A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: October 26, 2006
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. VOLUNTARY SEPARATION PROGRAM: SAVINGS AND COSTS Dow

4. NATURE IN NEIGHBORHOODS GRANT SPOTLIGHT Triplett/Geddes

5. CONSENT AGENDA

5.1 Consideration of Minutes for the October 19, 2006 Metro Council Regular Meeting.

5.2 **Resolution No. 06-3732**, For the Purpose of Authorizing the Chief Operating Officer to Enter into a Telecommunications Lease with LCW Wireless, LLC for Non-park Use within the Glendoveer Golf Course.

5.3 **Resolution No. 06-3733**, For the Purpose of Amending the 2006-09 Metropolitan Transportation Improvement Program (MTIP) to Add the NW Cornell Road: Evergreen Parkway to 158th Avenue Widening Project.

6. RESOLUTIONS

6.1 **Resolution No. 06-3734**, For the Purpose of Concurring that TriMet, C-TRAN, and SMART be the Designated Recipients of Federal Jobs Access and Reverse Commute and New Freedom Transportation Funds Allocated to the Portland-Vancouver Urbanized Area. Burkholder

6.2 **Resolution No. 06-3735**, For the Purpose of Formalizing Budget Assumption Guidelines for Departmental Use in Preparing the Fiscal Year 2007-08 Budget and Directing the Chief Operating Officer to Advise Council of Any Substantive Changes in the Assumptions Prior to the Submission of the Proposed Budget to Council for Public Review. Hosticka

6.3	**Resolution No. 06-3737**, Authorizing the Chief Operating Officer to Issue a Non-System License to Willamette Resources, Inc. for Delivery of Solid Waste to the Riverbend Landfill.	Park

7. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(d), FOR THE PURPOSE OF DELIBERATING WITH PERSONS DESIGNATED TO CONDUCT LABOR NEGOTIATIONS.

8. CHIEF OPERATING OFFICER COMMUNICATION

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for October 26, 2006 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.tvctv.org -- (503) 629-8534 2 p.m. Thursday, Oct. 26 (live)	**Portland** Channel 30 (CityNet 30) -- Portland Community Media www.pcmtv.org -- (503) 288-1515 8:30 p.m. Sunday, Oct. 29 2 p.m. Monday, Oct. 30
Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, Oct. 30	**Washington County** Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, Oct. 28 11 p.m. Sunday, Oct. 29 6 a.m. Tuesday, Oct. 31 4 p.m. Wednesday, Nov. 1
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).

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO A TELECOMMUNCIATIONS LEASE WITH LCW WIRELESS, LLC FOR NON-PARK USE WITHIN THE GLENDOVEER GOLF COURSE	RESOLUTION NO. 06-3732 Introduced by Chief Operating Officer Michael J. Jordan, with the concurrence of Council President David Bragdon

WHEREAS, Metro owns the Glendoveer Golf Course in northeast Portland; and

WHEREAS, LCW Wireless, LLC is requesting a telecommunications lease and associated construction and maintenance access to locate a communications facility for the transmission and reception of radio communication signals, including the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, antennas, equipment shelters and/or cabinets and related activities on and adjacent to the Glendoveer Golf Course water tank; and

WHEREAS, LCW Wireless, LLC has agreed to pay Metro's cost and expenses to process this lease request and the fair market rent value for the leased area; and

WHEREAS, the Metro Regional Parks and Greenspaces Department has determined that this lease request has met the criteria in 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," adopted by the Metro Council on November 6, 1997 (the "Easement Policy"), as identified in Attachment 1 to the Staff Report to this resolution, and can be accommodated with minimal impact to natural resources, cultural resources, recreational resources, recreational facilities, recreational opportunities or their operation and management; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to enter into a lease to LCW Wireless, LLC for installation and maintenance of a telecommunications facility on and adjacent to the Glendoveer Golf Course water tower, as depicted in Exhibit A and set forth in the Lease Agreement attached as Exhibit B to this Resolution.

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. 06-3732
Depiction of PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

PLACEHOLDER

Exhibit B
Resolution No. 06-3732
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

PLACEHOLDER

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3732 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO A TELECOMMUNCIATIONS LEASE WITH LCW WIRELESS, LLC FOR NON-PARK USE WITHIN THE GLENDOVEER GOLF COURSE

Date: October 26, 2006 Prepared by: William Eadie

BACKGROUND

The Metro Regional Parks and Greenspaces Department occasionally receives requests for easements, leases and right-of-ways across property that is owned by Metro. These requests are reviewed and analyzed per guidance and policy established via 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," adopted by the Metro Council on November 6, 1997 (the "Easement Policy").

Metro has received and reviewed a non-exclusive lease application from LCW Wireless, LLC, which meets all criteria set forth in the Easements, Right of Ways, and Leases for Non-Park Uses Policy as set forth in Attachment 1 to this Staff Report. LCW Wireless, LLC proposes to lease approximately 188 square feet of ground space and space on the existing water tank at Glendoveer Golf Course for the placement and construction of a wireless communication facility. The applicant will construct an equipment shelter designed to match the existing shelters on site to house their electronics equipment, and they will run underground cables to the existing water tank and mount six (6) panel antennas to the existing water tank.

Approval of the lease shall be conditional upon certain conditions being met:

- The new equipment shelter will be located within a wooded area adjacent to two (2) other existing equipment shelters in order to minimize the visual impact of the new shelter. No trees will be removed, and the applicant will agree to landscape and restore the vegetation around the shelter to Metro Parks' satisfaction;
- The necessary underground utility cables will be installed by boring 36' under the ground to avoid damaging the root systems of the surrounding conifers. In the event that any of the surrounding trees die within five (5) years after execution of the lease, the applicant will be responsible for compensating Metro for the full replacement value of the trees;
- The new antennas on the existing water tank will be located directly below the existing Verizon antennas and will be attached to the water tank with adhesive;
- The lease rate that the applicant will pay will be established by a fair market rent study of leases at comparable facilities

ANALYSIS/INFORMATION

1. **Known Opposition**: No known opposition.

2. **Legal Antecedents**: 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 Regional Parks and Greenspaces Department," adopted by the Metro Council on November 6, 1997.

3. **Anticipated Effects**: Will allow for the applicant to use the premises for the transmission and reception of radio communication signals.

4. **Budget Impacts**: Legacy Wireless, LLC will reimburse Metro for staff costs associated with processing this request and the market rent as established by the fair market rent study.

RECOMMENDED ACTION

The Chief Operating Officer recommends that the Metro Council approve the lease as requested and the adoption of Resolution No. 06-3732.

ATTACHMENT 1
Resolution No. 06-3732

Metro Easement Policy Criteria and Staff Findings

1) **Provide for formal review of all proposed easements, right of ways, and leases for non-park, uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.**

   Staff Finding: Criterion has been satisfied through a review and approval process that includes formal application and approval from the Regional Parks staff. The full Council will hear the request.

2) **Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites that are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.**

   Staff Finding: The applicant proposes to lease approximately 188 square feet of ground space and space on the existing water tank at Glendoveer Golf Course for the placement and construction of a wireless communication facility. The applicant will construct a shelter designed to match the existing shelters on site to house their electronics equipment, and they will run underground cables to the water tank and mount six (6) panel antennas to the existing water tank.

3) **Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.**

   Staff Finding: The lease will have a minor impact on park or natural resource values. If approved, the new equipment shelter will be located within a wooded area adjacent to two (2) other existing equipment shelters, and the design of the shelter will match the design of the other existing shelters. Several smaller shrubs will be required to be removed, but no trees will be removed. The applicant will agree to landscape and restore the vegetation around the shelter to Metro's satisfaction. The necessary underground utility cables will be installed by boring 36' under the ground to avoid damaging the root systems of the surrounding conifers. No surface trenching will be allowed. In the event that any of the surrounding trees die within five (5) years after execution of the lease, the applicant will be responsible for compensating Metro for the full replacement value of the trees. The new antennas on the existing water tank will be located directly below the existing Verizon antennas and will be attached to the tank with adhesive. The applicant will pay for and complete the painting of the sides of the water tank and will be allowed to recover the cost of painting through reduced rent. The applicant will pay for and install a metal barrier on the water tank to prevent vandals from climbing the tower.

4) **Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to**

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

Staff Finding: Meets criteria – see No. 3 above

5) **Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.**

Staff Finding: Approval of the lease shall be conditional upon certain conditions being met as detailed in No. 3 above.

