and E (lot line adjustment standards)
 - Any provisions of the Comprehensive Plan that can be construed as imposing a minimum lot size that is larger than otherwise allowed by this order
- In review of a specific proposal for development, remove any other land use regulations, other than those exempted by Section 3 of Ballot Measure 37, which have the effect of reducing the number of lots or dwellings otherwise allowed by this order
- Require that approval of a land division shall be subject to the minimum lot size standards of the RA-1 zone in effect on December 30, 1977 for the 9.32 acres acquired on that date and June 2, 1980 for the 2.02 acres acquired on that date
- Require that division and development of the property shall be subject to all other current land use regulations
- Include the following disclaimer in the order, "This decision was rendered pursuant to the requirements of Measure 37. Measure 37 has been ruled invalid by an Oregon Circuit Court, and is being appealed to the Oregon Supreme Court. If the Supreme Court upholds the decision that Measure 37 is invalid, any approvals or denials issued under Measure 37 may be found to be void. If Measure 37 is ruled to be invalid, the landowner may be responsible for all costs relating to reversing the decision, including but not limited to the removal of any structures that were deemed to have been approved contrary to law."

Additional Comments:

1. Metro also will have to evaluate a claim for this property. The Urban Growth Management Functional Plan includes restrictions on the development of lands within the Portland Metropolitan Urban Growth Boundary that are not planned or zoned for urban uses.
2. City approval of a partition (two or three lots) or subdivision (four or more lots) to divide the property must be secured.
3. Approval of a domestic water source, on-site sewage disposal and construction permits (e.g. building, plumbing and electrical) will be required for any new dwelling. A driveway permit may also be required. (Several of these issues will be addressed during partition or subdivision review.)
4. The recommended action does not resolve several questions about the application of Measure 37, including the question of whether the rights granted to the claimants by this decision can be transferred to an owner who subsequently acquires the property.

MEASURE 37 CLAIM

CLACKAMAS COUNTY PLANNING DIVISION
9101 SE SUNNYBROOK BLVD., CLACKAMAS, OREGON 97015
PHONE (503) 353-4500 FAX (503) 353-4550 www.co.clackamas.or.us

FOR STAFF USE ONLY

FILE NUMBER: _____ DATE RECEIVED: _____
STAFF MEMBER: _____ CPO: _____

APPLICANT INFORMATION (PLEASE TYPE OR PRINT IN BLACK INK ONLY)

WHAT IS PROPOSED Request current zoning be waived and original
zoning be restored

LEGAL DESCRIPTION: T1S R3E SECTION 27 A TAX LOT(S) 201
T R SECTION _____ TAX LOT(S) _____

(ADDITIONAL) _____

NAME OF CONTACT PERSON Roger J. Miracle

MAILING ADDRESS 806 SW Wilson Court

CITY Gresham STATE OR ZIP 97080

PHONE (503) 667 4330 ; CELL PHONE Work Phone 503 661 9010

PROPERTY OWNER(S) (The name, address and telephone number of all owners, including their signatures, must be provided. In the event there are more than 3 property owners, please attach additional sheets. Please print clearly)

OWNER 1 Roger J. Miracle
SIGNATURE *Roger J. Miracle*
ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE 503 667 4330 CELL PHONE Work Phone 503 661 9010

OWNER 2 Ann M. Miracle
SIGNATURE *Ann M. Miracle*
ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE 503 667 4330 CELL PHONE 503 975 4330

OWNER 3 _____
SIGNATURE _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE _____ CELL PHONE _____

MEASURE 37 CLAIM SUPPLEMENTAL INFORMATION

(Attach additional sheets as necessary to complete this supplemental portion of the claim)

1. **Other persons with an interest in the property (such as lien holders):** Please provide a list of the name, address and phone number of anyone with an interest in the property, and identify their interest.

NONE

2. **Exact date the current owner acquired the property?** December 30, 1977 *

*See attached letter of explanation

3. **If the current owner acquired the property from a family member, what is the exact date the family member acquired the property?**

N/A

If there is more than one event where the property was acquired from a family member, such as a series of inheritances, please provide a list of all such events and their dates.

N/A

4. **What regulation (if more than one, please describe) do you believe lowered the value of your property? When did the regulation take effect?**

The change in zoning laws in 1979 effectively changed my original purchase of 13.26 acres from one acre parcels to current 5-acre minimums.

5. **Please describe how this regulation(s) restricts the use of the property and reduces the property's fair market value.** Under current zoning I have one building site. With zoning restrictions waived I will have one acre parcels which will have a much greater value.

12/6/2004

6. **How much has the fair market value of your property been reduced by enactment or enforcement of the regulation(s)?** Approximately \$2.4 million*

* See attached Market analyses

7. **Are you requesting compensation, or removal of the regulation(s), modification of the regulation(s), or a decision not to apply the regulation(s)? If you are requesting monetary compensation, please indicate how much and how you calculated this sum.** *[Please note that the County has exclusive authority to choose whether to pay monetary compensation, or remove, modify or not apply the regulation(s) causing a valid claim.]*

We are requesting that said property be returned to original zoning

8. **Are you requesting that a specific use be allowed? Please describe the use.**

We are requesting zoning be changed to original state which would allow one-acre buildable parcels.

