



METRO

Agenda

MEETING: METRO COUNCIL
DATE: May 24, 2007
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. NATURE IN NEIGHBORHOODS GRANT SHOWCASE AND NEW AWARDS Geddes

4. CONSENT AGENDA

4.1 Consideration of Minutes for the May 10, 2007 Metro Council Regular Meeting.

4.2 **Resolution No. 07-3809**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License Jointly to Willamette Resources, Inc. and Allied Waste of Clackamas and Washington Counties for Delivery of Solid Waste, Including Putrescible Waste, to the Covanta Waste-To-Energy Facility.

5. ORDINANCES – FIRST READING

5.1 **Ordinance No. 07-1150**, Amending the FY 2006-07 Budget and Appropriations Schedule Removing the Interim Appropriation Authority for the Natural Areas Program and Declaring an Emergency.

5.2 **Ordinance No. 07-1151**, For the Purpose of Amending Metro Code Section 2.19.080 to Change the Composition of the Metro Policy Advisory Committee (MPAC) and to Amend the MPAC Bylaws and Declaring an Emergency.

5.3 **Ordinance No. 07-1152**, Amending the FY 2006-07 Budget and Appropriations Schedule Recognizing Donations to the Oregon Zoo and Declaring an Emergency.

5.4 **Ordinance No. 07-1153**, Amending the FY 2006-07 Budget and Appropriations Schedule Transferring Appropriations in the MERC Operating and Pooled Capital Funds and Declaring an Emergency.

5.5 Ordinance No. 07-1155, Amending Metro Code Chapter 2.19 to Establish the Natural Areas Program Performance Oversight Committee; and Declaring an Emergency.

6. RESOLUTIONS

6.1 Resolution No 07-3816, Approving Second Round Funding for Nature in Park Neighborhoods Grants.

7. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e), DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.

7.1 Resolution No. 07-3812, Authorizing the Chief Operating Officer to Acquire Park Properties in the Johnson Creek and East Buttes Target Areas under the 2006 Natural Areas Bond Measure and to Enter into an Intergovernmental Agreement with the City of Gresham Regarding the City's Financial Contribution toward the Purchase Price of One of the Acquired Properties.

8. CHIEF OPERATING OFFICER COMMUNICATION

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for May 24, 2007 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.tvctv.org -- (503) 629-8534 2 p.m. Thursday, May 24 (live)</p>	<p>Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday, May 27 2 p.m. Monday, May 28</p>
<p>Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, May 28</p>	<p>Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, May 26 11 p.m. Sunday, May 27 6 a.m. Tuesday, May 29 4 p.m. Wednesday, May 30</p>
<p>Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p>	<p>West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p>

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).

MINUTES OF THE METRO COUNCIL MEETING

Thursday, May 10, 2007
Metro Council Chamber

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

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 10:32 a.m.

1. INTRODUCTIONS

Council President Bragdon introduced Judge Patricia Shaw, Commissioner Frank Bettencourt, Commissioner Michael Weimar, and Court Administrator Leanne Durfey.

2. CITIZEN COMMUNICATIONS

There were none.

3. GILLIAM COUNTY METRO PARTNERSHIP

Judge Patricia Shaw thanked the Council for the invitation. She talked about the Metro/Gilliam County Partnership and its history with Metro. She noted the benefits of the partnership. They wanted to maintain a clean sustainability environment. Gilliam County had the space to provide a state of the art landfill. She said the landfill provided 200+ jobs for Gilliam County. She said the landfill provided opportunities for their young people. The site provided jobs and increased other services for the County. All of Gilliam County benefited from the landfill. She provided details on how the County and cities in the area benefited from the landfill revenue. She invited all of the Council to come to the Gilliam County, visit the landfill and the sites around the county. She urged keeping the partnership strong (a copy of her full remarks is included in the meeting record).

Council President Bragdon thanked Judge Shaw for coming with her colleagues. He talked about his stay at Condon last summer. Councilor Newman added his thanks for coming to the Council meeting. He talked about his experience going to Gilliam County and visiting the landfill. He looked forward to continuing the strong partnership. Councilor Park included his welcome. He talked about the possibilities of return hauls of gravel and rock, which would benefit the region. He was also impressed with the wheat facility in Gilliam County. He was delighted to see agriculture continuing to evolve in the county. Councilor Liberty talked about his experience in Condon. He was pleased to see Gilliam County prosper. He asked if the County had a similar relationship with King County. Judge Shaw said they did have a relationship with King County but Metro's partnership was much stronger. Councilor Harrington introduced herself and said she was Chair of the Solid Waste Advisory Committee. She looked forward to continuing that strong relationship. Council President Bragdon talked about the transport contract to Gilliam County and that they would want the Commission's input and help on this issue.

4. FINANCIAL QUARTERLY REPORT

Bill Stringer, Chief Financial Officer, provided an overview of the Quarterly Report, Third Quarter FY 2006-07. He noted their forecasting efforts. He said they had been reorienting the budget so they have a forecasted budget. Margo Norton, Deputy Chief Financial Officer, said they were on track with their plan but would need to make some minor adjustments. She talked about the planning grants and the underachieved revenues. They also had some overachieved revenues such as property taxes and interest earnings. She also noted Zoo attendance had been spectacular. She noted issues with the Natural Areas bond measure precedes. They saw no anomalies in the third quarter data. She explained several budget amendments, which would be before the Council later in the month. She said the third quarter review confirmed that they were looking good. The fund balances were robust. She talked about using the quarterly report to look forward.

Councilor Harrington asked if the document would be posted on the website. Ms. Norton said it would be posted this afternoon. Councilor Harrington asked what MTOCA meant. Mr. Stringer said it stood for Metro Tourism Opportunity and Competitive Account. He further explained what this fund did. Councilor Hosticka asked about the year-end fund balance. Ms. Norton responded to his question. Michael Jordan, Chief Operating Officer, noted carry-over funds.

5. CONSENT AGENDA

- 5.1 Consideration of minutes of the May 3, 2007 Regular Council Meeting.
- 5.2 **Resolution No. 07-3805**, Approving a Settlement Agreement with Lowell E. Patton Regarding Metro Notice of Violation No. NOV-139-05.
- 5.3 **Resolution No. 07-3814**, For the Purpose of Confirming the Appointment of Chris Duffy, Robin Plance, Michael Salvo, and Doretta Schrock to the North Portland Rehabilitation and Enhancement Committee (NPREC).

Motion:	Councilor Park moved to adopt the meeting minutes of the May 3, 2007 Regular Metro Council and Resolution Nos. 07-3805 and 07-3814.
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Vote:	Councilors Burkholder, Harrington, Liberty, Hosticka, Park, Newman, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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6. ORDINANCES – SECOND READING

- 6.1 **Ordinance No. 07-1146**, For the Purpose of Amending Metro Code Chapter 5.02 to Establish Metro’s Charges for Household Hazardous Waste, and to Establish Metro’s Solid Waste Disposal Charges and System Fees for Fiscal Year 2007-08.

Motion:	Councilor Park moved to adopt Ordinance No. 07-1146.
Seconded:	Councilor Harrington seconded the motion

Councilor Park introduced the ordinance, which set the rates for solid waste for the coming year. The tip fee and the regional system fee would go up. The excise tax would decrease. The transaction fees would stay the same. Changes were due to costs. He also provided details about household hazardous waste charges. The Rate Review Committee unanimously recommended the household hazardous waste changes. He noted self haul issues and that the Committee

recommended no changes in self haul fees. He acknowledged Councilor Harrington's attendance at the Rate Review Committee. Councilor Liberty asked about section 2, Household Hazardous Waste and the change in structure. Jim Quinn, Solid Waste and Recycling Department, responded to his question. Councilor Harrington said this ordinance was dealing with the garbage network and the fees that worked through that network. She also commented on household hazardous waste such as light bulbs, household chemicals and how to dispose of this waste.

Council President Bragdon opened a public hearing on Ordinance No. 07-1146. No one came forward. Council President Bragdon closed the public hearing.

Councilor Burkholder asked if there was a comparable rate chart to other regions. Mike Hoglund, Solid Waste and Recycling Director, said they did know that the tip fee in Seattle was considerably higher. Councilor Park talked about our solid waste system and that the region did a good job of recycling. They continued to work with the local governments to help them set their rates and reach the recycling goal.

Vote:

Councilors Park, Burkholder, Harrington, Newman, Hosticka, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

7. RESOLUTIONS

7.1 Resolution No. 07-3789, For the Purpose of Approving the Year 18 Metro and Local Government Annual Waste Reduction Plan (Fiscal Year 2007-08)

Motion:	Councilor Harrington moved to adopt Resolution No. 07-3789.
Seconded:	Councilor Park seconded the motion

Councilor Harrington said Metro and its local government partners developed a 12-month plan to achieve the region's recycling goals. Mr. Hoglund thanked Councilor Harrington for her work. Lee Barrett presented a PowerPoint presentation on the Annual Waste Reduction Plan (a copy of which is included in the meeting record).

Council President Bragdon opened a public hearing on Resolution No. 07-3789.

Scott Keller, City of Beaverton, Solid Waste Program Manager, 2323 NE Schuyler St. Portland OR 97212 briefed the Council on one of their programs, the multi family recycling program. He talked about their efforts in this area. They provided a tool which was a red bag explaining what could be recycled. Apartment residents increased their recycling by 24% through the use of the bags. They would be continuing to educate Beaverton residents about this program. Councilor Liberty asked if they worked with on-site managers or property management. Mr. Keller said it varied. He explained that apartment dwellers moved a lot and so there was need for reeducation in those apartment complexes. Councilor Harrington said the City of Beaverton was committed to recycling. She wanted to know what percentage of their average workweek did they spend at Metro. Mr. Keller responded, an average of once a week for a couple of hours. Councilor Park asked about their recycling program and how much could we push such as mandatory recycling. Mr. Keller said he felt there was room for growth in recycling. He felt mandatory recycling would be a tough sell but there was room for increasing recycling. Council President Bragdon asked if the red bag program existed in other parts of the region. Mr. Keller responded that there were other regions in the United States that were doing this but no other city in this region was doing

this kind of program. Councilor Harrington suggested that they look at this kind of program for businesses.