6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.

Staff Finding: The dimensions and terms of the lease are limited to accommodate the installation of the equipment shelter, underground cables, and antennas. These rights are not transferable or assignable without certain conditions being met or with Metro Council approval.

7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.

Staff Finding: The leased space represents the minimum necessary to accomplish the project while minimizing impact on Metro property.

8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.

Staff Finding: The lease will include these terms.

9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.

Staff Finding: Metro staff assigned to this application has documented time and costs spent on this application and informed the applicant of the policy requiring reimbursement. Execution of the lease is subject to satisfaction of all expenses.

10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.

Staff Finding: The market value of the lease has been established by an independent market rent study. The initial term of the proposed lease will be ten (10) years, and the initial lease rate will be established by a fair market rent study of leases at comparable facilities. The lessee will have the right to extend the lease for four (4) additional five (5) year terms on the same terms and conditions except that the rent shall be increased by fifteen percent (15%) of the rent paid over the preceding term.

11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.

Staff Finding: The lease will include indemnification and insurance provisions.

12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility, or interim use leases as noted in the Open Spaces Implementation Work Plan.

Staff Finding: No exception requested.

13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:

A. The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.

Staff Finding: The applicant has submitted a detailed proposal including all required information.

B. Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.

Staff Finding: No additional information is needed.

C. Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.

Staff Finding: No reasonable alternative for alignment outside the Metro property is feasible.

D. If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

Staff Finding: No significant negative impact on Metro property will occur.

E. Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.

Staff Finding: Construction is contingent upon approval.

F. Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.

Staff Finding: Metro costs have been documented and applicant will be billed for reimbursement.

G. **Permission from Metro for an easement or right of way shall not preclude review under applicable federal, state or local jurisdiction requirement.**

Staff Finding: Criterion satisfied.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2006-09 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO ADD THE NW CORNELL ROAD: EVERGREEN PARKWAY TO 158TH AVENUE WIDENING PROJECT	))))))	RESOLUTION NO. 06-3733 Introduced by Councilor Rex Burkholder

WHEREAS, the Metropolitan Transportation Improvement Program (MTIP) prioritizes projects from the Regional Transportation Plan to receive transportation related funding; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council must approve the MTIP and any subsequent amendments to add new projects to the MTIP; and

WHEREAS, the JPACT and the Metro Council approved the 2006-09 MTIP on August 18, 2005; and

WHEREAS, the State of Oregon awarded Washington County $1 million of funding for the widening of NW Cornell Road between Evergreen Parkway and 158th Avenue through the Immediate Opportunity Fund to support economic development opportunities; and

WHEREAS, this is a new transportation project requiring amendment into the Metropolitan Transportation Improvement Program prior to these funds being made available to the project; and

WHEREAS, the project has been determined in conformity with the State Implementation Plan for air quality per federal regulations; and

WHEREAS, the project is consistent with the Regional Transportation Plan; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to add the NW Cornell Road: Evergreen Parkway to 158th Avenue project into the 2006-09 Metropolitan Transportation Improvement Program.

ADOPTED by the Metro Council this 26th day of October 2006.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3733, FOR THE PURPOSE OF AMENDING THE 2006-09 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO ADD THE NW CORNELL ROAD: EVERGREEN PARKWAY – 158TH AVENUE WIDENING PROJECT

Date: September 20, 2006 Prepared by: Ted Leybold

BACKGROUND

The Oregon Transportation Commission has awarded Washington County $1 million from the Immediate Opportunity Fund for the widening of NW Cornell Road between Evergreen Parkway and 158th Avenue. The purpose of the Immediate Opportunity Fund is to respond quickly to infrastructure investment needs that will support economic development opportunities.

The NW Cornell Road project will bring the last remaining two-lane section of Cornell Road south of Highway 26 up to its planned standard and capacity by adding two travel lanes, a turn-lane where necessary, bike lanes, sidewalks, planter strips and street lighting.

Air quality conformity analysis has been submitted to the state and federal air quality agencies and TPAC for consultation and forwarded to FHWA for approval.

This resolution would approve amending the 2006-09 Metropolitan Transportation Improvement Program to include programming of $1 million of state transportation project funds obtained for the project.

ANALYSIS/INFORMATION

1. **Known Opposition** None known at this time.

2. **Legal Antecedents** Amends the 2006-09 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 05-3606 on August 18, 2005 (For the Purpose of Approving the 2006-09 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area).

3. **Anticipated Effects** Adoption of this resolution will make available state transportation funding to Washington County for the NW Cornell Road: Evergreen Parkway to 158th Avenue project.

4. **Budget Impacts** None.

RECOMMENDED ACTION

Metro staff recommends the approval of Resolution No. 06-3733.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONCURRING THAT TRIMET, C-TRAN, AND SMART BE THE DESIGNATED RECIPIENTS OF FEDERAL JOBS ACCESS AND REVERSE COMMUTE AND NEW FREEDOM TRANSPORTATION FUNDS ALLOCATED TO THE PORTLAND-VANCOUVER URBANIZED AREA	)))))))	RESOLUTION NO. 06-3734 Introduced by Councilor Rex Burkholder

WHEREAS, the Metro Council and Joint Policy Advisory Committee on Transportation (JPACT) are the federally designated Metropolitan Planning Organization for the Oregon portion of the Portland-Vancouver urbanized area and are authorized to program federal transportation funds into the Metropolitan Transportation Improvement Program (MTIP); and

WHEREAS, the Jobs Access and Reverse Commute (JARC) federal transportation funding program has been changed from a grant award funding program to a formula funding program allocated to all urbanized areas; and

WHEREAS, a new federal transportation formula funding program titled New Freedom has been created to provide new public transportation services for individual with disabilities; and

WHEREAS, Metro and the Regional Transportation Commission of Southwest Washington have reviewed the planning, administrative and legal requirements necessary to be designated as a recipient of funds from the JARC and New Freedom programs; and

WHEREAS, TriMet, C-Tran and SMART are qualified to receive these funds; and

WHEREAS, Metro and TriMet will update the Memorandum of Understanding that identifies the roles and responsibilities of each agency in carrying out regional transportation planning activities to effectively administer these funds; and

WHEREAS, federal law requires the Metropolitan Planning Organization concur with the Governors of Oregon and Washington in designating a recipient of these new program funds; now, therefore

BE IT RESOLVED that the Metro Council hereby accepts the recommendation of JPACT to concur that TriMet, C-Tran and SMART be designated by the Governors of Oregon and Washington as recipients of JARC and New Freedom transportation funds allocated to the Portland-Vancouver urbanized area.

ADOPTED by the Metro Council this 26th day of October 2006.

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David Bragdon, Council President

Approved as to Form:

____
Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3734, FOR THE PURPOSE OF CONCURRING THAT TRIMET, C-TRAN AND SMART BE THE DESIGNATED RECIPIENTS OF FEDERAL JOBS ACCESS AND REVERSE COMMUTE AND NEW FREEDOM TRANSPORTATION FUNDS ALLOCATED TO THE PORTLAND-VANCOUVER URBANIZED AREA

Date: September 20, 2006 Prepared by: Ted Leybold

BACKGROUND

The recent federal transportation authorization act created a new funding program to provide new transportation services beyond those required by the Americans with Disabilities Act and that assist individuals with disabilities with transportation. The act also changed the Jobs Access and Reverse Commute (JARC) program from a competitive grant program to a formula-funding program provided to all eligible areas.

The act requires the Governors of Oregon and Washington to identify the "designated recipients" for these two funding programs. There must also be concurrence of the designation by the providers of publicly owned transit service and the Metropolitan Planning Organization in the urbanized area. Typically, the public transit service providers will serve as the recipients of these funds and will administer the distribution of these funds at the local level.

TriMet, C-Tran, and SMART have provided the documentation necessary to demonstrate that they have the legal and administrative capacity to be the designated recipient of these funds. Metro and TriMet will also update their Memorandum of Understanding for carrying out planning activities to clarify agencies responsibilities related to the administration of these funds.

ANALYSIS/INFORMATION

1. **Known Opposition** None known at this time.

2. **Legal Antecedents** The recent federal transportation authorization law (Safe, Accountable, Flexible, Efficient Transportation Equity Act - a Legacy for Users or SAFETEA-LU) created two new federal formula funding programs and required Metropolitan Planning Organizations to concur with the state governor on the designated local recipient of these funds.