9. **The following additional material must be submitted with the application:**
- a. **A real property appraisal performed by a licensed or certified appraiser licensed in Oregon; the appraisal must meet the Uniform Standards of Professional Appraisal Practice and the requirements of County's Measure 37 Claims Process Ordinance;**
 - b. **A title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation proving ownership of the property;**
 - c. **Copies of any leases or covenants, conditions and restrictions applicable to the property and any other documents that impose restrictions on the use of the property;**
 - d. **Claims processing fee – \$750.00**

12/6/2004



M37 Claim Form

INSTRUCTIONS FOR SUBMITTING A CLAIM

This form requests specific information that is required of a claimant by OAR 125.145.0010-.0120. A Claimant must fully complete each box of the claim form and provide all information and evidence to support the claim. In lieu of completing each box or section on this form, a Claimant may attach supplemental documents to provide the requested information. Attached documents shall not be used to complete section 1 and 2, or any section which requires a signature.

- Claims may only be submitted by an Owner or an Authorized Agent of the Owner.
- Claims may only be submitted; in person; by private carrier; by U.S. Postal Service Certified or by Registered Mail to:
Risk Management-State Services Division, 1225 Ferry St. SE, U160, Salem OR 97301- 4292
- Only Original Signed Claims will be accepted, claims submitted electronically or by facsimile, will not be accepted.
- Attach *separate sheet of paper* as needed, with reference to the appropriate **Section number on this form.**
- Claim criteria/requirements may be found in Oregon Administrative Rules 125.145.0010 – 0120

Section 1 NAME AND CONTACT INFORMATION OF CLAIMANT/PROPERTY OWNER

Enter the name and contact information of the PRIMARY property owner who is submitting the claim.

Name of Claimant: <u>ROGER J. MIRACLE</u>	Day Time Phone #: <u>503 661-9010</u>	
Address: <u>806 SW WILSON CT.</u>		
City: <u>GRESHAM</u>	State: <u>OR</u>	Zip: <u>97080</u>

Section 2 NAME AND CONTACT INFORMATION OF PERSON SUBMITTING CLAIM (AGENT)

Enter the name and contact information of the person who is sending the claim for the property owner if different than the name in Section 1 above.

Name of Agent:	Day Time Phone #:	
Address:		
City:	State:	Zip:

Must attach a written notarized statement signed by the owner(s) or a Power of Attorney properly authorizing submittal of this claim.

Attachment: Yes No

Section 3 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY

Enter the name and contact information of every person or entity who has an interest in the property. This includes but is not limited to:

- (a) Every lessee and lessor of the Property;
- (b) Every person or entity holding a lien against, or a security interest in, the Property;
- (c) Every person or entity holding a future, contingent, or other interest of any kind in the Property.

This could be other owners, banks, mortgage companies, state or federal agencies or entities, programs specific to the use of the property and any and all others with any interest in the property. Some examples could be; a USDA program providing funds for an owner not to grow a particular crop on the land, banks with second third or other mortgage interest. If using an attachment, the attachment must be submitted in such a format as to easily distinguish the various owners and interest in the property.

Name: <i>ANN M. MIRACLE</i>	Day Time Phone #: <i>503 661-9010</i>		
Address: <i>806 SW WILSON CT.</i>			
City: <i>GRESHAM</i>	State: <i>OR</i>	Zip: <i>97080</i>	
Describe Interest in Property:			

Name:	Day Time Phone #:		
Address:			
City:	State:	Zip:	
Describe Interest in Property:			

Name:	Day Time Phone #:		
Address:			
City:	State:	Zip:	
Describe Interest in Property:			

Name:	Day Time Phone #:		
Address:			
City:	State:	Zip:	
Describe Interest in Property:			

Name:	Day Time Phone #:		
Address:			
City:	State:	Zip:	
Describe Interest in Property:			

Section 4 PROPERTY FROM WHICH THE CLAIM DERIVES

Enter the location of the property, all contiguous property, upon which the claim is based. This description is by street address, legal description, and other descriptors which allow a concise description of the property allowing its location, size, and other physical attributes to be ascertained. Attachment if Applicable

Street Address: if applicable 9390 SE KINGSWOOD WAY		City: GRESHAM	
County: CLACKAMAS	State: OR	Zip: 97080	
Tax Lot #: 201	County Tax Assessor's Map Reference # & Date:		
Township: 1 SOUTH	153E27A		8-22-01
Range: 3 EAST	Section: 27A		
Other Legal Description Information:			

Section 5 EVIDENCE OF OWNERSHIP

Include evidence or information describing the length and extent of ownership of the property, any encroachments, easements, Covenants Conditions and Restrictions, and federal, state and local restrictions on the Property, including all applicable zoning, comprehensive plan and other land use and development regulations. Examples may include; an owner who lives and works on the property, but does not own the mineral rights or a property owner who has easements for neighbors to use roads and the local power company to traverse the property with power or other cables.

The following is attached as proof of ownership: (list all attachments)	1.) DEEDS 2.) TITLE REPORT 3.) HISTORICAL EXPLANATORY LETTER-CLACK. CO. 4.) ORIGINAL PURCHASE CONTRACT
Date of Acquisition of Property:	12-30-77
Nature & Scope of Ownership of Property: Attachment if Applicable <input type="checkbox"/>	
All Encroachments, Easements, etc. (see OAR 125-145-0040 (8) for further information) Attachment if Applicable <input type="checkbox"/>	

Section 6 INTENDED USE OF PROPERTY

What is the intended use of the property that is currently prohibited by state regulations? DEVELOPABLE 1-ACRE LOTS

Section 7 NATURE AND MANNER OF RESTRICTION

List each Land Use Regulation on which the Claim is based and include evidence or information that demonstrates the manner in which each cited Land Use Regulation restricts the use of the Property compared with how the owner was permitted to use the Property under Land Use Regulations in effect at the time the owner acquired the Property.