Matt Korot, City of Gresham, Solid Waste Manager, 1333 NW Eastman Pkwy Gresham, OR 97030 talked about the partnership with Metro. They really valued the partnership and it was critical to the success of the recycle programs. Regional Solid Waste Management Plan was the region's plan, not just Metro's plan. He talked about the regional system fee and how they could leverage this fee. He provided details on the recycle at work program. They had also been able to leverage external partnership such as PGE and the Energy Trust. The \$31,000 that Metro contributed was being multiplied many fold. He talked about the food waste program and their school program. The work of the Recycling Information Center was essential to their local program. He also noted the healthy lawns program. Councilor Park talked about the 65-gallon roll carts that the City of Gresham was going to. Were they expecting increased recycling? Mr. Korot said they were thrilled to see the City of Beaverton's success. The City of Beaverton had set the bar for other jurisdictions. Councilor Park asked about mandatory recycling. Mr. Korot said they had a lot to do to meet the 90% diversion goal. They needed to get the business sector to participate more in recycling. They were also working toward food waste recycling in their jurisdiction. Councilor Park asked about a large deconstruction project in the Rockwood area. Mr. Korot shared that they were getting this property ready for redevelopment and the deconstruction company recycled 97% of the materials. Councilor Liberty said there was a lot of innovation and leadership at the jurisdictional level. Mr. Korot talked about the challenges of changing behavior.

Council President Bragdon closed the public hearing.

Councilor Burkholder asked how did they motivate those folks who were resistant to recycling and what percent were they? Mr. Hoglund responded their plan was to get to 64% recycling by 2009. They were doing waste composition studies and household studies to find out how many people recycled. He said 84% of the respondents said they recycled. They needed to continue to advance recycling as markets changed. They were looking for behavior changes and the processors were looking for clean material such as paper. He felt there was more progress that could be made.

Councilor Liberty asked about the arrangement with Cedar Grove and building a facility in our region. Mr. Barrett said the contract called for Cedar Grove to investigate three sites once they reached a threshold. Cedar Grove had begun looking for sites. They found a site on Marine Drive two years ago. The neighbors were not excited about having a site in that area. Cedar Grove was trying to find a site in the region that was inexpensive. Jennifer Erickson, Solid Waste and Recycling Department, said they were looking at a smaller site in the region. They had looked at public owned industrial sites. They were also looking at Clark County for sites. She felt that Cedar Grove was committed to having a site in the region. Councilor Park said originally they had looked at going to central Oregon for this site. He suggested that there might be other opportunities with Gilliam County. Ms. Erickson said Department of Environmental Quality was reviewing the regulations in this area. Councilor Park made further suggestions.

Councilor Harrington said the Waste Reduction Plan was an opportunity to increase our recycling efforts. She detailed other goals of the program. She noted Year 18 goals and responsibilities.

Vote:

Councilors Park, Burkholder, Newman, Harrington, Hosticka, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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7.2 **Resolution No. 07-3815**, For the Purpose of Designating Council Projects and Confirming Lead Councilor and Council Liaisons for the Regional Transportation Funding Project.

Motion:	Councilor Newman moved to adopt Resolution No. 07-3815.
Seconded:	Councilor Burkholder seconded the motion

Councilor Newman said they were working on the Regional Transportation Plan (RTP). This fall they would be constructing the financially constrained transportation plan. They were confident that there would be a financial shortfall. The conversation about new revenue needed to happen. Metro was part of this conversation and should be a leader in this process. They would be developing a financial plan. This project was to initiate research on whether the region should support a regional transportation fund ballot measure. He would be coming back to the Council with a specific work plan and framework for guiding the dialogue. There was a budget amendment listed in the exhibits that was only for illustrative purposes. They would be doing some public opinion research and asking their partners to contribute to this effort. He urged support. Councilor Harrington said her district supported raising revenue for transportation. Councilor Burkholder appreciated Councilor Newman's work on this issue. Councilor Park added his support and said they might have to look at a combination of state and regional funding. Councilor Liberty applauded his colleague's willingness to take this on. They needed more money for maintenance and operations of the transportation system. He felt they didn't have a full menu of what we needed in the region.

Vote:

Councilors Park, Burkholder, Newman, Hosticka, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, had nothing to say.

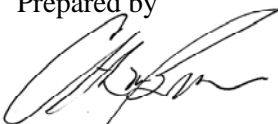
9. COUNCILOR COMMUNICATION

Councilor Burkholder reported on the Joint Policy Advisory Committee on Transportation meeting this morning suggesting a change in the RTP timeline. Council President Bragdon suggested this be brought forward by resolution on the May 24th agenda.

10. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 12:45 p.m.

Prepared by



Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
 MAY 10, 2007**

Item	Topic	Doc. Date	Document Description	Doc. Number
3.1	Minutes	5/5/07	Metro Council Meeting Minutes of May 3, 2007	051007c-01
4.0	Report	Third Quarter 2006-07	Fiscal Year 2006-07 Quarterly Report Third Quarter January through March 2007	051007c-02
7.1	Power Point Presentation	5/10/07	To: Metro Council From: Lee Barrett, Solid Waste and Recycling Department Re: Annual Waste Reduction Plan (Year 18)	051007c-03
3.0	Talking points	5/10/07	To: Metro Council, Michael Jordan and Dan Cooper From: Lake McTighe Re: Judge Patricia Shaw's Talk to the Council	051007c-04
8.0	Memo	5/8/07	To: JPACT Members and Alternates From: Andy Cotugno, Planning Director Re: RTP Update Schedule Options	051007c-05

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 07-3809
TO ISSUE A RENEWED NON-SYSTEM LICENSE)
JOINTLY TO WILLAMETTE RESOURCES, INC. AND) Introduced by Michael Jordan,
ALLIED WASTE OF CLACKAMAS AND) Chief Operating Officer, with the
WASHINGTON COUNTIES FOR DELIVERY OF) concurrence of David Bragdon,
SOLID WASTE, INCLUDING PUTRESCIBLE WASTE,) Council President
TO THE COVANTA WASTE-TO-ENERGY FACILITY)

WHEREAS, the Metro Code requires a non-system license of any person that delivers putrescible solid waste to a non-system processing or disposal facility; and

WHEREAS, Willamette Resources, Inc. and Allied Waste of Clackamas and Washington Counties have applied for a renewed non-system license under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, the application conforms with the requirements of Chapter 5.05 of the Code; and

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicants' request for a non-system license with the conditions set forth 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 jointly to Willamette Resources, Inc. and Allied Waste of Clackamas and Washington Counties in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

Number N-005-07(2)

LICENSEE:			
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070		Allied Waste of Clackamas and Washington Counties 10295 SW Ridder Road Wilsonville, OR 97070	
CONTACT PERSON:			
	Todd Irvine	Frank Lonergan	Ray Phelps
Phone:	503-570-0625	503-682-3900	503-570-0625
Fax:	503-570-0523	503-682-9505	503-570-0523
e-mail:	todd.Irvine@awin.com	frank.lonergan@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

1	NATURE OF WASTE COVERED BY LICENSE
	<p>(a) Municipal solid waste, including putrescible waste, generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with Metro Solid Waste Facility Franchise No. F-005-03; and</p> <p>(b) Confidential records of customers generated within the Metro boundary and collected by Allied Waste of Clackamas and Washington Counties and delivered directly to the non-system facility described in section 3 of this license.</p>
2	FISCAL YEAR TONNAGE LIMITATION
	<p>Licensee is jointly authorized to deliver to the non-system facility described in section 3 of this license up to a maximum of 5,500 tons per fiscal year of the waste described in section 1 of this license, provided that the tonnage consisting of putrescible waste, when combined with the tonnage received by Willamette Resources, Inc. under Metro Solid Waste Facility Franchise Number F-005-03, does not exceed 65,000 tons. A fiscal year shall run from July 1 through June 30 of the following year.</p>
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in section 1, above, to the following non-system facility only:</p> <p style="text-align: center;">Covanta Waste-to-Energy Facility 4850 Brooklake Road, NE Brooks, OR 97305</p>
4	TERM OF LICENSE
	<p>The term of this license will commence on July 1, 2007 and expire at midnight on June 30, 2009, unless terminated sooner under section 6 of this license.</p>

5	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.

6	ADDITIONAL LICENSE CONDITIONS
	<p>This non-system license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the Covanta Waste-to-Energy Facility 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:<ul style="list-style-type: none">(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:<ul style="list-style-type: none">(i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and

	<ul style="list-style-type: none"> <li style="margin-bottom: 1em;">(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. <li style="margin-bottom: 1em;">(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. The 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. <li style="margin-bottom: 1em;">(f) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro. <li style="margin-bottom: 1em;">(g) This license shall terminate upon the execution of a designated facility agreement with the facility listed in section 3. <li style="margin-bottom: 1em;">(h) This license authorizes delivery of solid waste to the Covanta Waste-to-Energy Facility. The Licensee shall report to Metro all solid waste, including putrescible waste, delivered under authority of this license. Transfer of waste generated from within the Metro boundary to any non-system facility other than the Covanta Waste-to-Energy Facility is prohibited unless authorized in writing by Metro.
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7	COMPLIANCE WITH LAW
	<p>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.</p>

8	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.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3809 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE JOINTLY TO WILLAMETTE RESOURCES, INC. AND ALLIED WASTE OF CLACKAMAS AND WASHINGTON COUNTIES FOR DELIVERY OF SOLID WASTE, INCLUDING PUTRESCIBLE WASTE, TO THE COVANTA WASTE-TO-ENERGY FACILITY

May 24, 2007

Prepared by: Warren Johnson

BACKGROUND

Description of the Resolution

In June 2005, Willamette Resources, Inc. (WRI) and United Disposal Service, Inc. were jointly granted a non-system license (NSL) to deliver a maximum of 5,500 tons per fiscal year of solid waste, consisting primarily of putrescible waste, to the Covanta Waste-to-Energy (WTE) Facility located in Brooks, Oregon. The license commenced on July 1, 2005 and will expire on June 30, 2007. On March 20, 2007, WRI submitted to Metro an application to renew this NSL.