3. **Anticipated Effects** Adoption of this resolution will authorize TriMet, C-Tran and SMART to receive federal transportation funds provided through the federal New Freedom and Jobs Access and Reverse Commute funding programs.

4. **Budget Impacts** None.

RECOMMENDED ACTION

Metro staff recommends the approval of Resolution No. 06-3734.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF FORMALIZING BUDGET ASSUMPTION GUIDELINES FOR DEPARTMENTAL USE IN PREPARING THE FISCAL YEAR 2007-08 BUDGET AND DIRECTING THE CHIEF OPERATING OFFICER TO ADVISE COUNCIL OF ANY SUBSTANTIVE CHANGES IN THE ASSUMPTIONS PRIOR TO THE SUBMISSION OF THE PROPOSED BUDGET TO COUNCIL FOR PUBLIC REVIEW	)))))))))	RESOLUTION NO 06-3735 Introduced by Michael Jordan, Chief Operating Office with the concurrence of the Council President

WHEREAS, The Metro Council has deliberated upon the global budget assumptions shown in Exhibit A to better understand the factors that are used in creating Metro departmental and agency assumptions; discuss questions, issues, or concerns related to these proposed assumptions; determine areas where a change in assumptions may be desirable; and determine areas where Council has little or no discretion in changing assumptions; and

WHEREAS, The Metro Council has agreed upon the need for this set of assumptions to be used by departments in the preparation of the Fiscal Year 2007-08 budget; and

WHEREAS, The Metro Council wishes to formalize these assumptions as guidelines prior to the dissemination of the Budget Preparation Manual; now therefore

BE IT RESOLVED that the Metro Council approves and formalizes the budget assumptions as guidelines for departmental use in preparing the Fiscal Year 2007-08 budget, and directs the Chief Operating Officer to advise the Council of any substantive changes in these assumptions prior to the submission of the budget to the Council for public review.

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

____
David Bragdon, Council President

APROVED AS TO FORM:

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Daniel B. Cooper, Metro Attorney

EXHIBIT A
Resolution 06-3735
SUMMARY OF FINANCIAL ASSUMPTIONS FOR FY 2007-08 BUDGET

	FY 2007-08 Assumption	FY 2007-08 Cost Estimate
Salary Adjustments: ***(all adjustments or salary pools are effective July 1st unless otherwise noted)***		
Elected Officials	0% increase	$0
COLA / Variable Pay		
o Represented (Metro & MERC)	3.0% pool	$643,918
Pay for Performance Merit		
o Non-Represented (Metro & Unclassified)	4.5% pool effective March 1st	$179,019
o Non-Represented (MERC)	4.5% pool	$245,030
Other Salary Adjustments		
o AFSCME – Step Adjustment	3.0% pool	$424,099
o AFSCME – Other Salary Adjustments	0.5% pool	$70,675
o Non-Represented (Metro & Unclassified)	1.5% pool	$179,019
o Non-Represented (MERC)	1.5% pool	$81,685
Fringe Benefits:		
✓ FICA	7.65% of salaries/wages with exceptions	$3,566,819
✓ TriMet Payroll Tax	0.6218% of salaries/wages	$305,822
✓ Worker Comp Tax	$0.015 per hour worked	$20,991
✓ Long Term Disability	0.55% of eligible salaries/wages	$225,671
✓ Life Insurance	$0.15 per $1,000 of annual salary (to a maximum of $50,000) per month	$60,580
✓ Accidental Death Insurance	$0.03 per $1,000 of annual salary (to a maximum of $50,000) per month	$12,122
✓ Dependent Life Insurance	$0.35 per employee per month	$2,782
✓ Employee Assistance Program	$1.78 per employee per month	$14,329
✓ TriMet Passport Program	Regular Employees Only Metro Regional Center - $208/emp. Oregon Zoo - $165/emp. Solid Waste & Parks Offsite - $20/emp.	$89,802
✓ Health & Welfare Program	$763.48 per employee per month	$6,173,986
✓ PERS	6.00% Employee Pick-Up 7.76% Employer Contribution 3.40% PERS Bond Recovery rate 0.00% Additional to Reserve *17.16% Total estimated PERS Rate for FY 2007-08*	$2,173,939 $3,183,991 $1,395,060 $0

EXHIBIT A
Resolution 06-3735
SUMMARY OF FINANCIAL ASSUMPTIONS FOR FY 2007-08 BUDGET

	FY 2007-08 Assumption	FY 2007-08 Estimate
General Revenue Estimates:		
✓ Interest Rate	4.25% of cash balances	Varies
✓ Excise Tax Forecast		
o Base solid waste excise tax	2.7% above FY 2006-07 base	$6,672,634
o All other facilities	2.7% above FY 2006-07 budget	$2,843,735
o Additional per ton on SW	2.7% above FY 2006-07 rate - $3.225/ton for FY 2007-08	$4,478,348
Other Global Assumptions:		
✓ Excise Tax Allocations		
o Planning Fund (general allocation)	2.7% above FY 2006-07 base	$4,053,244
o Regional Parks Fund (general allocation)	2.7% above FY 2006-07 base	$512,005
o Regional Parks Fund (landbanking)	2.7% above FY 2006-07 base	$248,040
o Regional Parks Fund (11.75% of SW base)	2.7% above FY 2006-07 base	$784,034
o Regional Parks Fund (based on per ton)	2.7% above FY 2006-07 base	$3,348,599
o MERC Operating Fund (Tourism Account)	2.7% above FY 2006-07 base	$669,720
o Renewal & Replacement	2.7% above FY 2006-07 base	$513,500
✓ Inflation factor for other costs	3.0% where no other factors exist	Varies
✓ Contingency	4% of operating expenses with variances based on volatility of activity	Varies
✓ Special Appropriations		
o Elections Expenses	May primary for 3 Council seats	$165,750
o Contribution to Reg. Arts & Culture Council	Contribute same amount as in current year	$25,000
o Water Consortium Dues	Current year plus inflation	$18,750
o Lloyd Business Improvement District dues	Current year plus inflation	$14,250
o Sponsorships	Same as current year budget	$35,000
o Public Notifications	Based on historical use	$50,000
o External Financial Audit Contract	Based on contract. Cost to be allocated	$85,000
o Expansion Area Planning grants (construction excise tax)	Estimate of requests	TBD
✓ Central Service Transfers/Overhead Rates	Percentage increase determined by COO based on preliminary run of the FY 2007-08 cost allocation plan	TBD

EXHIBIT A
Resolution 06-3735
SUMMARY OF FINANCIAL ASSUMPTIONS FOR FY 2007-08 BUDGET

Estimated Fringe Rates for FY 2007-08	
Variable Rates:	
✓ Regular Employees – with 6% PERS pick-up	26.00% of eligible salary/wages
✓ Regular Employees – without 6% PERS pick-up	20.00% of eligible salary/wages
✓ Non-benefit eligible salary/wages	8.30% of eligible salary/wages
Fixed Rates:	
✓ Regular Employees – Metro Regional Center	$9,534 per eligible FTE
✓ Regular Employees – Oregon Zoo	$9,491 per eligible FTE
✓ Regular Employees – Solid Waste & Parks Offsite	$9,346 per eligible FTE
✓ Regular Employees – MERC	$9,326 per eligible FTE
✓ Non-benefit eligible salary/wages	$31 per estimated FTE

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3735 FOR THE PURPOSE OF FORMALIZING BUDGET ASSUMPTION GUIDELINES FOR DEPARTMENTAL USE IN PREPARING THE FISCALYEAR 2007-08 BUDGET, AND DIRECTING THE CHIEF OPERATING OFFICER TO ADVISE COUNCIL OF ANY SUBSTANTIVE CHANGES IN THE ASSUMPTIONS PRIOR TO THE SUBMISSION OF THE PROPOSED BUDGET TO COUNCIL FOR PUBLIC REVIEW

Date: September 21, 2006 Prepared by: Kathy Rutkowski

BACKGROUND

At the October 17, 2006 Council work session, Financial Planning staff presented for discussion a series of financial assumptions to guide the development of the FY 2007-08 budget. The assumptions included estimates for salary adjustments for various employee groups, fringe benefit costs such as health & welfare and PERS, and a variety of general revenue or global assumptions such as excise tax forecast and allocations for FY 2007-08 and special appropriations. A copy of the report is included as Attachment 1.

Assumptions included in this resolution will be incorporated in the budget manual guidelines to be distributed to departments in early November. Departments are to begin budget development in November.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.

2. **Legal Antecedents:** None.