Law or Rule: Attachment if Applicable <input type="checkbox"/>	CLARK CO. ZONING CODE 309.08 B	Describe how this Land Use Law or Rule restricts the use of this property: REQUIRES 5-ACRE MINIMUM LOT SIZE
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:

Section 8 DATE ON WHICH EACH CITED LAND USE REGULATION BEGAN TO APPLY TO SUBJECT PROPERTY

List each Land Use Regulation on which the Claim is based and include evidence or information that demonstrates the date on which each cited Land Use Regulation began to apply to the Property.

Law or Rule: Attachment if Applicable <input type="checkbox"/>	SEE SECTION 7	Date of Effect: 12-17-79
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:

Section 9 AMOUNT OF PROPERTY VALUE REDUCTION

Enter the amount of Fair Market Value reduction to the Property caused by each cited Land Use Regulation. (Refer to Sections 6 & 7 above). Attach evidence or provide information to support the basis and rationale for the reduction in Fair Market Value.

Fair Market Value Reduction Amount \$: <u>2,350,000</u>	Law or Rule <u>SEE SECTION #7</u>	Basis of Evaluation: <u>MARKET ANALYSIS (ENCLOSED)</u>
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:

Section 10 AUTHORITY TO ENTER PROPERTY

This section of the form authorizes the Department, the Regulating Entity and their officers, employees, agents, and contractors to enter the Property as necessary to verify information, appraise the property, or conduct other business related to this claim. Each person that can restrict access to the property must sign in the appropriate box in this section.

I/We Affix Our Signature(s) to this Form Granting Access to the Subject Property in ANY Manner or Form Deemed Appropriate by State Agency or Agencies for the Review of the Property in Furtherance of the Processing or Handling of this Claim:
SIGNATURES OF ALL OWNERS WITH AUTHORITY TO RESTRICT ACCESS

Printed Name: <u>ROGER J. MIRACLE</u>	Signature: <u>Roger J. Miracle</u>
Interest in Property: <u>CO-OWNER</u>	<u>Roger J. Miracle</u>
Printed Name: <u>ANN M. MIRACLE</u>	Signature: <u>Ann M. Miracle</u>
Interest in Property:	<u>Ann M. Miracle</u>
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	

Section 11 ATTACHMENTS

Check the appropriate box for all documents, evidence and supporting information that is attached and included as a part of this claim.

Title Report: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Deed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Appraisal(s) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Covenants, Conditions & Restrictions: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Affidavits: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Map(s) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Deferrals: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Reductions: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Participating Federal Programs: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		<input type="checkbox"/> Other Information:(Explain) <i>REAL ESTATE VALUATION</i>	
<input checked="" type="checkbox"/> Other Information:(Explain) <i>LETTER FROM CLACK. CO.</i>		<input checked="" type="checkbox"/> Other Information:(Explain) <i>PURCHASE CONTRACT</i>	

Section 12 OTHER CLAIMS FILED

List all other governmental entities you or someone on your behalf has submitted claims to regarding the Property involved in this claim. List all claims submitted to the state or other entities relating to this property or any portion thereof on anyone's behalf. You must list all entities even if you only submitted a claim to them for a portion of the Property that is the subject of this claim.

Have you submitted a claim to another governmental entity regarding the property listed in this claim? No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/> Date: <i>10-3-05</i> To Whom: <i>CLACKAMAS CO.</i>
Yes <input type="checkbox"/> Date: _____ To Whom: _____
Yes <input type="checkbox"/> Date: _____ To Whom: _____
Yes <input type="checkbox"/> Date: _____ To Whom: _____

ADDITIONAL INFORMATION THAT MAY BE SUBMITTED IN SUPPORT OF THIS CLAIM

1. A report by a certified appraiser that addresses the Reduction in Fair Market Value of the Property resulting from the enactment or enforcement of the cited Land Use Regulation(s) as of the date the Claim was filed;
2. A statement of the effect of the cited Land Use Regulation(s) on any Owner's tax status, including without limitation any tax deferrals or tax reductions related to the cited Land Use Regulation(s);
3. Citation to each Land Use Regulation(s) in effect at the time the owner acquired the property explaining how the use that is now not permitted by the Land Use Regulation(s) set forth in Oregon Administrative Rules (OAR) 125-145-0040(9) was permitted at the time the owner acquired the property;
4. Names and addresses of Owners of all real property located within 100 feet of the Property if the Property is located in whole or in part in an urban growth boundary, 250 feet of the Property if the Property is located outside and urban growth boundary and not within a farm or forest zone and 750 feet of the Property if the Property is located in a farm or forest zone.

I ATTEST THAT I HAVE FILLED OUT THIS FORM COMPLETELY AND THIS CLAIM IS TRUE AND CORRECT. (Signatures of all parties preparing this form.)

Roger J. Misael 1 1 10-3-05
Signature Date

Ann M. Misael 1 1 10-3-05
Signature Date

Ann M. Misael 1 1
Signature Date

1 1
Signature Date

1 1
Signature Date

1 1
Signature Date

State of Oregon

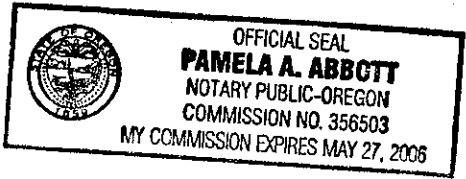
County of Multnomah

Signed and sworn to before me on October 3, 2005 by
(month - day - year)

Pamela A. Abbott
(Notary Public - State of Oregon)

Notary Seal

My commission expires: 5-27-06



October 3, 2005

Clackamas County Planning Division
9101 SE Sunnybrook Blvd.,
Clackamas, OR 97015

Re: Roger and Ann Miracle, MEASURE 37 CLAIM

Dear Sirs:

I am enclosing this letter of explanation to hopefully provide you with a 'quick' review of our property history. We are also providing as much documentation as possible but it might be somewhat confusing if the history is not known on this property. If in your processing of this claim you have any questions I would be more than happy to talk with you. Call my office number of (503) 661-9010.