Approval of Resolution No. 07-3809 will authorize the Chief Operating Officer to issue a renewed NSL to WRI and Allied Waste of Clackamas and Washington Counties to jointly deliver a maximum of 5,500 tons per fiscal year of solid waste, including putrescible waste to the Covanta WTE Facility. The requested disposal site is a WTE facility rather than a general-purpose landfill and thus granting this proposed NSL will not implicate Metro's obligations under its disposal contract.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed NSL.

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 Metro 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 a WTE facility rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. A baghouse system minimizes emissions to the air and ash is disposed at a permitted monofill.

- (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 Covanta WTE Facility is permitted by the Oregon Department of Environmental Quality (DEQ). On April 10, 2007, Metro staff received verbal confirmation from Hu Gao, Project Manager with the DEQ's Western Region Office, and Jeff Bickford, Senior Environmental Engineer with the Marion County Public Works Department, that the Covanta WTE Facility is in compliance with federal, state and local requirements and 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 Covanta WTE Facility screens incoming waste for hazardous, radioactive, and other unacceptable materials and has a state-of-the-art emissions control system to minimize the risk of future environmental contamination.

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

The wastes subject to the proposed license are putrescible waste with little potential for recovery and confidential records that require special management. Approval of the NSL renewal is therefore unlikely to impact the region's recycling and waste reduction efforts.

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

The waste subject to the proposed license will not be disposed at a general-purpose landfill. Thus, approval of the proposed license will not conflict with Metro's disposal contract. The Covanta WTE Facility also has a contract with Metro for the delivery of waste from Metro South. Renewal of the NSL is not inconsistent with any of these 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*

WRI has had no violations related to public health, safety or environmental regulations. Additionally, the facility has not had any significant compliance issues regarding other Metro requirements since 2003. On two occasions prior to that time, WRI had exceeded the 5,500-ton fiscal year limit stipulated in its NSL to the Covanta WTE Facility. WRI had also exceeded its facility tonnage cap on two separate occasions prior to 2003.

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

The Covanta WTE Facility is the primary disposal site for solid waste generated within Marion County. At certain times of the year the facility requires more solid waste than is generated within the County in order to operate efficiently. During these times, Marion County supports the Metro-authorized flow of solid waste to this facility.

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 and an NSL (No. N-005-06) authorizing the annual delivery of up to 25,000 tons per calendar year of solid waste, including

putrescible waste, to the Riverbend Landfill. The issuance of the proposed NSL authorizing the delivery of up to 5,500 tons of solid waste to the Covanta WTE Facility does not increase the total tonnage that WRI is authorized to accept under its existing Franchise (No. F-005-03).

In addition, the proposed NSL is not subject to the NSL moratorium enacted by the Metro Council in February 2006 because this is a license renewal authorizing the Licensee to deliver the same type and quantity of solid waste to the same non-system facility as the existing NSL (No. N-005-05(2)).

3. Anticipated Effects

The effect of Resolution No. 07-3809 will be to issue an NSL for delivery of up to 5,500 tons per fiscal year of solid waste to the Covanta WTE Facility. This is the same tonnage amount as that authorized under an existing NSL (No. N-005-05(2)).

4. Budget Impacts

The Covanta WTE Facility is not a general-purpose landfill. As such, this proposed NSL will not implicate Metro's obligations under its disposal contract. The application under consideration is the renewal of an existing NSL (No. N-005-05(2)). Therefore, the financial impact has already been factored into the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 07-3809, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035 and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

M:\rem\od\projects\Legislation\2007\073809 RES WRI Covanta Strprt.doc

BEFORE THE METRO COUNCIL

AMENDING THE FY 2006-07 BUDGET AND) ORDINANCE NO. 07-1150
APPROPRIATIONS SCHEDULE REMOVING)
THE INTERIM APPROPRIATION AUTHORITY) Introduced by Mike Jordan, Chief Operating
FOR THE NATURAL AREAS PROGRAM AND) Officer, with the concurrence of Council
DECLARING AN EMERGENCY) President Bragdon

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

WHEREAS, the need for the change in 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 to remove the interim appropriation authority that was required prior to the sale of the natural areas bonds.
- 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 _____, 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No. 07-1150**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Regional Parks & Greenspaces Department							
<u>Personal Services</u>							
<i>SALWGE</i>	<i>Salaries & Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Assistant Public Affairs Specialist	1.00	46,359	-	0	1.00	46,359
	Associate Management Analyst	2.13	120,510	(0.13)	(5,056)	2.00	115,454
	Associate Regional Planner	1.50	68,072	(0.50)	(22,086)	1.00	45,986
	Director II	1.00	119,769	-	0	1.00	119,769
	Education Coordinator II	1.00	53,638	-	0	1.00	53,638
	Management Technician	1.19	51,183	(0.19)	(7,000)	1.00	44,183
	Manager I	4.00	334,758	-	0	4.00	334,758
	Manager II	1.00	85,344	-	0	1.00	85,344
	Program Analyst I	1.00	31,346	-	0	1.00	31,346
	Program Analyst III	1.00	55,668	-	0	1.00	55,668
	Program Director I	1.34	134,389	(0.34)	(33,952)	1.00	100,437
	Real Estate Negotiator	1.12	74,477	(1.12)	(74,477)	-	0
	Senior Regional Planner	4.00	270,693	-	0	4.00	270,693
	Service Supervisor III	1.00	61,406	-	0	1.00	61,406
5015	Reg Empl-Full Time-Non-Exempt						
	Arborist	1.00	49,336	-	0	1.00	49,336
	Education Coordinator I	1.00	48,526	-	0	1.00	48,526
	Park Ranger	12.17	528,229	(0.17)	(6,066)	12.00	522,163
	Secretary	3.34	99,045	(0.34)	(8,200)	3.00	90,845
5020	Reg Emp-Part Time-Exempt						
	Education Coordinator I	0.50	24,263	-	0	0.50	24,263
	Program Supervisor II	0.50	25,549	-	0	0.50	25,549
	Senior Regional Planner	1.60	112,293	-	0	1.60	112,293
	Volunteer Coordinator I	0.80	33,511	-	0	0.80	33,511
	Volunteer Coordinator II	0.50	29,557	-	0	0.50	29,557
5025	Reg Employees-Part Time-Non-Exempt						
	Program Assistant 2	0.50	17,320	-	0	0.50	17,320
5030	Temporary Employees		12,575		0		12,575
5040	Seasonal Employees		280,668		0		280,668
5080	Overtime		14,995		0		14,995
5089	Salary Adjustments						
	Salary Adjustment Pool (non-represented)		46,977		0		46,977
	Step Increases (AFSCME)		28,550		0		28,550
	COLA (represented employees)		38,080		0		38,080
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		1,016,069		(73,730)		942,339
5190	PERS Bond Recovery		81,384		(5,990)		75,394
Total Personal Services		44.71	\$4,030,927	(3.31)	(\$272,945)	41.40	\$3,757,982
<u>Materials & Services</u>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		47,078		(13,000)		34,078
5205	Operating Supplies		55,299		0		55,299
5210	Subscriptions and Dues		2,423		0		2,423
5215	Maintenance & Repairs Supplies		81,185		0		81,185
5225	Retail		11,026		0		11,026

Exhibit A
Ordinance No. 07-1150

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Regional Parks & Greenspaces Department							
<i>SVCS</i>	<i>Services</i>						
	5240 Contracted Professional Svcs		968,849		(100,000)		868,849
	5250 Contracted Property Services		1,381,042		(33,350)		1,347,692
	5251 Utility Services		111,729		(1,750)		109,979
	5255 Cleaning Services		254		0		254
	5260 Maintenance & Repair Services		53,436		0		53,436
	5265 Rentals		28,409		0		28,409
	5270 Insurance		26,000		0		26,000
	5280 Other Purchased Services		45,058		(5,000)		40,058
	5290 Operations Contracts		5,242		0		5,242
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		1,262,299		(1,000,000)		262,299
	5310 Taxes (Non-Payroll)		199,461		0		199,461
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5450 Travel		2,620		0		2,620
	5455 Staff Development		22,300		(1,700)		20,600
	5490 Miscellaneous Expenditures		11,274		(3,300)		7,974
Total Materials & Services			\$4,314,984		(\$1,158,100)		\$3,156,884
Capital Outlay							
<i>CAPNON</i>	<i>Capital Outlay (Non-CIP Projects)</i>						
	5700 Land (non-CIP)		6,805,500		(6,705,500)		100,000
Total Capital Outlay			\$6,805,500		(\$6,705,500)		\$100,000
TOTAL REQUIREMENTS		44.71	\$15,151,411	(3.31)	(\$8,136,545)	41.40	\$7,014,866

Exhibit A
Ordinance No. 07-1150

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		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		30,000		0		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		7,492,501		3,827,545		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
	5470 Council Costs		0		0		0
	5475 Claims Paid		0		0		0
	5490 Miscellaneous Expenditures		50,000		0		50,000
Total Materials & Services			\$9,721,991		\$3,827,545		\$13,549,536
	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	\$11,374,947	0.00	\$3,827,545	4.00	\$15,202,492

Exhibit A
Ordinance No. 07-1150

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		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		1,189,899		0		1,189,899
	* General Reserve		1,539,983		4,309,000		5,848,983
	* Tourism Opportunity & Comp. Account		43,307		0		43,307
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Undesignated		42,000		0		42,000
	* 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		1,867,516		0		1,867,516
Total Contingency & Unappropriated Balance			\$6,755,731		\$4,309,000		\$11,064,731
TOTAL REQUIREMENTS		407.14	\$102,209,092	(3.31)	\$0	403.83	\$102,209,092