3. **Anticipated Effects:** Approval of this resolution will formalize the assumptions to be used in the FY 2007-08 budget. It provides that any significant changes to these assumptions will be brought back to Council prior to submission of the Proposed Budget.

4. **Budget Impacts:** The estimated cost impact of each assumption has been calculated where appropriate, and is shown in Exhibit A to the Resolution, Summary of Financial Assumptions.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 06-3735.

FINANCIAL ASSUMPTIONS FOR FY 2007-08 BUDGET

Presentation to Council
Council Work Session October 17, 2006
Prepared by: Kathy Rutkowski

Assumptions are inherent in any financial planning process. They provide the numerical basis for the development of the annual budget. This report will outline and discuss the various global financial assumptions to be used in the development of the FY 2007-08 budget. It will be divided into four main categories: Salary Base and Adjustments, Fringe Benefits, General Revenue Estimates, and Other Global Assumptions. Each main category will include multiple assumptions. Significant assumptions (such as health & welfare, PERS, and excise tax) will be discussed individually, while other assumptions will be discussed as a group. Included in the report will be an estimate of the cost to Metro if the Council accepts the proposed assumption. The analysis includes all departments and facilities of Metro, including MERC, as well as all salary/wage costs including temporary, seasonal, MERC part-time event-related staff, and overtime/holiday pay.

A resolution will be submitted to Council that will formalize the financial assumptions to be used by departments in the preparation of their FY 2007-08 budget. It will also direct the Chief Operating Officer to advise the Council of any substantive changes in the assumptions prior to submission of the proposed budget to the Council for public review.

A. Salary Base and Adjustments

The analysis used the FY 2006-07 adopted budget salaries, wages, and FTE as the base for all FY 2007-08 cost estimates. Budgeted salaries and wages were adjusted to reflect a COLA award of 2.6 percent for represented employees as well as estimated average step/merit awards. The analysis is broken down by department, and employee representation status or group (such as non-represented, AFSCME, LIU 483, etc.). This presentation will focus on costs by employee representation status or group.

Each employee group has its own pay plan and scale; however, certain generalities can be made. All collective bargaining agreements, except Metro AFSCME, have pay plans with limited steps. In all cases, employees in these other collective bargaining agreements reach the top step within one year. Metro AFSCME's pay plan includes seven steps with five percent increments between each step. An employee steps through the plan with annual increases on the anniversary of the date of hire into the position. Elected Officials' salaries are tied to the District Court Judge salary that is adjusted by the State Legislature. Non-represented employees, both Metro and MERC, are paid within a salary range with increases based on a merit pay program. For purposes of this analysis all unclassified employees of the Council and Metro Auditor's Office are treated the same as non-represented employees.

For discussion of the analysis all employees have been grouped into one of five categories: (1) elected officials, (2) Metro non-represented/unclassified, (3) MERC non-represented, (4) Metro AFSCME, or (5) all other employee groups. The salary base and proposed assumption for FY 2007-08 will be discussed separately for each group.

1) Elected Officials

The elected officials include the salaries for the Council President, Auditor, and six Councilors. The salaries are tied to the District Court Judge salary. Adjustments are allowed only through legislative action. No actions were taken during the last legislative session that would change salaries for the elected officials. If actions are taken during the coming legislative session that would change salaries an adjustment to this assumption will be requested.

Proposed assumption: 0% increase for FY 2007-08

2) Non-Represented (Metro only), Unclassified

During FY 2005-06, Metro introduced the first complete cycle of the new Merit Pay Program for non-represented staff in conjunction with the Metro-wide Performance Evaluation Program for all regular employees. In the Performance Evaluation Process, non-represented employees do not receive COLAs or other general increases unrelated to performance. Employees are eligible for a salary adjustment based on two factors: their individual performance ratings and their current positions in the pay range (quartile). This approach is known as a merit matrix. Merit increases are made on a common review date (March 1) for the entire agency. Beginning FY 2007-08, merit increases will no longer be retroactive to an individual employee's anniversary date. Unclassified employees, those who report directly to elected officials, are not subject to the new Merit Pay Program, but Human Resources believes that budgetary estimates for non-represented staff will be applicable to unclassified staff.

In conjunction with this process, the Chief Operating Officer has the discretion, to "trend" the salary ranges for non-represented classifications to move them forward along with movement in the labor market. This adjustment is applied only to the salary ranges—employees do not receive a corresponding general increase to their salaries. If the adjustment to the structure results in any non-represented employee falling below the salary range minimum, that employee will need to receive a base pay increase to the new minimum of the range.

Additionally, throughout the course of the fiscal year, non-represented employees may receive increases if they are promoted or reclassified. Some non-represented employees are eligible for increases upon the completion of their probationary periods. Departments are responsible to fund these increases from their operating budgets. Where departments have budgeted funds to fill a vacancy, and then fill the vacancy at a higher rate than they have budgeted, that additional cost must also be funded from a department's operating budget. Finally, Metro will conduct a non-represented classification and compensation study next year. Movement in the ranges is anticipated as a result of the study resulting in additional costs for employees that fall below the minimums of the new ranges.

Human Resources estimates that 4.5 percent of non-represented employee salaries will be necessary for the Merit Pay Program, considering both the predicted labor market movement and the distribution of employees within salary range quartiles. There will also be additional costs for non-represented salaries related to promotions, reclassifications, new hires above the budgeted rate, and costs associated with bringing employees to the minimum pay rate once the salary ranges are trended based on the cost of labor and as a result of the classification and compensation study. Human Resources estimates that 1.5 percent of non-represented salaries will be necessary to meet these other costs.

Proposed assumption: 4.50% of salaries for merit pool (effective March 1st)
1.50% of salaries for other salary adjustments

3) *MERC Non-Represented*

MERC salary adjustments are based on the pay-for-performance system in effect at MERC. Salary assumptions for MERC non-represented pay-for-performance increases are determined by MERC staff with approval by the MERC Commission. MERC is currently using a 4.5 percent estimate for non-represented increases for FY 2007-08, however, this amount may be modified by staff or the MERC Commission as MERC proceeds through its budget review process. There will also be additional costs for non-represented salaries related to promotions, reclassifications, new hires above the budgeted rate, and costs associated with bringing employees to the minimum pay rate once the salary ranges are trended based on the cost of labor. Another 1.5 percent of non-represented salaries will be necessary to meet these other costs.

Proposed assumption: 4.50% of salaries for merit pool (effective July 1st)
1.50% of salaries for other salary adjustments

4) *Metro AFSCME*

AFSCME 3580 is currently in the third year of a three-year agreement that expires June 30, 2007. The existing bargaining agreement provides for an annual cost of living adjustment and compensation based on a seven-step pay plan. The cost of living award is tied to the Portland-Salem CPI-U, all items, determined annually using the 2nd half indicator usually available in February. Negotiations with the bargaining unit will begin in early 2007. Based on current Council direction to move the agency to a performance based pay system, management will likely broach the subject of some form of variable rate pay based on performance in lieu of or in addition to the traditional cost of living adjustment. For budgeting purposes based on the current CPI and cost of labor indicators, the Human Resources Director recommends using a 3 percent salary adjustment indicator for COLA and/or variable salary adjustment awards.

In addition to the cost of living award AFSCME employees are eligible for 5 percent annual step increases on anniversary date until the employee reaches step 7 in the pay plan. Currently, it is estimated that 72 percent of the AFSCME employee base will be at step 7 by June 30, 2007. However, as called for in the collective bargaining agreement, Metro is currently performing a classification and compensation study for all AFSCME employees. It is believed that based on the current cost of labor, the study will provide salary growth equivalent to one step for all employees. The step increase is awarded on each employee's anniversary date. Since anniversary dates vary throughout the year it is not necessary to budget for a full 5 percent increase of all salaries. An analysis of current anniversary dates indicates that a pool of 3% of all AFSCME salaries/wages will be sufficient.