On December 30, 1977 we purchased 13.26 acres from the Yunker family (Parcel I of the Yunker Heights Major Partition). When this land was purchased, a two-acre parcel was deeded over to us directly (see copy of deed) and the remaining 11.26 acre-parcel was purchased on a note. Because the two-acre parcel was deeded over to us, a separate tax lot was created (tax lot 202) while the remaining 11.26 acres (carried on a note) formed tax lot 201. The deed for the 11.26 acres was conveyed to us when we paid off the note on 8/26/80. Together, these two tax lots, no. 201 and no. 202, comprised Parcel I of the County approved Major Partition, file no. MP-4-76, platted in 1977 as Major Partition no. 41, Yunker Heights.

On August 26th, 1980 we made an additional purchase of the land that comprised tax lot 208. This land, added to our previous purchase brought our total acreage to 15.35 acres. The 15.35 acres consisted of tax lots 201, 202, and 208 – three tax lots comprising one legal lot of record.

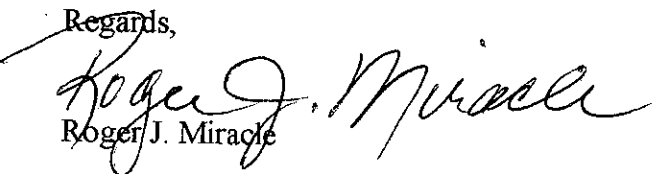
In 1992, we created a flexible lot size partition (file no. Z0489-92-M). Two tax lots of 2 acres each were created and sold – tax lots 214 and 215. The remaining portions of tax lot 201, all of tax lot 202, and all of tax lot 208 were now combined into the one tax lot, no. 201, totaling 11.34 acres. This tax lot 201 is the current tax lot as of this day.

Although there have been changes made over the years, the bottom line is this: tax lot 201 consists of 9.26 acres which were purchased on December 30, 1977 with the remaining acreage being that of the old tax lot 208 which was purchased on August 26th, 1980.

I am also attaching a letter written to me on June 14, 2000 by Rick McIntire of the Clackamas County Planning Department outlining the history on this parcel.

I hope this has been of assistance to you.

Regards,


Roger J. Miracle



Sunnybrook Service Center

June 14, 2000

THOMAS J. VANDERZANDEN
DIRECTOR

Roger Miracle
806 SW Wilson Ct.
Gresham, OR 97080

Via Facsimile to 666-9054

Subject: Tax lots 201, 214 & 215; Map no. 1-3E-27A

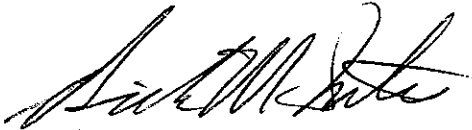
On June 13, 2000, you spoke with Jennifer Hughes of this office concerning the Lot of Record status of tax lots 201, 202 and 208 in map no. 1-3E-27A. The latter two tax lots no longer exist as a result of the partition approved in 1992. The current tax lot numbers are 201, 214 and 215. You have asked for an explanation of the results of the Research Request dated Nov. 16, 1991 done for you by Mike McCallister of this department. At that time, Mike found that the original tax lots, 201, 202 and 208 combined form one (1) legal lot of record. Tax lot 201 contained 11.26 acres, tax lot 202 contained 2.00 acres and tax lot 208 contained 2.02 acres. The combined area was 15.35 acres. Subsequently, you obtained approval of a partition, Planning file no. Z0489-92-M, to create three (3) separate lots of record. The approved parcels are now the current tax lots 201, 214 and 215. Your concern appears to be that the 1991 finding that the three tax lots comprised only one (1) Lot of Record may have been incorrect and that you may have been able to create a fourth parcel by dividing tax lot 201 (11.26) acres into two (2) parcels without involving tax lots 202 and 208. The subject property is zoned RRFF-5. In this zoning district, the maximum allowable density is one (1) dwelling unit per five (5) acres.

The original tax lot 201, containing 13.26 acres inclusive of tax lot 202, was created as a result of a County approved Major Partition, file no. MP-4-76, platted in 1977 as Major Partition no. 41, Yunker Heights. The combination of tax lots 201 and 202 was Parcel 1 of that plat. Parcel 1 was sold to you in 1977 on contract. Tax lot 208 (2.02 acres) was originally part of Parcel 2 of that plat. Parcel 2 originally contained all of current tax lots 210 and parts of tax lots 211 and 212 as well. The total area of Parcel 2 was 10.13 acres. Subsequently, tax lot 202 (2.00 ac.) was split from the north end of tax lot 201 in 1978 and deeded to you. There is no record of a County-approved partition to create tax lot 202 as a legal lot of record. Such approval was required to create any parcels in the rural area containing less than 20 acres by ordinance adopted in August of 1974. Therefore, the creation of this parcel was not done in compliance with County ordinance requirements.

In 1980, a subdivision, Hogan Road Heights, was approved to subdivide the remaining area of the original tax lot 200 into five (5) lots. The plat area contained all but 2.02 acres of Parcel 2 of Major Partition no. 41. This 2.02 acre tract was sold to you in 1980 and became

tax lot 208. Again, no partition approval was granted by the County to create this parcel as a legal lot of record. In essence, it was a lot line adjustment between tax lot 200 and the combination of tax lots 201 and 202. As a result, by 1980 you were in possession of a single 15.35 acre lot of record comprised of three (3) separate tax accounts. Tax lots 202 and 208 were not lawfully created lots of record under the County Subdivision and Partition Ordinance requirements in effect at the time these parcels were created. Subsequently, you partitioned this acreage into three (3) new parcels, current tax lot nos. 201, 214, and 215 (file no. Z0489-92-M). This partition was approved as a flexible lot size partition; i.e. two of the parcels were less than five (5) acres in size. Tax lot 201 is 11.34 acres in size, but cannot be divided under the existing RRFF-5 zoning. The 1992 partition "used up" the density allowed to the original 15.35 acre parcel by creating the maximum allowable number of parcels (three) under this zoning classification.