Exhibit B
Ordinance No. 07-1150
FY 2006-07 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
GENERAL FUND			
Council Office			
Operating Expenses (PS & M&S)	1,775,095	0	1,775,095
Subtotal	<u>1,775,095</u>	<u>0</u>	<u>1,775,095</u>
Finance & Administrative Services			
Operating Expenses (PS & M&S)	7,374,001	0	7,374,001
Capital Outlay	205,150	0	205,150
Subtotal	<u>7,579,151</u>	<u>0</u>	<u>7,579,151</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)	579,455	0	579,455
Subtotal	<u>579,455</u>	<u>0</u>	<u>579,455</u>
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,582,475	0	1,582,475
Subtotal	<u>1,582,475</u>	<u>0</u>	<u>1,582,475</u>
Oregon Zoo			
Operating Expenses (PS & M&S)	22,508,631	0	22,508,631
Capital Outlay	308,394	0	308,394
Subtotal	<u>22,817,025</u>	<u>0</u>	<u>22,817,025</u>
Planning			
Operating Expenses (PS & M&S)	23,822,826	0	23,822,826
Debt Service	29,250	0	29,250
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)	8,365,911	(1,431,045)	6,934,866
Capital Outlay	6,805,500	(6,705,500)	100,000
Subtotal	<u>15,171,411</u>	<u>(8,136,545)</u>	<u>7,034,866</u>

Exhibit B
Ordinance No. 07-1150
FY 2006-07 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
Non-Departmental			
Operating Expenses (PS & M&S)	10,176,049	3,827,545	14,003,594
Debt Service	1,198,898	0	1,198,898
Subtotal	11,374,947	3,827,545	15,202,492
General Expenses			
Interfund Transfers	7,803,692	0	7,803,692
Contingency	2,773,189	4,309,000	7,082,189
Subtotal	10,576,881	4,309,000	14,885,881
Unappropriated Balance	3,982,542	0	3,982,542
Total Fund Requirements	\$102,209,092	\$0	\$102,209,092

All Other Appropriations Remain as Previously Adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1150 AMENDING THE FY 2006-07
BUDGET AND APPROPRIATIONS SCHEDULE REMOVING THE INTERIM
APPROPRIATION AUTHORITY FOR THE NATURAL AREAS PROGRAM AND
DECLARING AN EMERGENCY

Date: April 18, 2007

Presented by: Kathy Rutkowski

BACKGROUND

On December 14, 2006 and March 1, 2007 the Metro Council approved Ordinances No. 06-1133 and No. 07-1141 respectively, amending the FY 2006-07 budget and appropriations schedule to provide interim appropriation authority for the Natural Areas bond program. The amendments borrowed heavily from the General Fund contingency and the PERS Reserve to provide the interim authority. The interim authority was necessary only until such time as the bonds were sold. At that time, expenditures from bond proceeds became exempt from the provisions of Oregon Budget Law through the remainder of the fiscal year.

This action removes the interim appropriation authority and returns the funding to the original source – either the General Fund contingency or the PERS Reserve contribution budgeted in the Pension Obligation Account of the General Fund. These funds will, once again, be available for appropriation by the Council from the General Fund contingency.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this ordinance.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.
3. **Anticipated Effects:** This ordinance removes the interim appropriation authority for the natural areas program and returns the funding to the General Fund contingency or PERS Reserve contribution.
4. **Budget Impacts:** This action removes \$8,136,545 in interim appropriation authority granted the Regional Parks Department for the Natural Areas program prior to the sale and receipt of the general obligation bonds in April. The ordinance returns \$3,827,545 borrowed from the PERS Reserve contribution in the Pension Obligation Account of the General Fund and returns \$4,309,000 to the General Fund contingency.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance 07-1150.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE) Ordinance No. 07-1151
SECTION 2.19.080 TO CHANGE THE COMPOSITION)
OF THE METRO POLICY ADVISORY COMMITTEE) Introduced by Chief Operating Officer
("MPAC") AND TO AMEND THE MPAC BYLAWS) Michael Jordan with the concurrence of
AND DECLARING AN EMERGENCY) Council President David Bragdon

WHEREAS, MPAC was created and its composition defined by the Metro Charter § 26(1) "Creation and Composition"; and

WHEREAS, the Metro Charter § 26(2) "Change of Composition" allows a change of composition of MPAC by a majority vote of the MPAC members and a majority of all Metro Councilors at any time; and

WHEREAS, the Metro Charter § 26(4) "Bylaws" requires MPAC to adopt bylaws; and

WHEREAS, the Metro Code § 2.19.080(b) defines the membership of MPAC; and

WHEREAS, the Metro Code § 2.19.080(d) authorizes a change of composition of MPAC at any time and requires that the Council action be in the form of an ordinance; and

WHEREAS, on April 25, 2007 a majority of the MPAC membership voted to amend the MPAC Bylaws regarding membership.

WHEREAS, a majority of the Metro Council and a majority of the MPAC members wish to change the composition of MPAC; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the Metro Code § 2.19.080 is amended as set forth in Exhibit "A" that is attached and incorporated by reference to this ordinance; and
2. That the MPAC Bylaws have been amended consistent with Exhibit "B" that is attached and incorporated by reference to this ordinance.
3. This ordinance being necessary for the immediate preservation of the public health, safety, or welfare because, without this Ordinance, MPAC may not be able to achieve a quorum at meetings, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this __ day of _____, 2007.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit "A" to Ordinance No. 07-1151

2.19.080 Metro Policy Advisory Committee (MPAC)

(a) Purpose. The purpose of MPAC is to advise the Metro Council and perform the duties assigned to it by the Metro Charter and to perform other duties that the Metro Council shall prescribe.

(b) Membership. The members of MPAC include:

1. Voting Members:

Multnomah County Commission	1
Second Largest City in Multnomah County	1
Other Cities in Multnomah County	1
Special Districts in Multnomah County	1
Citizen of Multnomah County	1
City of Portland	2
Clackamas County Commission	1
Largest City in Clackamas County	1
Second Largest City in Clackamas County	1
Other Cities in Clackamas County	1
Special Districts in Clackamas County	1
Citizen of Clackamas County	1
Washington County Commission	1
Largest City in Washington County	1
Second Largest City in Washington County	1
Other Cities in Washington County	1
Special Districts in Washington County	1
Citizen of Washington County	1
Tri-Met	1
Governing body of a school district	1
State Agency Growth Council	1
Clark County	1
City of Vancouver	1
Port of Portland	1
TOTAL	<u>2521</u>

2. Non-voting members:

<u>Oregon Dept of Land Conservation and Development</u>	<u>1</u>
<u>Clark County</u>	<u>1</u>
<u>City of Vancouver</u>	<u>1</u>
<u>Port of Portland</u>	<u>1</u>
<u>City in Clackamas County outside UGB</u>	<u>1</u>
<u>City in Washington County outside UGB</u>	<u>1</u>
<u>TOTAL</u>	<u>6</u>

(c) MPAC may provide in its bylaws for the creation of a Technical Advisory Committee, which may make recommendations to MPAC.

(d) A vote of both a majority of the MPAC members and a majority of all councilors may change the composition of MPAC at any time. The Council action shall be in the form of an ordinance and shall amend this code section. The MPAC bylaws shall govern the terms of its members.

Exhibit “B” to Ordinance No. 07-1151

METRO POLICY ADVISORY COMMITTEE (MPAC) BY-LAWS

Approved March 13, 1996; Revised March 26, 1997; May 1998; September, 1999; October, 2000;
November, 2000; June, 2001; March 12, 2003; [April 25, 2007](#)

ARTICLE I

This Committee shall be known as the METRO POLICY ADVISORY COMMITTEE (“MPAC”) created by Section 27 of the 1992 Metro Charter.

**ARTICLE II
MISSION AND PURPOSE**

Section 1. The MPAC shall perform the duties assigned to it by the 1992 Metro Charter and any other duties the Metro Council prescribes.

Section 2. The purposes of MPAC are as follows:

- a. MPAC shall perform those duties required by the Charter, including:
 1. Providing consultation and advice to the Council on the Regional Framework Plan (Section 5 (2));
 2. Providing consultation and advice to the Council on the possible inclusion in the Regional Framework Plan of other growth management and land use planning matters, determined by the Council to be of metropolitan concern, which will benefit from regional planning, other than those specifically identified in Charter Section 5 (2) (b);
 3. Providing consultation and advice to the Council on any amendments to the Regional Framework Plan (Section 5 (2) (d));
 4. Approve or disapprove the authorization for Metro to provide or regulate a local government service, as defined in Charter Section 7 (2), in those cases in which Metro does not seek or secure such approval directly from the voters;
 5. Providing advice to the Council before it adopts an ordinance authorizing provision or regulation by Metro of a service which is not a local government service as defined by the Charter (Section 7 (3)); and
 6. Providing advice to the Council on a study of the Portland Metropolitan Area Local Government Boundary Commission (Section 7 (5)).
- b. Other duties prescribed by the Council.