Also, in conjunction with the classification and compensation study salary ranges will be adjusted. If the adjustment results in an employee falling below the salary range minimum, that employee will need to receive a base pay increase to the new minimum of the range. Additionally, throughout the course of the fiscal year, AFSCME employees may receive increases if they are promoted or reclassified. Departments are responsible to fund these increases from their operating budgets. Where departments have budgeted funds to fill a vacancy, and then fill the vacancy at a higher rate than they have budgeted, that additional cost must also be funded from a department's operating budget. Human Resources estimates that 0.50 percent of AFSCME salaries/wages will be necessary to meet these other costs

Proposed assumption: 3.0% for COLA/variable salary adjustments
3.0% of salaries/wages for step increases
0.50% of salaries/wages for other salary adjustments

5) All Other Employee Groups

All other employee groups, such as LIU local 483, IUOE local 701 and local 701-1, AFSCME local 3580-1 (MERC Utility Workers), IATSE local B-20 and local 28, and MERC non-represented part-time positions, have limited pay scales. In all cases, employees reach the top of the scale in one year. Thereafter, salary adjustments are based on annual cost of living adjustments. The financial assumptions for the budget usually assume that all employees in these groups have reached the top step, however, there is flexibility for departments to provide for the limited step increases for certain employees if needed. The only assumption provided for these groups is the annual cost of living adjustment awarded to each employee. It is recommended the same factor be used for these groups as proposed for Metro AFSCME COLA/variable salary adjustment pool.

Proposed assumption: 3.0% for COLA

***Summary of Salary Base and Adjustment Assumptions*:**

	Assumption	Estimated Base Salary	Estimate FY 2007-08 Salary Cost
Elected Officials	0.00%	$364,038	$0
Cost of Living / Variable Pay			
Represented	3.00%	$21,463,793	$643,918
Pay for Performance Merit			
Metro Non-Rep (effective March 1st)	4.50%	$11,934,355	$179,019
MERC Non-Rep (effective July 1st)	4.50%	$5,445,289	$245,030
Other Salary Adjustment Pools:			
AFSCME - Step adjustment	3.00%	$14,136,502	$424,099
AFSCME - Other salary adjust.	0.50%	$14,136,502	$70,675
Metro Non-Represented/Unclassified	1.50%	$11,934,355	$179,019
MERC Non-Represented	1.50%	$5,445,289	81,685
Total			**$1,823,445**

B. Fringe Benefits

Fringe benefits include all costs coded to the Fringe Benefit line item in personal services. They include items such as health & welfare (medical, dental, vision insurance), PERS, and life insurance, as well as required payroll taxes such as FICA, TriMet payroll tax, and worker comp tax. Discussion of these costs will be divided into three categories: (1) Required or Miscellaneous Benefits, (2) Health & Welfare, and (3) PERS.

1) Required or Miscellaneous Benefits

Metro pays three required payroll taxes – FICA, TriMet payroll tax, and worker compensation tax. In addition, Metro provides for six miscellaneous benefits – long term disability insurance, life insurance, accidental death insurance, dependent care insurance, employee assistance program, and TriMet Passport program. There were minor changes from the FY 2006-07 assumptions in the TriMet payroll tax rate, the Worker Comp tax rate and the annual fee for the TriMet passport program as summarized below. For all other benefits this analysis uses the current existing rates and makes no assumption for an increase in FY 2007-08. The following table summarizes the proposed assumption for each benefit and estimates the cost to Metro for FY 2007-08.

- The 2003 Oregon Legislature provided TriMet with the authority to increase the payroll rate 1/100 of a percent annually for 10 years to help pay for new transit service throughout the region. The rate increased to 0.6418% effective January 1, 2006. The analysis assumes it will increase to 0.6518% effective January 1, 2007.
- The Department of Consumer & Business Services sets the assessment rate for the Workers' Benefit Fund (the workers comp tax) annually to meet stringent fund balance requirements. The employer portion of the current rate of assessment for the calendar year 2006 is 1.5¢ per hour.
- The annual TriMet passport program rates have changed. With the new contract effective September 1st, the Metro Regional Center rate is $208 and the Oregon Zoo rate is $165. Previous analysis assumed $189 for Metro Regional Center and $164 for the Oregon Zoo.

Summary of Required and Miscellaneous Benefits:

Benefit	Rate Assumptions	Estimated FY 2007-08 Cost
FICA	7.65% of salaries/wages with exceptions for Elected Officials	$3,566,819
TriMet Payroll Tax	0.6518% of salaries/wages	$305,822
Worker Comp Tax	$0.015 per hour worked	$20,991
Total Required Benefits		**$3,893,632**

Benefit	Rate Assumptions	Estimated FY 2007-08 Cost
Long Term Disability	0.55% of eligible salaries/wages	$225,671
Life Insurance	$0.15 per $1,000 of annual salary (to a maximum of $50,000) per month	$60,580
Accidental Death Insurance	$0.03 per $1,000 of annual salary (to a maximum of $50,000) per month	$12,122
Dependent Life Insurance	$0.35 per employee per month	$2,782
Employee Assistance Program	$1.78 per employee per month	$14,329
TriMet Passport Program	Regular Employees Only Metro Regional Center - $208/emp Oregon Zoo - $165/emp Solid Waste & Parks Offsite - $20/emp	$89,802
Total Miscellaneous Benefits		**$405,286**

2) Health & Welfare (medical, dental, vision)

Currently, Metro's cap on health & welfare for FY 2006-07 as set by the Chief Operating Officer for non-represented employees and various bargaining agreements is $727.12 per employee per month. Historically, unless otherwise specified in a collective bargaining agreement, the budget assumes a 5 percent increase in the health & welfare cap. We recommend a continuation of this policy for FY 2007-08 to an increase of $763.48 per employee per month.

The following table estimates the costs by major employee group of:

- The proposed health & welfare cap assumption of $763.48 per employee per month
- Each 1% increase in the proposed cap (i.e. from a 5% increase to a 6% increase)
- Each $10 increase in the proposed cap

	Estimated Cost @ $763.48 cap	**Estimated Cost of each 1% increase in Cap**	**Estimated Cost of Each $10 Increase in Cap**
Elected Officials	$73,295	$697	$960
Non-Represented	$2,249,247	$21,384	$29,460
Represented	$3,851,444	$36,655	$50,446
Total	**$6,173,986**	**$58,736**	**$80,866**

Proposed assumption: $763.48 per employee per month

3) PERS – Public Employee Retirement System

Metro's employer PERS rate for Tier 1 and Tier 2 employees after bonding the unfunded actuarial liability is 7.76 percent. When combined with the 6 percent employee pick-up provided to all employees except LIU Local 483 (member employees received an offsetting salary increase) Metro's total effective PERS rate is 13.76 percent.

In addition, departments are assessed a rate equivalent to the amount needed to pay debt service on the outstanding pension obligation bonds. This is called the PERS bond recovery rate. This amount is determined by dividing the annual debt service requirements by the estimate for PERS eligible salary base. For FY 2007-08, the PERS bond recovery rate is 3.4 percent.

Finally, for a period of four years at Council's direction, departments have been setting aside between 5.0 to 6.65 percent of PERS eligible salary into a reserve. The amount set aside is approximately equivalent to the percentage decrease received in the employer rate as a result of the 2003 legislative actions. Although challenges to these actions may still be proceeding through federal courts, the Oregon Supreme Court has now ruled on challenges related to both the 2003 legislative actions and the "Lipscomb decision." The impact of these rulings on Metro's PERS rate and unfunded liability is not yet known.

PERS will be conducting an actuarial evaluation in the fall of 2006. The actuarial study will take into consideration the impact of the Oregon Supreme Court rulings as well as the PERS board's decision to release reserves to offset anticipated rate increases. The final results of the study should be known by December 2006. Because of the various actions that have been taken, increases in the PERS employer rates effective July 1, 2007 are expected to be minimal. At this time we are recommending no increases to the PERS employer rate for budgetary purposes. If, once the actuarial study is completed, the actual rate received from PERS is sufficiently different to warrant a change to this assumption we will return to the Council with additional information and, if needed, funding options.

Also, we are recommending no additional contribution to the PERS Reserve for FY 2007-08. The total FY 2006-07 reserve contribution is approximately $1.934 million. By the end of FY 2006-07, the cumulative reserve will be approximately $9.4 million. The upcoming PERS study will determine our outstanding unfunded actuarial liability. We recommend retaining the accumulated reserve until such time as the actuarial study is completed and the impacts of the Supreme Court and PERS board decisions are known. Once the results of the study are known, we would also recommend the Council consider clear policy direction on the use, if any, of the accumulated reserve.