If you have any further questions concerning this matter, please call me at 353-4516.



Rick McIntire
Planner II
Clackamas County Planning Dept.

RESOLUTION NO. 06-3706
Attachment 4: COO Report



First American

First American Title Insurance Company of Oregon
1500 NE Division
Gresham, OR 97030
Phn - (503) 667-1333
Fax - (503) 665-8374



FAX TRANSMITTAL

DATE: **08/16/2005 04:12:59 PM**

FILE NO.: **7012-633774**

TO: **Roger Miracle**
Attn:

FAX: **15036669054**

FROM: **Gaye Bell**

Special Instructions/Comments: **Measure 37 report & Deed**

Thank You For Your Business! We Know You Have A Choice.

IMPORTANT NOTICE:

Should any of these papers require an **ORIGINAL SIGNATURE** and your fax machine produces the facsimile on thermal paper, please **PHOTOCOPY** then sign the photocopy.

We will "not" accept an Original Signature on THERMAL fax paper.

Thank you for your cooperation in this matter.

**IF TRANSMISSION OF ALL PAGES IS NOT COMPLETE OR IF AN ORIGINAL IS NEEDED,
PLEASE CONTACT THE SENDER.**



First American

First American Title Insurance Company of Oregon
222 SW Columbia Street, Suite 400
Portland, OR 97201
Phn - (503) 222-3651
Fax - (503) 790-7858

MULTNOMAH COUNTY TITLE UNIT
FAX (503) 790-7858

Title Officer: **Carol Bruney**
(503) 222-3651

MEASURE 37 LOT BOOK SERVICE

Roger J. Miracle & Ann M. Miracle
806 SW Wilson Court
Gresham, OR 97080

Order No.: 7012-633774
August 16, 2005

Attn:
Phone No.: - Fax No.:
Email:

Re:

Fee: \$500.00

We have searched our Tract Indices as to the following described property:

Parcel 1, PARTITION PLAT NO. 1993-93, in the County of Clackamas and State of Oregon.

and as of August 1, 2005 at 8:00 a.m.

We find that the last deed of record runs to

Roger J. Miracle and Ann M. Miracle, as tenants by the entirety

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Taxes for the fiscal year 2005-2006 a lien due, but not yet payable.
2. The assessment roll and the tax roll disclose that the premises herein described were specially assessed as Forest Land pursuant to O.R.S. 321.358 to 321.372. If the land becomes disqualified for the special assessment under the statute, an addition tax may be levied for the last five (5) or lesser number of years in which the land was subject to the special land assessment.
3. Maintenance of Private Roadway, including terms and provisions thereof.
Recorded: November 18, 1977 as Fee No. 77 47512
4. Declaration of Restrictions of Partition Plat # 1993-93, including terms and provisions thereof.
Recorded: August 15, 1994 as Fee No. 94-065522

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Lot Book Service

Guarantee No.: **7012-633774**
Page 2 of 2

5. Road Maintenance Agreement, including terms and provisions thereof.
Recorded: August 15, 1995 as Fee No. 94-065524
6. Unrecorded leases or periodic tenancies, if any.

NOTE: Taxes for the year 2004-2005 PAID IN FULL

Tax Amount:	\$790.83
Map No.:	13E27A 00201
Property ID:	00132092
Tax Code No.:	026-015

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens:

In our search for recorded deeds to determine the vestee herein we find the following:

Document	Recorded	Book	Page	Fee No.
Quitclaim Deed - Statutory Form	July 22, 1987			8733467

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listing do to include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Measure 37 Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

Verifying

SAECO TITLE INSURANCE CO. C-52222

FORM No. 999—QUITCLAIM DEED—STATUTORY FORM (Individual Grantor)

STEVENS NEELSON PUE, CO., PORTLAND, OR 97204

QUITCLAIM DEED—STATUTORY FORM
INDIVIDUAL GRANTOR

MARSHA ANN ZINK

releases and quitclaims to **ROGER J. MIRACLE and ANN M. MIRACLE, husband and wife** Grantor,

Grantee, all right, title and interest in and to the following described real property situated in **Clackamas** County, Oregon, to-wit:

All of that portion described on Exhibit A attached hereto of that certain easement for ingress, egress and utility purposes over and across that certain 25 foot wide roadway as shown on the duly recorded major partition of "Yunker Heights".

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

The true consideration for this conveyance is \$ **None** (Here comply with the requirements of ORS 93.030)

Dated this **21** day of **July**, 19**87**

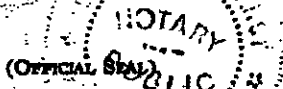
Marsha Ann Zink

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

STATE OF OREGON, County of **Multnomah**, ss. **July 21**, 19**87**

Personally appeared the above named **MARSHA ANN ZINK**

and acknowledged the foregoing instrument to be her voluntary act and deed.