**ARTICLE III
COMMITTEE MEMBERSHIP**

Section 1. Membership

a. The Committee will be made up of representative of the following [voting and non-voting members](#):

1. Voting Members:

Multnomah County Commission	1
Second Largest City in Multnomah County	1
Other Cities in Multnomah County	1
Special Districts in Multnomah County	1
Citizen of Multnomah County	1
City of Portland	2
Clackamas County Commission	1
Largest City in Clackamas County	1
Second Largest City in Clackamas County	1
Other Cities in Clackamas County	1
Special Districts in Clackamas County	1
Citizen of Clackamas County	1
Washington County Commission	1
Largest City in Washington County	1
Second Largest City in Washington County	1
Other Cities in Washington County	1
Special Districts in Washington County	1
Citizen of Washington County	1
Tri-Met	1
Governing Body of a School District	1
State Agency Growth Council	1
Clark County	1
City of Vancouver	1
Port of Portland	1
Total	<u>2521</u>

2. Non-voting members:

Oregon Dept of Land Conservation and Development	<u>1</u>
Clark County	<u>1</u>
City of Vancouver	<u>1</u>
Port of Portland	<u>1</u>
City in Clackamas County outside UGB	<u>1</u>
City in Washington County outside UGB	<u>1</u>
<u>Total</u>	<u>6</u>

b. Except as provided in Section 2 voting Mmembers and alternates representing jurisdictions shall be appointed from among members of the governing body. All voting jurisdictions represented by members, including cities within each county, shall have territory within Metro boundaries.

c. Non-voting members or alternates may either be members of the governing body of a jurisdiction or serve as a Chief Operating Office or Planning Director or equivalent.

~~ed.~~ Alternates ~~qualified to be members~~ shall ~~be appointed to~~ serve in the absence of the regular members.

~~de.~~ Metro Councilors will participate with the Committee membership with three non-voting liaison delegates appointed by the Metro Council.

~~e.~~ ~~Clark County, Washington, and City of Vancouver, Washington membership includes all duties of MPAC except approving or disapproving authorization for Metro to provide or regulate a local service, as defined in Charter section 7(2), in those cases in which Metro does not seek or secure such approval directly from the voters.~~

f. The composition of the MPAC may be changed at any time by a vote of both a majority of the MPAC members and a majority of all Metro Councilors (Metro Charter, Section 27 (2)).

Section 2. Appointment of Members and Alternates

a. ~~Members and alternates will be initially appointed to serve for two years.~~ Members and alternates from the City of Portland, the counties of Multnomah, Clackamas, and Washington, the largest cities of Multnomah, Clackamas, and Washington Counties, excluding Portland, and the second largest cities of Clackamas and Washington counties shall be appointed by the jurisdiction. ~~Members and alternates may be removed by the appointing jurisdiction at any time.~~

b. Members and alternates from the cities of Multnomah, Clackamas, and Washington Counties, other than those directly entitled to membership, will be appointed jointly by the governing bodies of those cities represented. The member and alternate will be from different jurisdictions. The member and alternate will be appointed to designated terms of a length to be determined by the appointing authority, but for a period of not less than two years. The member and alternate may be reappointed. Terms of the member and alternate will be staggered to ensure continuity. In the event the member's position is vacated, the alternate will automatically become the member and complete the original term of office.

c. Members and alternates from the special districts with territory in Multnomah, Clackamas, and Washington Counties will be appointed by special district caucus. The member and alternate will be appointed to designated terms of a length to be determined by the appointing authority, but for a period of not less than two years. The member and alternate may be reappointed. Terms of the member and alternate will be staggered to ensure continuity. In the event the member's position is vacated, the alternate will automatically become the member and complete the original term of office.

- d. Metro Council delegates will be appointed by ~~the Presiding Officer of~~ the Metro Council President and will represent each county in the region. The delegates may be removed by the ~~Presiding Officer of the Metro~~ Council President at any time.
- e. Members and alternates representing citizens will be appointed by the Metro ~~Executive Officer~~ Council President and confirmed by the Metro Council consistent with Section 27(1)(m) of the 1992 Metro Charter and will represent each county in the region. Members and alternates will be appointed to designated terms of a length to be determined by the appointing authority, but for a period of not less than two years. Members and alternates may be reappointed. Terms of the members and alternates will be staggered to ensure continuity. In the event the member's position is vacated, the alternate will automatically become the member and complete the original term of office.
- f. Members and alternates from the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) will be appointed by the governing body of that District. The member and alternate will serve until removed by the governing body.
- g. Members and alternates from the ~~State Agency Growth Council~~ Land Conservation and Development Commission will be chosen by the Chairperson of that body. The member and alternate may be removed by the Chairperson at any time. ~~The member and alternate will serve as non-voting members.~~
- h. Members and alternates from the Port of Portland will be appointed by the governing body of that organization. The member and alternate will serve until removed by the governing body.
- i. The member and alternate from the school boards in the Metro Region will be appointed by a caucus or organization of school boards from districts within the Metro region. If there is no caucus or organization of school boards within the region, the Executive Officer will facilitate the appointment by the school boards. The member and alternate will be appointed to designated terms of a length to be determined by the appointing authority, but for a period of not less than two years. The member and alternate may be reappointed. Terms of the member and alternate will be staggered to ensure continuity. The member and alternate will be from different school districts in the Metro Region. In the event the member's position is vacated, the alternate will automatically become the member and complete the original term of office.
- j. Appointments of all members and alternates shall become effective upon the appointing authority giving written notice addressed to the Chair of MPAC and filing the notice with the Clerk of the Metro Council. The determination of the relative size of cities shall be based on the official population estimates for Oregon issued by the Center for Population Research and Census, School of Urban and Public Affairs, Portland State University. If the official population estimates result in a change in the relative population of a city entitled to membership, then the term of membership of the affected city or cities shall terminate 90 days after the release of the official estimate and new member(s) shall be appointed as provided by these by-laws. Members and alternates may be removed by the appointing authority at any time.

**ARTICLE IV
MEETINGS, CONDUCT OF MEETINGS, AND QUORUM**

- a. A regular meeting date, time and place of MPAC shall be established by the MPAC Chair. Special or emergency meetings may be called by the Chair or a third of the members of MPAC.
- b. A majority of the members (or designated alternates) shall constitute a quorum for the conduct of business. The act of a majority of those voting members present at meetings at which a quorum is present shall be the act of MPAC, except in exercising the duty of authorizing Metro to provide or regulate a local government service as described in Section 7 (2) of the 1992 Metro Charter. In these cases a majority vote of all voting MPAC members is required.
- c. Subcommittees or advisory committees to develop recommendations for MPAC may be appointed by the Chair and ratified by MPAC. At a regularly scheduled meeting MPAC shall approve subcommittee membership and MPAC members and/or alternates and outside experts. The Chair of any citizen advisory committee shall neither be the Chair of MPAC nor be an MPAC member, except upon the agreement of a majority of the advisory committee membership. MPAC members of any citizen advisory committee of MPAC shall participate on a nonvoting basis.
The Metro Technical Advisory Committee (“MTAC”) is an advisory committee to MPAC. Its purpose shall be to provide MPAC with technical recommendations on growth management subjects as directed by MPAC. MTAC shall have the following representation:

Each county government	1
City of Portland	1
Largest city in each county (not including Portland)	1
Second largest city in Clackamas County	1
Second largest city in Washington County	1
Other cities in each county	1
Citizen representative from each county to be represented by the respective county’s Committee for Citizen Involvement	1
Tri-Met	1
Oregon Department of Land Conservation and Development	1
Oregon Department of Transportation	1
Port of Portland	1
A commercial and industrial contractor association (“AGC”)	1
A residential contractor association (“HBA”)	1
A private economic development association	1
A public economic development association	1
A land use advocacy organization	1
An environmental organization	1
A school district	1
Water Resource Policy Advisory Committee (“WRPAC”)	1
A sanitary sewer and/or storm drainage agency (“WRPAC”)	1
An architect association (“AIA”)	1

A landscape architect association (“ASLA”)	1
Electric utilities	1
Natural gas utilities	1
Telecommunication utilities	1
Metro representative from the Planning Dept who shall serve as chair (non-voting)	1
An affordable housing advocacy organization	1
Clark County, Washington	1
Vancouver, Washington	1

Each jurisdiction or organization named shall annually notify MPAC of their nomination. MPAC may approve or reject any nomination. Revision of the membership of MTAC may occur consistent with MPAC bylaw amendment procedures. If any membership category (member and alternate) is absent for three (3) consecutive MTAC meetings, the representatives shall lose their voting privilege. MTAC members who acquire non-voting status may regain their voting status after attending three (3) consecutive MTAC meetings. A quorum for MTAC meetings shall be a simple majority of voting MTAC members. MTAC shall provide MPAC with observations concerning technical, policy, legal and process issues along with implementation effects of proposed growth management issues, including differing opinions, with an emphasis on providing the broad range of views and likely positive and negative outcomes of alternative courses of action. MTAC may adopt its own bylaws provided they are consistent with MPAC bylaws and are approved by a majority vote of MTAC members.

- d. All meetings shall be conducted in accordance with ROBERT’S RULES OF ORDER, Newly Revised.
- e. MPAC may establish other rules of procedure as deemed necessary for the conduct of business.
- f. Unexcused absence from regularly scheduled meetings for three (3) consecutive months shall require the Chair to notify the appointing body with a request for remedial action.
- g. MPAC shall make its reports and findings, including minority reports, public and shall forward them to the Metro Council.
- h. MPAC may receive information and analysis on issues before it from a variety of sources.
- i. MPAC shall provide an opportunity for the public and the Metro Committee for Citizen Involvement (“Metro CCI”) to provide comment on relevant issues at each of its regularly scheduled meetings.
- j. MPAC shall provide a minimum of seven days notice to members of any regular or special meetings.
- k. MPAC shall abide by ORS Chapter 192, which provides for public records and meetings.

**ARTICLE V
OFFICERS AND DUTIES**

- a. A Chair, 1st Vice-Chair, and 2nd Vice-Chair shall be elected by a majority of the voting members for a one year term of office ending in January of each year. A vacancy in any of these offices shall be filled by a majority vote of MPAC, for the remainder of the unexpired term.
 - 1. Nominations shall be received at the first meeting in January for chair, first vice chair and second vice chair.
 - 2. The first Vice-Chair shall become Chair following the completion of the Chair's term.
 - 3. The second vice chair shall be a rotating position to keep balance for a) county/geographic representation; and/or b) city/county/special district representation after the previous year's first vice chair moves up to chair and the first vice chair is selected.
- b. The Chair shall set the agenda of and preside at all meetings, and shall be responsible for the expeditious conduct of MPAC's business. Three members can cause a special meeting to be called with a minimum of seven days notice.
- c. In the absence of the Chair, the 1st Vice-Chair, and then the 2nd Vice-Chair shall assume the duties of the Chair.