In summary, the proposed recommendation includes four parts – the existing employee rate, the existing employer rate, a revised PERS bond recovery rate, and a recommendation on the optional PERS reserve. The following table summarizes the estimated costs for FY 2007-08 for each rate. In addition, it also estimates the cost of each 0.25% change in the PERS employer contribution rate

	Rate	**Estimated FY 2007-08 Cost**	**Est. Cost of 0.25% change in Employer Rate**
Required - Employee Pick-up/Contribution	6.00%	$2,173,939	$0
Required - Current Employer Contribution	7.76%	$3,183,991	$102,563
Required - PERS Bond Recovery Rate	3.40%	$1,395,060	$0
Optional - PERS Reserve	0.00%	$0	$0
TOTAL	**17.00%**	**$6,752,990**	**$102,563**

C. General Revenue Estimates

There are two assumptions that impact General Revenue Estimates – interest rate assumption and excise tax forecast. Each will be discussed separately.

1) Interest Rate

Oregon law (and Metro's investment policy) generally limits investments to no longer than 18-months in maturity. The action the Federal Open Market Committee (FOMC) takes with the Fed funds rate directly affects the market yield of short-term investments so it is useful to look to the FOMC when forecasting interest rates.

After 17 straight increases in the Fed funds rate, the Fed paused when it met on August 8 and paused again on September 20, 2006. The current Fed funds rate is 5.25%. The real test is whether the Fed moves the Fed funds rate when it next meets, on October 24. History tells us that if the Fed stays on the sidelines for at least four months, then the probability that the next move is a rate cut is 100%. Most market participants think the Fed will stay put once again in October.

Many analysts think that the effect of a decided slowdown in the consumer housing market will more than offset the positive effect on the economy of lower energy prices. The Producer Price Index, one measure of inflation, has lately only shown slight increases. This suggests that, in the short term, there will be little inflationary pressure on the prices of finished goods. This benign reading indicates the Fed will not need to increase rates to hold down inflation.

A recently released Philadelphia Fed report shows that its September business conditions index fell into negative territory for the first time in three and a half years. This unexpectedly large decline caused many to feel that the economic slowdown, already evident in the housing market, could be spreading to the industrial sector.

The market interprets the decline in the housing market, the relatively benign indicators of future inflation, and now the suggestion that growth in the manufacturing sector has stalled as increasing the chance of the Fed easing the Fed funds rate. Many feel the Fed will begin easing the Fed funds rate the first part of 2007. It is against this backdrop that Metro's interest rate projections for the fiscal year 2007-08 were prepared.

Metro's Investment Manager is currently recommending an interest rate assumption for FY 2007-08 of 4.25 percent. Metro's average pooled cash investments total $100 million. A 25 basis point difference in the assumption, 0.25 percent, would cause a $250,000 change in interest earnings. We typically take a more conservative approach to interest earnings believing it is better to under estimate that over estimate earnings.

Proposed assumption: 4.25% for FY 2007-08

2) ***Excise Tax Forecast***

The discussion of the excise tax will be divided into three parts – solid waste generated base excise tax, all other facility generated base excise tax, solid waste per ton additional excise tax.

a. <u>Solid Waste Generated Excise Tax</u> – Metro code sections 7.01.020 – 7.01.028 guide the calculation and budgeting of the excise tax generated from solid waste tonnage. The code provides for a base level of excise tax increased annually by a CPI factor. The base level of excise tax generated from solid waste tonnage is the amount that is available in the General Fund for general revenue purposes. Any amount collected over and above this amount is placed in a reserve in the General Fund and is accessible only by specific Council action. The CPI indicator stated in the code is the Portland-Salem CPI-U for the first half of the federal report year (January – June). The CPI indicator available in August of 2006 is used to determine the allowable increase in solid waste generated base excise tax for FY 2007-08. The following is a historical summary of the solid waste base excise tax calculations with the CPI indicator and base excise tax amount for FY 2007-08.

	CPI	Base General Amount	Increase from Previous Year
FY 2000-01	---	$5,700,000	---
FY 2001-02	3.3%	$5,888,100	$188,100
FY 2002-03 (1)	2.7%	$6,050,000	$161,900
FY 2003-04	1.3%	$6,128,650	$78,650
FY 2004-05	1.4%	$6,214,451	$85,801
FY 2005-06	2.0%	$6,338,740	$210,090
FY 2006-07	2.5%	$6,497,209	$282,758
FY 2007-08	2.7%	$6,672,634	$333,894

(1) $5,888,100 + 2.7% increase = $6,047,079. A revision to the excise tax ordinance set a new base rate in FY 2002-03.

b. All Other Facility General Excise Tax – The excise tax on all other facilities is set by Metro Code section 7.01.020(a). The rate is currently 7.5 percent of all eligible enterprise revenues. We have no firm forecasts of revenue for FY 2007-08 as of yet and departments will not be updating their five-year forecasts until later in the budget process. Until further information is known, we recommend assuming an increase in excise tax generated by all other facilities based on the same CPI factor that is used for calculating the base excise tax on solid waste.

The following table compares excise tax generated by facility.

Facility	**FY 2005-06 Actual Revenue**	**FY 2006-07 Budgeted Revenue**	**FY 2007-08 Estimated Revenue**	**Change from FY 2006-07**
Zoo	$1,079,554	$1,077,824	$1,106,925	$29,101
Planning	16,719	16,800	17,254	454
Regional Parks	188,388	179,989	184,849	4,860
Expo Center	404,403	427,195	438,729	11,534
Building Management	51,195	37,371	38,380	1,009
Convention Center	996,113	1,029,794	1,057,598	27,804
Base Excise Tax Estimate	**$2,736,372**	**$2,768,973**	**$2,843,735**	**$74,762**

c. Per ton additional excise tax– In prior fiscal years the Council took actions that levied an additional $2.50 per ton dedicated to Regional Parks and an additional $.50 per ton dedicated to a Metro Tourism Opportunity & Competitiveness Account (MTOCA) for the Oregon Convention Center. The per ton levies were allowed to increase by CPI annually. During the FY 2006-07 budget process, the Council amended the excise tax code to combine the additional per ton levies into one per ton levy amount set at $3.14 effective September 1, 2006 increased annually by CPI. In addition, the amendment removed the specific dedications to Regional Parks and MTOCA recognizing instead that all revenue allocations should be made during the budget process. The following is a historical summary showing the combined per ton rates under the amended ordinance along with the CPI indicator, tonnage estimates and estimate of excise tax to be collected.

	CPI	**Per Ton Rate**	**Tonnage**	**Excise Tax Estimate**
FY 2001-02	3.3%	-----	-----	-----
FY 2002-03	2.7%	$1.000	1,210,246	$1,210,246
FY 2003-04	1.3%	$1.013	1,248,179	$1,264,405
FY 2004-05 (1)	1.4%	$3.000	1,315,077	$3,945,231
FY 2005-06	2.0%	$3.060	1,345,678	$4,117,775
FY 2006-07 (2)	2.5%	$3.140	1,406,655	$4,416,897
FY 2007-08 (3)	2.7%	$3.225	1,389,928	$4,482,518

(1) Rate per ton changed 9/1/04 from $1.027 per ton to $3.00 per ton. For purposes of this table, the excise tax estimate assumes $3.00 per ton for full year.
(2) Effective 9/1/06 the rate per ton is set at $3.14 per ton.
(3) The tonnage forecast for FY 2007-08 corrects an error in the FY 2006-07 estimated tonnage

Summary – Excise Tax Forecast

In summary, overall excise tax available for allocation is estimated to increase only 2.3 percent from the current year budget. While the CPI index is increasing at 2.7 percent, solid waste tonnage is estimated to remain flat from the revised FY 2006-07 tonnage forecast. The revised tonnage forecast corrects a miscalculation in the original forecast and is slightly below the amount used in the development of the FY 2006-07 budget.

	FY 2006-07 Adopted Budget	FY 2007-08 Estimate	Change	Percent Change
Base Excise Tax Sources				
Solid Waste	6,497,209	6,672,634	175,425	2.7%
All Other Facilities	2,768,973	2,843,735	74,762	2.7%
Base Excise Tax Available	**$9,266,182**	**$9,516,369**	**$250,187**	**2.7%**
Additonal per ton calculation	**$4,412,677**	**$4,478,348**	**$65,671**	**1.5%**
Excise Tax Resources Available for Allocation	**$13,678,859**	**$13,994,717**	**$315,858**	**2.3%**
Est. Contribution to Rec. Rate Stab. Reserve	*$909,648*	*$1,000,000*	*$90,352*	*9.9%*
TOTAL EXCISE TAX	**$14,588,507**	**$14,994,717**	**$406,210**	**2.8%**

D. Other Global Assumptions

1) Excise Tax Allocations to Operating Departments

Along with a forecast of the excise tax revenue to the General Fund, the Budget Manual provides initial operating amounts for those departments dependent on excise tax. The budget process now follows two simultaneous paths. While the Council is engaged in discussions about program priorities during October and November, departments will be preparing initial budget estimates for submittal to the Council President at the end of December. For departments to prepare initial budget estimates, those dependent on excise tax need a base starting point for revenue. We propose to follow historical precedent and provide a preliminary estimate based on current year adjusted by the inflationary factor of 2.7 percent. Excise tax allocations along with budget proposals will be reviewed and possibly modified following Council priority direction.