Before me: *Cheryl A. Clancy*
Notary Public for Oregon—My commission expires: **3/4/91**

QUITCLAIM DEED	
MARSHA ANN ZINK ROGER J. MIRACLE and ANN M. MIRACLE	
GRANTOR	
GRANTEE'S ADDRESS, ZIP	
After recording return to:	
Mr. and Mrs. Roger J. Miracle c/o Mrs. Marsha Ann Zink P. O. Box 3242 Gresham, OR 97030	
NAME, ADDRESS, ZIP	
Until a change is requested, all tax statements shall be sent to the following address:	
No change	
NAME, ADDRESS, ZIP	

STATE OF OREGON, } ss.
County of _____ }
I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book/real/volume No. _____ on page _____ or as fee/file/instrument/microfilm/reception No. _____, Record of Deeds of said county.
Witness my hand and seal of County affixed.

NAME TITLE
By _____ Deputy

87 33467

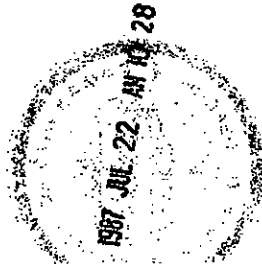
EXHIBIT A

A twenty-five foot wide roadway located in the East one-half of the Northeast one-quarter of Section 27, T 1 S, R 3 E, of the Willamette Meridian, County of Clackamas, State of Oregon, with its westerly boundary more particularly described as follows:

Commencing at the Northeast Corner of the said Section 27; thence South 89°09'50" West, a distance of 1,311.01 feet to the Northwest corner of the East one-half of the Northeast one-quarter of the said Section 27; thence South 00°13'02" West along the West line of the said East one-half, a distance of 1073.38 feet; thence South 89°46'58" East, a distance 150.00 feet; thence South 33°28'20" East, a distance of 113.00 feet; thence South 04°49'45" East, a distance of 424.25 feet; thence North 65°02'40" East, a distance of 69.19 feet; thence North 85°46'26" East, a distance of 65.22 feet; thence North 79°41'33" East, a distance of 50.08 feet; thence North 88°34'42" East, a distance of 35.05 feet; thence South 74°39'10" East, a distance of 46.89 feet; thence South 57°13'43" East, a distance of 35.04 feet; thence South 38°02'46" East, a distance of 98.77 feet; thence South 55°37'34" East, a distance of 121.39 feet to the true point of beginning of this description; thence South 05°51'20" West, a distance of 82.40 feet; thence 95.15 feet along the arc of a 114.97 foot radius circular curve to the right through a central angle of 47°25'05" (long chord is 92.46 feet and bears South 29°33'52" West); thence South 53°16'25" West, a distance of 72.83 feet to a point on a non-tangent curve to the left having a radius of 86.10 feet; thence along said curve, the long chord of which bears South 29°33'52" West, an arc distance of 74.46 feet; thence South 3°46'30" West a distance of 52.83 feet; thence along a 154.43 foot radius curve to the right, the long chord of which bears South 6°24'48" West, 54.63 feet, an arc distance of 54.92 feet; thence South 16°36'05" West a distance of 125.53 feet; thence along a 204.78 foot radius curve to the right, the long chord of which bears South 29°33'38" West 91.85 feet, an arc distance of 92.63 feet; thence South 42°31'10" West a distance of 232.95 feet; thence South 48°20'15" West a distance of 106.04 feet; thence along a 71.37 foot radius curve to the left, the long chord of which bears South 23°51'42" West 59.14 feet, an arc distance of 60.98 feet; thence South 89°23'10" West a distance of 220.39 feet to a point on the North boundary of a fifty foot wide road dedication as shown on the Yunker Heights, Major Partition recorded November 18, 1977 as Recorder's Fee No. 77-47511, Film Records.

2

REC'D
of Clackamas
County Clerk
I, _____, County Clerk, for the County of Clackamas, Oregon, do hereby certify that the instrument of record is correct for recording in the records of said



and seal affixed
to F. Kaufman
JOHN KAUFFMAN
County Clerk
(86)

87 33467

Comparative Market Analysis

for

Roger Miracle

SUBJECT PROPERTY

**9390 SE Kingswood Way
Gresham, OR 97080**

- ◆ 11.34 Acre Parcel
- ◆ One Building Site

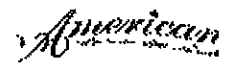
Suggested Price: \$350,000

Prepared By:



**Vicki Arnold
Americana Properties, Inc.**

8/10/2005



This report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice and is not intended as an appraisal. If an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.

Comparables to Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

53501 SE Terra Fern	LND	ACT	\$279,000
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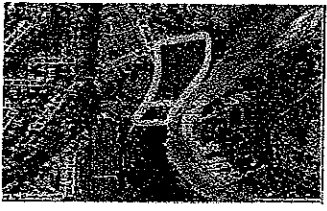
No Photo Available

ML#: 5053945
 MLS Area: 144
 County: Clackamas
 Neighborhood:
 Zip Code: 97055
 T/Guide: 692E7
 Tax Id #: 01351904

Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 51.56

Directions:HWY 26 TO TERRA FERN
Remarks: BEAUTIFUL BUILDING SITE! VERY SECLUDED WITH LARGE TREES AND CREEK. A MUST SEE IN THIS PRICE RANGE.

STARK ST	LND	PEN	\$200,000
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ML#: 5020294
 MLS Area: 144
 County: Multnomah
 Neighborhood: SEC 01 01S 03E
 Zip Code: 97060
 T/Guide: 599H7
 Tax Id #: R337253, R337235

Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 1411

Directions:ACROSS FROM SE 35TH STREET ON STARK ST.
Remarks: APPROX 8.23 ACRES WITH SANDY RIVER FRONTAGE AND MT. HOOD VIEW (PER OWNER). COUNTY SAYS POSSIBLY QUALIFIES FOR TEMPLATE TEST TO BUILD YOUR DREAM HOME. BUYER TO VERIFY WITH MULTNOMAH COUNTY.