**ARTICLE VI
AMENDMENTS**

- a. These by-laws may be amended by a majority vote of the MPAC membership, except that Article III related to the MPAC membership may not be amended without the concurrence of the majority of the Metro Council.
- b. Written notice must be delivered to all members and alternates at least 30 days prior to any proposed action to amend the by-laws.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1151, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 2.19.080 TO CHANGE THE COMPOSITION OF THE METRO POLICY ADVISORY COMMITTEE ("MPAC") AND TO AMEND THE MPAC BYLAWS AND DECLARING AN EMERGENCY

Date: 5/2/07

Prepared by: Kim Bardes

BACKGROUND

Because of heavy absences at the Metro Policy Advisory Committee (MPAC) during the 2005 and 2006 calendar years, there were numerous meeting at which the body could not conduct business due to lack of quorum. This led to MPAC creating a subcommittee in 2007 to review their bylaws and take a close look at procedures and quorum requirements. It was proposed by an MPAC subcommittee to reduce the number of voting members needed in order to form a quorum. New bylaws have been drawn up to reflect the changes approved by the MPAC membership. An emergency clause has been added so that the changes can be effective immediately in order to assist MPAC to achieve a quorum at meetings.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition.
2. **Legal Antecedents:** Metro Code 2.19.080 Metro Policy Advisory Committee (MPAC)
3. **Anticipated Effects:** It is hoped that the new bylaws will allow more frequent and efficient general operation of MPAC committee business.
4. **Budget Impacts:** No budget impacts perceived.

RECOMMENDED ACTION

MPAC recommends that the Metro Council adopt the newly proposed Metro Policy Advisory Committee bylaws.

BEFORE THE METRO COUNCIL

AMENDING THE FY 2006-07 BUDGET AND) ORDINANCE NO. 07-1152
APPROPRIATIONS SCHEDULE RECOGNIZING)
DONATIONS TO THE OREGON ZOO AND) Introduced by Mike Jordan, Chief Operating
DECLARING AN EMERGENCY) Officer, with the concurrence of Council
) President Bragdon

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

WHEREAS, Oregon Budget Law ORS 294.326 allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the change in 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 to recognize donations to the Oregon Zoo Great Northwest Project.
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 _____, 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A
Ordinance No. 07-1152

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Metro Capital Fund							
Oregon Zoo Capital Projects							
<u>Resources</u>							
BEGBAL	<i>Beginning Fund Balance</i>						
3500	* Prior year ending balance		2,335,933		0		2,335,933
3500	* Prior year PERS Reserve		8,786		0		8,786
INTRST	<i>Interest Earnings</i>						
4700	Interest on Investments		78,552		0		78,552
DONAT	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		220,000		149,274		369,274
EQTREV	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from General Fund (Zoo)		55,000		0		55,000
TOTAL RESOURCES			\$2,698,271		\$149,274		\$2,847,545
Total Personal Services		1.00	\$107,561	-	\$0	1.00	\$107,561
<u>Capital Outlay</u>							
CAPCIP	<i>Capital Outlay (CIP Projects)</i>						
5725	Buildings & Related (CIP)		0		0		0
	* Great Northwest Project		550,000		149,274		699,274
	* Admission Ticketing System		200,000		0		200,000
	* Fluorescent Light Fixture Upgrade		55,000		0		55,000
	* Lion Exhibit		50,000		0		50,000
	* Primate Building		150,000		0		150,000
5755	Office Furniture & Equip (CIP)		70,000		0		70,000
Total Capital Outlay			\$1,075,000		\$149,274		\$1,224,274
Total Interfund Transfers			\$11,955		\$0		\$11,955
<u>Contingency & Unappropriated Balance</u>							
CONT	<i>Contingency</i>						
5999	Contingency						
	* General contingency		1,503,755		0		1,503,755
Total Contingency & Unappropriated Balance			\$1,503,755		\$0		\$1,503,755
TOTAL REQUIREMENTS		1.00	\$2,698,271	-	\$149,274	1.00	\$2,847,545

Exhibit B
Ordinance No. 07-1152
FY 2006-07 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
METRO CAPITAL FUND			
Operating Expenses (PS & M&S)	\$697,561	\$0	\$697,561
Capital Outlay	10,972,000	149,274	11,121,274
Interfund Transfers	11,955	0	11,955
Contingency	2,617,030	0	2,617,030
Unappropriated Balance	878,338	0	878,338
Total Fund Requirements	\$15,176,884	\$149,274	\$15,326,158

All Other Appropriations Remain As Previously Adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO.07-1152, AMENDING FY 2006-07 BUDGET AND APPROPRIATIONS SCHEDULE RECOGNIZING DONATIONS TO THE OREGON ZOO AND DECLARING AN EMERGENCY

Date: April 30, 2007

Prepared by: Craig M. Stroud

BACKGROUND

The Oregon Zoo received capital donations totaling \$149,274 from the Oregon Zoo Foundation for the 2006-07 fiscal year that were not forecast when the budget was presented and adopted. The intent of this Ordinance is to recognize the new revenues and increase expenditure authority for the purposes described below.

Great Northwest Exhibit

The Oregon Zoo completed and opened the Great Northwest Exhibit in March 2007. The project includes naturalistic areas for black bears and bobcats. The black bear portion includes a large exhibit yard, a smaller outdoor holding yard, and five indoor holding areas. Bobcats have a forested enclosure that includes a log den with a close-up viewing area where visitors are only separated by glass from these elusive cats. Off exhibit holding for the bobcats is also available. The Oregon Zoo Foundation has donated \$149,274 to assist in funding the project's final stage.

<i>Capital Fund – Oregon Zoo</i>	
<i>Revenues</i>	
Donations and Bequests	\$149,274
<i>Expenditures</i>	
Buildings and Related (CIP)	\$149,274

ANALYSIS/INFORMATION

- 1. Known Opposition:** None known.
- 2. Legal Antecedents:** ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts and bequests received by a municipal corporation in trust for a specific purpose.
- 3. Anticipated Effects:** This action allows the department to recognize the donations dedicated to the purpose described in this report and make expenditures to fulfill the terms of the donations.
- 4. Budget Impacts:** This action requests the recognition of \$149,274 in private contributions received from the Oregon Zoo Foundation for the Great Northwest Exhibit and increases appropriation authority in the Metro Capital Fund by a similar amount

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

BEFORE THE METRO COUNCIL

AMENDING THE FY 2006-07 BUDGET AND)	ORDINANCE NO. 07-1153
APPROPRIATIONS SCHEDULE)	
TRANSFERRING APPROPRIATIONS IN THE)	Introduced by Mike Jordan, Chief Operating
MERC OPERATING AND POOLED CAPITAL)	Officer, with the concurrence of Council
FUNDS AND DECLARING AN EMERGENCY)	President Bragdon
)	

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 MERC Operating and MERC Pooled Capital Funds.
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 _____, 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No. 07-1153**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
MERC Operating Fund							
Total MERC Operating Fund							
<u>Resources</u>							
<i>BEGBAL Beginning Fund Balance</i>							
	* MERC Admin		130,602		0		130,602
	* Expo Center		3,102,543		0		3,102,543
	* Oregon Convention Center		5,692,249		0		5,692,249
	* Portland Center for the Performing Arts		4,268,924		0		4,268,924
<i>LGSHRE Local Gov't Share Revenues</i>							
4130	Hotel/Motel Tax		8,794,328		0		8,794,328
4142	Intergovernment Misc. Revenue		43,955		0		43,955
<i>GVCNTB Contributions from Governments</i>							
4145	Government Contributions		687,200		0		687,200
<i>CHGSVC Charges for Service</i>							
4500	Admission Fees		1,462,000		0		1,462,000
4510	Rentals		5,394,504		0		5,394,504
4550	Food Service Revenue		10,719,309		777,000		11,496,309
4560	Retail Sales		32,750		0		32,750
4570	Merchandising		37,400		0		37,400
4575	Advertising		95,870		0		95,870
4580	Utility Services		2,306,685		0		2,306,685
4590	Commissions		512,900		0		512,900
4620	Parking Fees		2,390,415		0		2,390,415
4645	Reimbursed Services		2,589,361		0		2,589,361
4647	Reimbursed Services - Contract		279,582		0		279,582
4650	Miscellaneous Charges for Svc		87,290		0		87,290
<i>INTRST Interest Earnings</i>							
4700	Interest on Investments		355,642		0		355,642
<i>DONAT Contributions from Private Sources</i>							
4760	Sponsorship Revenue		181,270		0		181,270
<i>MISCRV Miscellaneous Revenue</i>							
4805	Financing Transaction		3,000		0		3,000
4890	Miscellaneous Revenue		72,000		0		72,000
TOTAL RESOURCES			\$49,239,779		\$777,000		\$50,016,779
Total Personal Services		161.00	\$15,441,793	0.00	\$0	161.00	\$15,441,793
<u>Materials & Services</u>							
<i>GOODS Goods</i>							
5201	Office Supplies		201,911		0		201,911
5205	Operating Supplies		317,001		0		317,001
5210	Subscriptions and Dues		25,902		0		25,902
5214	Fuels and Lubricants		10,350		0		10,350
5215	Maintenance & Repairs Supplies		131,700		0		131,700
5225	Retail		12,000		0		12,000
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		778,412		0		778,412
5245	Marketing Expense		2,024,375		0		2,024,375
5247	POVA Pass-Through		385,239		0		385,239
5251	Utility Services		2,299,479		0		2,299,479
5255	Cleaning Services		16,950		0		16,950
5260	Maintenance & Repair Services		517,970		0		517,970
5265	Rentals		489,634		0		489,634
5280	Other Purchased Services		350,722		0		350,722
5281	Other Purchased Services - Reimb		262,794		0		262,794