In amending the excise tax ordinance related to the additional per ton solid waste levies, the Council removed the specific dedications to Regional Parks and to the Oregon Convention Center for the Metro Tourism Opportunity & Competitiveness Account (MTOCA). In doing so, the Council recognized that revenue allocations should be made as part of the budget process and committed to maintaining the intent of the original ordinance. The FY 2006-07 budget fixed the allocations to Regional Parks and MTOCA at a certain amount subject to an annual CPI adjustment.

Finally, the revisions to the excise tax code and the modifications to the manner in which allocations to Regional Parks and MTOCA are calculated allowed the Council to allocate $500,000 towards renewal & replacement. In FY 2006-07 this amount was dedicated to the Oregon Zoo. However, it was recognized that this was a one-time dedication. For FY 2007-08 we recommend a continuation of that commitment to renewal & replacement but place no dedication on the allocation. Instead, the allocation is provided to the General Renewal & Replacement Account in the Metro Capital Fund and will be available to all departments through the capital budgeting process. During the capital budgeting process any department may submit projects requesting funding from this account. The

Chief Financial Officer and Council President will review all projects based on a standard set of criteria and forward recommendations to the Council through the Proposed Budget.

Proposed assumption: **Base allocations - Current year plus 2.7% CPI**
Per ton allocations – Current year plus 2.7% CPI
General R&R allocation – Current year plus 2.7% CPI

Summary of Proposed Allocation:

Allocation	FY 2006-07 Adopted	FY 2007-08 Suggested	% Change
Planning Fund (general allocation)	$3,946,684	$4,053,244	2.7%
Regional Parks Fund (general allocation)	$498,544	$512,005	2.7%
Regional Parks Fund (landbanking)	$241,519	$248,040	2.7%
Regional Parks Fund (11.75% of SW base)	$763,422	$784,034	2.7%
Regional Parks Fund (based on per ton)	$3,260,564	$3,348,599	2.7%
MERC Operating Fund (Tourism Account)	$652,113	$669,720	2.7%
Renewal & Replacement	$500,000	$513,500	2.7%

2) *Inflation Factor for Other Costs*

Most expenditures are tied to one or more factors either stated in this report or required by external sources. For example, most contracts or intergovernmental agreements have stated rates or provide for increases based on some CPI factor. Utility expenses are based on experience plus estimates of rates or rate increases from the utility provider. In those cases, however, in which there is no external basis for an increase the department is allowed to apply a basic inflation factor. The various CPI indicators for the first half of 2006 range from 2.7 percent to 3.9 percent (see table below). The two closest indicators are the Portland-Salem CPI-U and the West Coast, Class B/C (cities between 50,000 – 1,500,000) CPI-U. We recommend using an average of these two indicators or 3.0 percent.

Consumer Price Index – All Urban Consumers, All Items (not seasonally adjusted)

Portland-Salem	2.7%
West Urban	3.8%
West - Class B/C (cities between 50,000 - 1,500,000)	3.2%
U.S. City Average	3.8%
U.S. City Ave. Class B/C (50,000 - 1,500,000)	3.9%

Proposed assumption: 3.0% for FY 2007-08

3) *Annual Operating Contingency*

Each operating fund will provide for an annual operating contingency for unexpected needs that may arise throughout the year. By law, the Council may only transfer from contingency a cumulative amount not to exceed 15 percent of a fund’s appropriations. Any amount exceeding the 15 percent threshold would require a supplemental budget with TSCC public hearing. The Budget Manual provides a general guideline for departments to follow but allows flexibility for each department to budget for a contingency that is more suited to its particular needs. For example, the Planning Fund may not need a large contingency: it is largely grant funded and there are exceptions provided in budget law for the recognition of additional grant funds. However, enterprise operations such as Solid Waste and Recycling that are sensitive to factors outside of their control may wish to budget for higher contingency levels. Contingency levels are evaluated on a case-by-case basis.

This assumption should not be confused with reserves that are necessary to meet a department's cash flow, business cycle or bond covenant needs. The annual operating contingency assumption provides for a short-term pot of funding that a department may, with Council approval, access to meet a need that could not be foreseen at the time of budget development. Once the fiscal year is over any balance remaining in the budgeted contingency falls back to ending reserves. Although the same sources may be used to fund both a department's annual operating contingency and the needed reserves, the method of calculation and purpose is different.

Proposed assumption: 4% of operating expenses as a general guideline with variances based on volatility of activity.

4) Special Appropriations in the General Fund

a. <u>*Elections Expenses*</u>: The FY 2007-08 budget will include May 2008 primary elections costs for three Council seats. In May 2004, the last primary election for these same three seats, election costs were $152,251. Recognizing that election costs have been trending higher, we would recommend a budget of $165,750 for FY 2007-08. This represents actual costs from May 2004 increased annually by CPI.

Proposed assumption: $165,750 for May elections for the three Council seats

b. <u>*Contribution to Regional Arts & Culture Council (RACC):*</u> For a number of years, the budget has included a $25,000 contribution to RACC. It is assumed that this contribution will continue into FY 2007-08 at the same level of funding.

Proposed assumption: $25,000 contribution to RACC

c. <u>*Water Consortium Dues:*</u> Since FY 2001-02 the General Fund budget has included the Water Consortium dues. Budgeted costs have ranged from $15,000 to $15,750. The actual cost for FY 2006-07 was $18,145. It is assumed these dues will continue and recommend that the budget include the actual amount for FY 2006-07 plus the estimated rate of inflation or $18,750.

Proposed assumption: $18,750 for Water Consortium Dues

d. <u>*Lloyd Business Improvement District dues:*</u> Metro is a member of the Lloyd Business Improvement district. Dues for FY 2006-07 were budgeted at $13,750. It is assumed these dues will continue and recommend that the budget include the budgeted amount for FY 2006-07 plus the estimated rate of inflation or approximately $14,250.

Proposed assumption: $14,250 for Lloyd Business Improvement District Dues

e. <u>*Sponsorships:*</u> For the last two years, the budget has included $35,000 for Council approved sponsorships. It is assumed this sponsorship funding will continue and recommend that the budget include the same amount as in FY 2006-07.

Proposed assumption: $35,000 for Sponsorships

f. *Public Notifications*: The Special Appropriations category includes an amount to provide for legal notices required under ballot measure 56. In FY 2003-04, the purpose of this funding was expanded to include notifications required under ballot measure 26-29 and any other notification required by approved ballot measure or Metro Code. Historically, each year's budget has included a new appropriation of $75,000. As the budget development process proceeds, the current year program needs are refined and, if necessary, amendments are requested to carry over unused amount. Any amount of the current year budget not used or carried forward to the next year reverts back to the General Fund reserves at year-end. In the last three years, the maximum amount spent in any one year on public notifications is approximately $76,500 with the annual average about $40,000. The current year budget includes a new appropriation of $75,000 with an additional $75,000 carried over from last year. Based on historical trends, we would recommend a new appropriation of $50,000 for FY 2007-08. Amounts to be carried forward will be identified later in the budget development process.

Proposed assumption: $50,000 for legal notifications

g. *External Financial Audit Contract:* The external financial audit contract is budgeted in the General Fund Special Appropriations category although the Metro Auditor remains as project manager of the contract. The estimated amount for FY 2007-08 per the contract is $85,000. Costs will be allocated through the cost allocation plan

Proposed assumption: $85,000 for External Financial Audit Contract

h. *Expansion Area Planning Grants:* In March 2006 the Council adopted ordinance 06-1115 establishing a construction excise tax to provide funding from expansion area planning. The funding is provided to local governments in the form of grants. The program is new and additional analysis is needed to better estimate the anticipated grant awards for next fiscal year.