7927 SE 190 DR	LND	SLD	\$500,000
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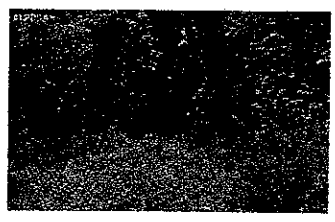
No Photo Available

ML#: 4005284
 MLS Area: 144
 County: Multnomah
 Neighborhood:
 Zip Code: 97236
 T/Guide: 627H7
 Tax Id #: Not Found

Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 2734.21

Directions:FOSTER TO RICHEY RD TO 190TH DR. RIGHT TO PROPERTY. SIGNS ON 190TH DR
Remarks: BEAUTIFUL LEVEL LAND WITH RICHEY CREEK THROUGH MIDDLE OF PROP. NOT IN FLOOD PLAIN ACCORDING TO MAPS. IN UGB. LOTS OF NEW DEVELOPMENT IN AREA.

Anderson	LND	SLD	\$208,000
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ML#: 4038153
 MLS Area: 146
 County: Clackamas
 Neighborhood:
 Zip Code: 97013
 T/Guide: 775G3
 Tax Id #: Not Found

Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 642.25

Directions:CANBY S ON 99 R ON ANDERSON TO SIGN.
Remarks: THIS IS A BEAUTIFUL WOODED 8.34 ACRES. IDEAL FOR PRIVACY AND THAT SPECIAL SPOT FOR YOUR DREAM HOME. OVERLOOKING THE PUDDING RIVER YOU CAN FIND PEACE AND TRANQUILITY. UNIQUE OPPORTUNITY. ACCESS IS AVAILABLE FROM EITHER SIDE OF ANDERSON RD. CLACKAMAS CO. WILL MOVE BARRIERS.

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 SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Summary of Comparables

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Active

MLS#	P	Type	Address	City	Area	Acres	Price
5053945	0	RESID	9390 SE KINGSWOOD WAY	Sandy	144	11.34	\$350,000
		RESID	53501 SE Terra Fern		144	9.84	\$279,000

Pending

MLS#	P	Type	Address	City	Area	Acres	Price
5020294	4	RESID	9390 SE KINGSWOOD WAY	Troutdale	144	11.34	\$350,000
		RESID	STARK ST		144	8.23	\$200,000

Sold

MLS#	P	Type	Address	City	Area	Acres	Price
4005284	0	RESID	9390 SE KINGSWOOD WAY	Portland	144	11.34	\$350,000
		RESID	7927 SE 190 DR		144	9	\$500,000
4038153	3	RESID	Anderson	Canby	146	8.34	\$208,000

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 SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Pricing Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Status	#	Average	Minimum	Maximum	Avg Sqft	Avg \$Sqft
Active	1	\$279,000	\$279,000	\$279,000	0	\$0
Pending	1	\$200,000	\$200,000	\$200,000	0	\$0
Sold	2	\$354,000	\$208,000	\$500,000	0	\$0
Total Listings	4	Sold Properties closed averaging 74.53% of their Final List Price. This reflects a 25.47% difference between Sale Price and List Price.				

	Amount	\$/Sqft
Average Sales Price	\$354,000	\$0
Min. List Price	\$224,950	\$0
Max. List Price	\$725,000	\$0
Suggested List Price	\$350,000	\$

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Comparative Market Analysis

RESOLUTION NO. 06-3706
Attachment 4: COO Report

for

Roger Miracle

SUBJECT PROPERTY

9390 SE Kingswood Way
Gresham, OR 97080

- ◆ 11.34 Acre Parcel
- ◆ Nine Building Sites
- ◆ Price Per One Acre Parcel

Suggested Price: **\$300,000**

Prepared By:



Vicki Arnold
Americana Properties, Inc.

8/10/2005

Americana

This report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice and is not intended as an appraisal. If an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.

Comparables to Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

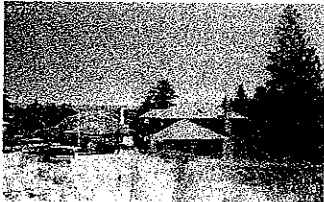
0 WALTERS LOOP	LND	ACT	\$299,500
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No Photo Available

ML#: 5025910
MLS Area: 144
County: Multnomah
Neighborhood: VIEW CREST HEIGHTS
Zip Code: 97080
T/Guide: 629B4
Tax Id #: R489343
Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1134.73

Directions: POWELL; S ON WALTERS ROAD; TO WALTERS LOOP
Remarks: LARGE LOT IN GRESHAM'S PREMIER AREA - HOMES IN THE 600'S TO OVER A MILLION - COME ENJOY THE VIEWS! FIRE SPRINKLERS REQUIRED.

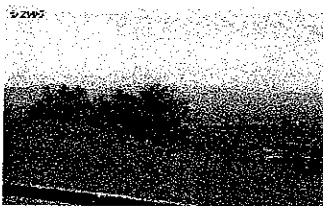
16th CT	LND	PEN	\$234,900
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ML#: 5013508
MLS Area: 144
County: Multnomah
Neighborhood: DAWNCREST ESTATES
Zip Code: 97080
T/Guide: 629C4
Tax Id #: Not Found
Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 0

Directions: REGNER TO ELLIOT, LEFT ON 15TH, RIGHT ON 16TH CT. TO END OF CUL-DE-SAC.
Remarks: BEAUTIFUL 1AC+ MT. HOOD & COLUMBIA RIVER GORGE VIEW LOT. LOCATED IN THE PRESTIGIOUS "DAWNCREST ESTATES" NEIGHBORHOOD. CLOSE TO PERSIMMONS GOLF & DWN. TOWN GRESHAM. NO HOME OWNERS FEES! 1031 EXCHANGE. BRING YOUR OWN BUILDER!