Exhibit A
Ordinance No. 07-1153

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
MERC Operating Fund							
Total MERC Operating Fund							
5291	Food and Beverage Services		8,422,996		600,000		9,022,996
5292	Parking Services		205,011		0		205,011
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
5300	Payments to Other Agencies		88,872		0		88,872
5310	Taxes (Non-Payroll)		7,000		0		7,000
<i>OTHEXP</i>	<i>Other Expenditures</i>						
5450	Travel		85,513		0		85,513
5455	Staff Development		80,264		0		80,264
5480	Fee Reimbursements		40,300		0		40,300
5490	Miscellaneous Expenditures		132,022		0		132,022
Total Materials & Services			\$16,886,417		\$600,000		\$17,486,417
Total Debt Service			\$18,899		\$0		\$18,899
Total Capital Outlay			\$40,000		\$0		\$40,000
Total Interfund Transfers			\$6,088,876	0.00	\$0		\$6,088,876
<i>Contingency and Ending Balance</i>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		859,037		(600,000)		259,037
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Restricted Fund Balance (User Fees)		840,445		0		840,445
	* Ending Balance		9,064,312		777,000		9,841,312
Total Contingency and Ending Balance			\$10,763,794		\$177,000		\$10,940,794
TOTAL REQUIREMENTS		161.00	\$49,239,779	0.00	\$777,000	161.00	\$50,016,779

**Exhibit A
Ordinance No. 07-1153**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
MERC Pooled Capital Fund							
<i>Personal Services</i>							
SALWGE	<i>Salaries & Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Construction Coordinator	1.00	65,854	-	0	1.00	65,854
	Construction/Capital Projects Manager	1.00	86,120	-	0	1.00	86,120
5043	Part-Time, Non-Reimbursed Labor		0		46,000		46,000
5089	Merit/Bonus Pay		10,404		0		10,404
FRINGE	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		54,894		12,450		67,344
5190	PERS Bond Recovery		5,034		1,550		6,584
Total Personal Services		2.00	\$222,306	0.00	\$60,000	2.00	\$282,306
<i>Capital Outlay</i>							
CAPNON	<i>Capital Outlay (Non-CIP Projects)</i>						
5710	Improve-Oth thn Bldg (non-CIP)		25,000		0		25,000
5720	Buildings & Related (non-CIP)		71,000		0		71,000
5740	Equipment & Vehicles (non-CIP)		253,000		0		253,000
5750	Office Furn & Equip (non-CIP)		25,000		0		25,000
CAPCIP	<i>Capital Outlay (CIP Projects)</i>						
5715	Improve-Oth thn Bldg (CIP)		150,000		0		150,000
5725	Buildings & Related (CIP)		2,676,985		(60,000)		2,616,985
Total Capital Outlay			\$3,200,985		(\$60,000)		\$3,140,985
Total Interfund Transfers			\$76,196		\$0		\$76,196
<i>Contingency and Ending Balance</i>							
CONT	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		742,702		0		742,702
	* Current Year PERS Reserve		224		0		224
UNAPP	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Ending Balance		1,205,471		0		1,205,471
Total Contingency and Ending Balance			\$1,948,397		\$0		\$1,948,397
TOTAL REQUIREMENTS		2.00	\$5,534,374	0.00	\$0	2.00	\$5,534,374

Exhibit B
Ordinance No. 07-1153
FY 2006-07 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
MERC OPERATING FUND			
Operating Expenses (PS & M&S)	\$32,328,210	\$600,000	\$32,928,210
Debt Service	18,899	0	18,899
Capital Outlay	40,000	0	40,000
Interfund Transfers	6,088,876	0	6,088,876
Contingency	859,037	(600,000)	259,037
Unappropriated Balance	9,904,757	777,000	10,681,757
Total Fund Requirements	\$49,239,779	\$777,000	\$50,016,779
MERC POOLED CAPITAL FUND			
Operating Expenses (PS & M&S)	\$308,796	\$60,000	\$368,796
Capital Outlay	3,200,985	(60,000)	3,140,985
Interfund Transfers	76,196	0	76,196
Contingency	742,926	0	742,926
Unappropriated Balance	1,205,471	0	1,205,471
Total Fund Requirements	\$5,534,374	\$0	\$5,534,374

All Other Appropriations Remain as Previously Adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO.07-1153, AMENDING FY 2006-07 BUDGET AND APPROPRIATIONS TRANSFERRING APPROPRIATIONS IN THE MERC OPERATING AND POOLED CAPITAL FUNDS AND DECLARING AN EMERGENCY

Date: May 1, 2007

Prepared by: Cynthia Hill

BACKGROUND

This action requests amended appropriation authority for the following purposes:

Oregon Convention Center Food & Beverage Sales

The Oregon Convention Center is experiencing food and beverage sales greater than estimated in the adopted budget. Revenue is currently estimated at \$8.1 million, an increase of \$777,000 over the budget. With increased sales, there is an increase in the cost of goods sold estimated at \$600,000. The projected food and beverage margin for fiscal year 2006-07 is 23 percent. Oregon budget law does not allow the recognition and direct appropriation of this revenue without benefit of a supplemental budget. This action requests the transfer of \$600,000 from the MERC Operating Fund contingency to provide for the necessary increase of food and beverage expenditures, however, increased revenue will more than offset the request.

<i>MERC Operating Fund</i>	
<i>Revenues</i>	
Food & Beverage Sales	\$777,000
<i>Expenditures</i>	
Food & Beverage Services	\$600,000
Contingency	(\$600,000)
Ending Balance	\$777,000

MERC Pooled Capital Projects

The Oregon Convention Center (OCC) and the Portland Center for Performing Arts (PCPA) employees will complete a portion of the labor required on two capital projects. Using existing staff is a cost savings to the overall projects. OCC staff will work on AV Control Room Project and at PCPA staff will work on the Arlene Schnitzer Concert Hall Front House Lighting System Replacement. This action requests the transfer of \$60,000 from capital outlay to personal services in the MERC Pooled Capital Fund to pay for the staff costs associated with these employees.

<i>MERC Pooled Capital Fund</i>	
<i>Expenditures</i>	
Part-time staff	\$46,000
Fringe Benefits	\$12,450
Fringe PERS Bond Recovery	\$1,550
Capital Outlay	(\$60,000)

ANALYSIS/INFORMATION

- 1. Known Opposition:** None known.
- 2. Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.
- 3. Anticipated Effects:** This action provides appropriation authority necessary for MERC to meet its service demands.
- 4. Budget Impacts:** This action will transfer \$600,000 from contingency in the MERC Operating Fund to provide for increase food and beverage services at the Oregon Convention Center. However, additional revenue will be received over budget estimates that will more than offset the transfer. There is anticipated to be a positive cash flow to the ending balance of approximately \$177,000. In the MERC Pooled Capital Fund in-house labor will be used to complete two capital projects at a cost savings to the facilities. This action transfers appropriation authority from capital outlay to personal services to cover the staff costs.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTER 2.19 TO) ORDINANCE NO. 07-1155
ESTABLISH THE NATURAL AREAS PROGRAM)
PERFORMANCE OVERSIGHT COMMITTEE,) Introduced by Chief Operating Officer
AND DECLARING AN EMERGENCY) Michael J. Jordan, with the concurrence of
) Council President David Bragdon

WHEREAS, on March 9, 2006, the Metro Council adopted 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), referring a \$227.4 million general obligation bond measure to the voters for the purpose of maintaining and improving water quality and fish and wildlife habitat by acquiring, protecting, preserving and enhancing natural areas and streams (the “Natural Areas Bond Measure” or “Measure”); and

WHEREAS, at the election held on November 7, 2006, the Metro voters approved Measure 26-80, the Natural Areas Bond Measure; and

WHEREAS, the Measure called for spending bond program funds in three ways: (1) \$168.4 million toward the acquisition of natural areas from willing sellers in 27 identified regional target areas; (2) \$44 million allocated to local governments in the region on a per-capita basis for completion of approved park improvement projects and locally important acquisitions, and (3) \$15 million toward the Nature in Neighborhoods Capital Grants Program to increase natural features and the ecological function and water quality of public lands in neighborhoods; and

WHEREAS, the Measure called for Metro to undertake a public refinement process to establish specific acquisition strategies, goals and objectives, and confidential tax-lot specific acquisition target maps, for each of the 27 target areas; and

WHEREAS, the Measure included a list of specific, approved local share projects for each jurisdiction within the region for the use of their local share of bond proceeds, and allowed for the substitution of such projects if undertaken consistent with program requirements; and

WHEREAS, the Measure included selection criteria and applicant eligibility for projects to be funded as part of the Nature in Neighborhoods Capital Grants Program; and

WHEREAS, the Measure provided for the creation of an independent citizen oversight committee to “review progress in the acquisition of regional target areas, local share project implementation and grant administration;” and

WHEREAS, this new oversight committee is to be known as the Natural Areas Program Performance Oversight Committee (the Committee);

WHEREAS, the efficacy of the Committee will be greatly enhanced, and with it the level and quality of service it provides to the citizens of the region, by its immediate creation and appointments thereto so that it can begin its work while the Natural Areas Program refinement process is under way, during the period that intergovernmental agreements for distribution of local share bond funds are being signed and some jurisdictions will soon begin spending such funds, and while planning is finalized for the Nature in Neighborhoods Capital Grants Program; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Chapter 2.19 shall be amended to add the following text as new Code Section 2.19.220:

2.19.220 Natural Areas Program Performance Oversight Committee

(a) Purpose and Authority. The purpose and authority of the Natural Areas Program Performance Oversight Committee is to annually review whether the program is meeting the goals and objectives established for the program by the Metro Council (“program performance”). The Committee shall annually report to the Metro Council regarding such program performance, which report shall provide the Committee’s recommendations to improve such performance, if any. The Committee’s program performance review and report to Council:

- (1) Shall assess the program’s progress in implementing the strategies, goals and objectives approved by the Metro Council for:
 - (A) Property acquisition and protection in each of the 27 target areas, as described in Council-approved refinement plans;
 - (B) Local share projects; and
 - (C) Awards of Nature in Neighborhoods Capital Grants; and
- (2) May include recommendations regarding the Natural Areas Program Work Plan to improve program efficiency, administration, and performance.