Proposed assumption: To be determined

5) Central Service Transfers/Overhead Rates

The cost allocation plan is the tool that calculates central service transfers and overhead rates for each department. Each year the cost allocation plan is updated with new allocation basis data and budgeted costs. As a result, there are two variables that can cause changes in any one department's central service allocations – (1) a change in service level usage or benefit as defined by the allocation basis, and (2) a change in the budgeted cost for that central service function.

Financial Planning prepares a preliminary version of the cost allocation plan with updated service level usage/benefit data and forecasted costs for status quo service levels. Estimated costs for status quo service levels are developed using the financial assumptions included in this report and approved by the Council. At this time, we anticipate running the preliminary cost allocation plan for FY 2007-08 around the mid to late October time frame. The preliminary plan will provide the Chief Operating Officer with an estimate of central service allocations assuming no increase or changes to services or functions provided. With this information, the COO will determine what assumption(s) departments should use in budgeting for central service transfers.

Proposed assumption: Central service estimates to be provided later based on a preliminary run of the FY 2007-08 cost allocation plan as described above.

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC., FOR DELIVERY OF SOLID WASTE TO THE RIVERBEND LANDFILL	))))))	RESOLUTION NO. 06-3737 Introduced by Michael Jordan, Chief Operating Officer, with the concurrence of David Bragdon, Council President

WHEREAS, the Metro Code requires a non-system license (NSL) of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and

WHEREAS, Willamette Resources, Inc., has applied for a NSL under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, Metro Code Section 5.05.035(e)(5)(C) provides that the term of a renewed NSL shall be two years; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council make an exception to Metro Code Section 5.05.035(e)(5)(C) and authorize the Chief Operating Officer to issue this NSL for a term of 26 months in order to put the term of this license on a calendar year cycle, similar to other NSL licenses; and

WHEREAS, except as described in the previous two paragraphs regarding Metro Code Section 5.05.035(e)(5)(C), the application is in conformance with the requirements of Metro Code Chapter 5.05; and

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; now therefore,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to issue a non-system license to Willamette Resources, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _______, 2006.

____
David Bragdon, Council President

Approved as to Form:

____
Daniel B. Cooper, Metro Attorney

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 797 1795

METRO

METRO SOLID WASTE FACILITY NON-SYSTEM LICENSE

Number N-005-06

LICENSEE:
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070 Willamette Resources, Inc. is a wholly owned subsidiary of: Allied Waste Industries 15880 N Greenway-Hayden Loop Scottsdale, AZ 85260
CONTACT PERSON:
Todd Irvine, General Mgr./Ray Phelps, Reg. Affairs Phone: 503-570-0626 Fax: 503-570-0523 e-mail: todd.irvine@awin.com / ray.phelps@awin.com
MAILING ADDRESS:
10295 SW Ridder Road Wilsonville, OR 97070

METRO	**Licensee's Acceptance & Acknowledgement of Receipt:**
Signature	Signature of Licensee
Michael Jordan, Chief Operating Officer Print name and title	Print name and title
Date	Date

Exhibit A to Resolution No. 06-3737 (pages 1-5)

1	**NATURE OF WASTE COVERED BY LICENSE**
	Municipal solid waste, including putrescible waste and processing residual from material recovery, received at Willamette Resources, Inc. (WRI) from commercial refuse haulers, and accepted or processed in accordance with Metro Solid Waste Facility Franchise No. F-005-03.

2	**CALENDAR YEAR TONNAGE LIMITATION**
	Licensee is authorized to deliver to the non-system facility described in section 3 of this license up to a maximum of 25,000 tons per calendar year of the waste described in section 1 of this license. This license does not increase the total tonnage that the licensee is authorized to accept under its existing Metro Solid Waste Facility Franchise (No. F-005-03).

3	**NON-SYSTEM FACILITY**
	The licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only: Riverbend Landfill 13469 SW HIGHWAY 18 McMinnville, OR 97128

4	**TERM OF LICENSE**
	The term of this license will commence on November 1, 2006 and expire at midnight on December 31, 2008, unless terminated sooner under section 7 of this license.

5	MATERIALS RECOVERY
	Prior to delivery of residual solid waste for disposal under authority of this license, recovery of non-putrescible waste accepted by the licensee must be performed at no less than the minimum level stipulated in Metro Code chapter 5.01.

6	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7	ADDITIONAL LICENSE CONDITIONS
	This non-system license shall be subject to the following conditions: (a) The permissive transfer of solid waste to the Riverbend Landfill authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility. (b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that: (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license, (ii) the provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, or (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in section 3, above. (c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.

(d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, licensee shall:
   (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
   (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.

(e) Licensee shall make all records from which (d) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) calendar days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in section 3, above.

(f) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.

(g) This license shall terminate upon the execution of a designated facility agreement with the facility listed in section 3.

(h) This license authorizes delivery of solid waste to the Riverbend Landfill. Transfer of waste generated from within the Metro boundary to any non-system disposal site other than the Riverbend Landfill is prohibited unless authorized in writing by Metro.

8	COMPLIANCE WITH LAW
	Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

WJ
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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3737 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC. FOR DELIVERY OF SOLID WASTE TO THE RIVERBEND LANDFILL

October 26, 2006 Prepared by: Warren Johnson

BACKGROUND

Description of the Resolution

In November 2004, Willamette Resources, Inc., (WRI) was granted a non-system license (NSL) to annually deliver a maximum of 23,250 tons per calendar year of solid waste, including putrescible waste, to the Riverbend Landfill. The license commenced on November 1, 2004 and will expire on October 31, 2006. On August 16, 2006, WRI submitted an application to renew this NSL. The new NSL would replicate the existing authority except that the tonnage limitation would be increased to 25,000 tons per calendar year. The requested increase is intended by the applicant to provide WRI with additional flexibility for its solid waste delivery options.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to issuance of the proposed non-system license.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

(1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;

The proposed disposal site is Riverbend Landfill. The Riverbend Landfill first came into use during the mid-eighties. When Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling wastes that pose a future risk of environmental contamination.

(2) The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;

The Riverbend Landfill is permitted by the DEQ. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations.

(3) The adequacy of operational practices and management controls at the non-system facility;

The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

(4) The expected impact on the region's recycling and waste reduction efforts;

The waste that the applicant has applied to deliver under the proposed NSL is a combination of both non-recoverable putrescible waste and residual from non-putrescible waste that has already undergone recovery at WRI. Thus, the waste authorized by the proposed license will have no further recovery potential and is not expected to impact the region's recycling and waste reduction efforts.

(5) The consistency of the designation with Metro's existing contractual arrangements;

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management of Oregon (WMO). The waste subject to the proposed license is to be delivered to the Riverbend Landfill, which is a WMO facility. Thus, approval of the requested license will not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

(6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and

There have been incidents in past years where the applicant has exceeded tonnage caps imposed by its NSLs. However, the applicant's facility is regarded as well-run and has had a good compliance record with all public health, safety, and environmental rules and regulations.

(7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

Metro Solid Waste Facility Franchise No. F-005-03 stipulates that WRI shall not accept more than 65,000 tons of putrescible waste originating from inside the Metro region within each fiscal year. WRI currently holds an NSL (No. N-005-05(3)) authorizing the annual delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Coffin Butte Landfill. The issuance of the proposed NSL authorizing the delivery of up to 25,000 tons of solid waste to the Riverbend Landfill does not increase the total tonnage that WRI is authorized to accept under its existing Franchise.

In addition, the solid waste subject to the proposed NSL is residual from a material recovery facility; it is not subject to the NSL moratorium enacted by the Metro Council in February 2006.

Section 5.05.035(e)(5)(C) provides that renewed NSLs shall be for terms of no more than two years. The COO recommends that, notwithstanding that provision, the Metro Council make an exception to its Code and authorize the COO to issue this NSL for a period of 26 months. Metro staff has tried to coordinate the terms of its NSLs on either a calendar or fiscal year basis so that NSL renewals will occur at the same times each year, at the ends of June and December, rather than occurring at times scattered throughout the year. Authorizing this license for a period of 26 months will put it onto a calendar year schedule.

3. Anticipated Effects

The effect of Resolution No. 06-3737 will be to authorize WRI to deliver up to 25,000 tons of solid waste per year to the Riverbend Landfill during calendar years 2007 and 2008. This is an increase of 1,750 tons more than is authorized under the existing NSL.

4. Budget Impacts

The budget impact, for the additional 1,750 tons annually, is negligible.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 06-3737, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035 (with exception of its 26 month term, addressed above), and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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