0 SW MILLER CT	LND	SLD	\$240,000
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ML#: 5032952
MLS Area: 144
County: Multnomah
Neighborhood: Gresham Butte
Zip Code: 97080
T/Guide: 629B4
Tax Id #: R111795
Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 925

Directions: POWELL, S/WALTERS RD, E/LOVHAR TO MILLER CT.
Remarks: VIEW! VIEW! VIEW! FABULOUS, SPECTACULAR & DRAMATIC VIEWS OF MT HOOD & CITY LIGHTS ON THIS 1+ AC LOT! BUILD YOUR DREAM HOME TO CAPTURE THE ENTIRE PANORAMA. NO HOMEOWNER'S ASSOC, NO CC&R'S! ALL UTILITIES AVAIL, UPSCALE AREA OF FINER HOMES, CLOSE TO EVERYTHING YET PRIVACY PLUS!

Le Ann CT	LND	SLD	\$250,000
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No Photo Available

ML#: 5030876
MLS Area: 144
County: Clackamas
Neighborhood:
Zip Code: 97009
T/Guide: 660F6
Tax Id #: 01595580
Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 725.88

Directions: KELSO - EKLUND - LE ANN COURT
Remarks: LEVEL BUILDING LOT IN MT. SHADOW ESTATES, .98 ACRE, BACKS TO NURSERY, COMMUNITY WATER, GAS, POWER AND STANDARD SEPTIC AVAILABLE.

10693 SE RIDGEWAY DR**LND****SLD****\$325,000**

ML#: 4070992
MLS Area: 145
County: Clackamas
Neighborhood: ALTAMONT #6
Zip Code: 97266
T/Guide: 657H1
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1979.65

RESOLUTION NO. 06-3706
 Attachment 4: COO Report

Directions: IDELMAN TO TYLER, TYLER TO CITY VIEW, CORNER OF CITY VIEW & RIDGEWAY
Remarks: BREATHTAKING PANORAMIC VIEW! BEHOLD THE VIEW OF DOWNTOWN PORTLAND, MT. ST. HELENS & WILLAMETTE RIVER. BUILD YOUR DREAM HOME ON THIS LOT OF JUST OVER AN ACRE LOCATED ON A PRIVATE GATED CULDESAC WITH JUST 2 OTHER HOME SITES OF SIMILAR SIZE. CLOSE TO SHOPPING & AIRPORT.

10687 SE Ridgeway DR**LND****SLD****\$375,000**

**No Photo
 Available**

ML#: 5047925
MLS Area: 145
County: Clackamas
Neighborhood: Altamont
Zip Code: 97266
T/Guide: 657H1
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 0

Directions: IDELMAN TO TYLER, TYLER TO CITY VIEW, CORNER OF CITY VIEW & RIDGEWAY DR
Remarks: GREAT VIEWS OF EVERYTHING

10915 SE VALLEY VIEW TER**LND****SLD****\$395,000**

**No Photo
 Available**

ML#: 5014586
MLS Area: 145
County: Clackamas
Neighborhood: HIGHPOINTE
Zip Code: 97015
T/Guide: 657J2
Tax Id #: 01505151

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1621.05

Directions: SUNNEYSIDE
Remarks:

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 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Summary of Comparables

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Active

MLS#	P	Type	Address	City	Area	Acres	Price
5025910	0	RESID	9390 SE KINGSWOOD WAY 0 WALTERS LOOP	Gresham	144 144	11 0.97	\$300,000 \$299,500

Pending

MLS#	P	Type	Address	City	Area	Acres	Price
5013508	7	RESID	9390 SE KINGSWOOD WAY 16th CT	Gresham	144 144	11 1.1	\$300,000 \$234,900

Sold

MLS#	P	Type	Address	City	Area	Acres	Price
5032952	1	RESID	9390 SE KINGSWOOD WAY 0 SW MILLER CT	Gresham	144 144	11 1.01	\$300,000 \$240,000
5030876	0	RESID	Le Ann CT	Boring	144	0.98	\$250,000
4070992	6	RESID	10693 SE RIDGEWAY DR	Portland	145	1.2	\$325,000
5047925	0	RESID	10687 SE Ridgeway DR	Portland	145	1	\$375,000
5014586	0	RESID	10915 SE VALLEY VIEW TER	Happy Valley	145	1	\$395,000

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Pricing Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Status	#	Average	Minimum	Maximum	Avg Sqft	Avg \$Sqft
Active	1	\$299,500	\$299,500	\$299,500	0	\$0
Pending	1	\$234,900	\$234,900	\$234,900	0	\$0
Sold	5	\$317,000	\$240,000	\$395,000	0	\$0
Total Listings	7	Sold Properties closed averaging 97.6% of their Final List Price. This reflects a 2.4% difference between Sale Price and List Price.				

	Amount	\$/Sqft
Average Sales Price	\$317,000	\$0
Min. List Price	\$249,000	\$0
Max. List Price	\$395,000	\$0
Suggested List Price	\$300,000	\$

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Metro Statement as to negative effect of the Urban Growth Management Functional Plan

Under the Urban Growth Management Functional Plan portions of the subject property would be required to be set aside reducing the total acreage available for residences. The proposed restriction would result in a lower number of residences and any beneficial effect (if any) of the restrictions would not increase the value of the remaining lots sufficiently to compensate for the reduction in the number of the lots. Thus, the restrictions would result in a net decrease in the value of the property.

C:\Client Files\1215.7\Metro Statement.wpd