(b) Membership. The Committee shall be composed of no fewer than 13 and no more than 17 members, all appointed by the Metro Council President subject to Council confirmation. The Council President shall designate one (1) member to serve as Chair. Committee members shall primarily be professionals with experience in real estate, finance, auditing, public budgeting, banking, general business, and realty law. Eight (8) of the initial Committee members shall be appointed to serve a one (1) year term and may be reappointed for up to two (2) additional terms as provided in Metro Code Section 2.19.020.

(c) Meetings. The Committee shall meet no fewer than two times per year.

Section 2. This Ordinance being necessary to better serve the public and to work more effectively and efficiently with communities of interest of the Metro Area to implement and provide performance oversight of the Natural Areas Program, an emergency is declared to exist, and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this _____ day of _____ 2007.

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. 07-1155, AMENDING METRO
CODE CHAPTER 2.19 TO ESTABLISH THE NATURAL AREAS PROGRAM
PERFORMANCE OVERSIGHT COMMITTEE, AND DECLARING AN
EMERGENCY

Date: May 24, 2007

Prepared by: Office of Metro Attorney and
Jim Desmond, Parks & Greenspaces

BACKGROUND

The Natural Areas Bond Measure included a provision for the establishment of a citizen oversight committee in order to review and suggest improvements to the administration and implementation of the Natural Areas Program. The purpose of the committee is to provide the Metro Council and the citizens of the region an outside third party review that will help Metro achieve the best results for clean water, fish and wildlife, and future generations. This ordinance establishes the committee, terms of service for the chair and its members, and provides greater detail about the charge of the committee.

ANALYSIS/INFORMATION

1. Known Opposition: None.

2. Legal Antecedents:

Metro 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", approved March 9, 2006.

Metro Code Chapter 2.19, "Metro Advisory Committees," providing generally applicable rules for the creation of committees providing advice to the Metro Council and appointment of members to such committees.

This Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

3. Anticipated Effects:

By approving Ordinance No. 07-1155, the Metro Council will meet the requirements of the Natural Areas Bond Measure as directed by the region's voters in November 2006. The expertise of the Committee will help ensure that the funds voters have authorized provide the greatest possible benefit to the region. This Committee is required by the Bond Measure and will be most effective if it begins work immediately, and for that reason an emergency is declared to exist and this Ordinance will become effective immediately upon adoption.

4. Budget Impacts:

Budget impacts should be limited to staffing of the committee meetings (estimated to be held 2-4 times annually) and producing annual reports for the purpose of the committee's review. Metro Parks and Greenspaces staff will assist the Committee on administrative and technical matters as needed. The Committee will report to the Metro Council on a regular basis, appearing at regular Metro Council meetings no less than once per year.

5. Outstanding Questions: None.

RECOMMENDED ACTION

Staff recommends adoption of Ordinance No. 07-1155

BEFORE THE METRO COUNCIL

APPROVING SECOND ROUND FUNDING) RESOLUTION NO. 07-3816
FOR NATURE IN NEIGHBORHOODS)
GRANTS) Introduced by: Michael Jordan, Chief
Operating Officer, with the concurrence
of David Bragdon, Council President

WHEREAS, Metro has established a regional fish and wildlife protection, restoration and greenspaces initiative named "Nature in Neighborhoods", as provided in Resolution No. 05-3574A, "Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative called Nature in Neighborhoods" adopted May 12, 2005; and

WHEREAS, Metro has established a grants program funded by \$1,250,000 of the Recovery Rate Stabilization Reserve fund, as provided in Resolution No. 05-3580A, "Transferring \$1,250,000 From the Balance of the FY 2004-05 Recovery Rate Stabilization Reserve to a General Fund Reserve for Nature in Neighborhoods Restoration Projects" adopted June 9, 2005; and

WHEREAS, Metro has solicited and received applications for this grants program and selected the projects which best meet the criteria for the grants program and the Nature in Neighborhoods initiative; and

WHEREAS, fish and wildlife habitat depends on healthy functioning watershed that follow the natural contours of the landscape, while political and organizational boundaries frequently split watersheds and divide the natural landscapes; and

WHEREAS, by protecting natural areas from illegal dumping and restoring and enhancing our natural areas, that is, by protecting nature in neighborhoods, the region can thereby enjoy the benefits of nature in neighborhoods for years to come, protecting our region's clean water and the health and vitality of our watersheds; and

WHEREAS, illegal dumping frequently occurs in natural areas near or in streams and rivers, posing a particular threat to our region's clean water, to the health of our watersheds, and to healthy functioning fish and wildlife habitat; and

WHEREAS, it will take concerted and sustained efforts to restore and protect the region's wildlife habitat areas and this challenge provides new and unique opportunities for the solid waste community, habitat restoration organizations, education community, building trades firms and organizations, industry groups, environmental groups, business people and property owners to create new partnerships to protect and restore the region's natural areas; and

WHEREAS, attached as Exhibit A to this resolution is the listing of grant award recipients and respective funding amounts and as Exhibit B an example of the individual contract agreement; now therefore,

BE IT RESOLVED that the Metro Council hereby approves the second round funding for the Nature in Neighborhoods grants to those recipients listed in Exhibit A and for the amounts listed for each individual award.

ADOPTED by the Metro Council this _____ day of _____, 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

PLACEHOLDER FOR
EXHIBIT A

RESOLUTION NO. 07-3816

LISTING OF GRANT AWARD
RECIPIENTS & FUNDING AMOUNTS

EXHIBIT B TO RESOLUTION 07-3816

Metro Contract No:

NATURE IN NEIGHBORHOODS GRANT CONTRACT

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland, Oregon 97232-2736, and NAME, whose address is ADDRESS, Portland, Oregon 972--, hereinafter referred to as the "Contractor."

Metro has established the Nature in Neighborhoods grant program with the purpose of funding community projects throughout the metropolitan region. Notwithstanding any statements or inferences to the contrary, Metro neither intends nor accepts any (1) direct involvement in these projects; (2) sponsorship benefits or supervisory responsibility with respect to the events or services funded; or (3) ownership or responsibility for care and custody of the tangible products which result from the projects.

THE PARTIES AGREE AS FOLLOWS:

**ARTICLE I
SCOPE OF WORK**

Contractor shall perform all activities described in the Scope of Work attached hereto as Attachment "A" (the "Work").

**ARTICLE II
TERM OF CONTRACT**

The term of this Contract shall be for a period commencing upon contract execution through and including xxxxx.

**ARTICLE III
CONTRACT SUM AND TERMS OF PAYMENT**

Metro shall compensate the Contractor for performance of the Work as described in Attachment "A." Metro shall not be responsible for payment of any materials, expenses or costs other than those that are specifically described in Attachment "A."

ARTICLE IV LIABILITY AND INDEMNITY

Contractor is an independent contractor and assumes full responsibility for the performance of the Work and the content of its work and performance of Contractor's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract. Contractor shall indemnify and hold harmless Metro and Metro's agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorneys' fees, arising out of or in any way connected with Contractor's performance of this Contract. Contractor is solely responsible for paying Contractor's subcontractors. Nothing in this Contract shall create any contractual relationship between any subcontractor and Metro.

ARTICLE V TERMINATION

Metro may terminate this Contract upon giving Contractor seven (7) days written notice. In the event of termination, Contractor shall be entitled to payment for work performed prior to the date of termination. Metro shall not be liable for indirect or consequential damages. Termination by Metro will not waive any claim or remedies it may have against the Contractor.

ARTICLE VI INSURANCE

Contractor shall purchase and maintain at Contractor's expense, the following types of insurance covering the Contractor, its employees and agents.

A. Commercial general liability insurance covering personal injury, property damage, and bodily injury with automatic coverage for premises and operation and product liability shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage. **Metro, its elected officials, departments, employees and agents shall be named as an ADDITIONAL INSURED.**

B. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per occurrence. **METRO, its elected officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED.** Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

This insurance as well as all workers' compensation coverage for compliance with ORS 656.017 must cover Contractor's operations under this Contract, whether such operations are by Contractor, by any subcontractor, or by anyone directly or indirectly employed by Contractor or any subcontractor.

Contractor shall provide METRO with a certificate of insurance complying with this article and naming METRO as an additional insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

In lieu of the above, Metro will accept evidence of a self-insurance program. Contractor shall name METRO as an additional insured within (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

Contractor shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving Contractor of this requirement is contained in the Scope of Work.

ARTICLE VII PUBLIC CONTRACTS

[Contractor shall comply with all applicable provisions of ORS Chapters 187, 279A, 279B and 279C. All conditions and terms required to be inserted into public contracts in the state of Oregon pursuant to any provisions of ORS Chapters 279A, 279B and 279C are hereby inserted by reference into this Contract and made requirements of this Contract as if such provisions were separately enumerated herein.

In particular, for public works subject to ORS 279C.800 to 279C.870, Contractor and every subcontractor shall comply with ORS 279C.836 by filing a public works bond with the Construction Contractors Board before starting work on the project, unless exempt under that statute.

ARTICLE VIII ATTORNEY'S FEES

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and court costs, including fees and costs on appeal to any appellate courts.

**ARTICLE IX
SUBCONTRACTORS**

Contractor shall contact Metro prior to negotiating any subcontracts and Contractor shall obtain approval from Metro before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract. Metro reserves the right to reasonably reject any subcontractor or supplier and no increase in the Contractor's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this Contract. Contractor shall be fully responsible for all of its subcontractors as provided in Article IV.

**ARTICLE X
RIGHT TO WITHHOLD PAYMENTS**

Metro shall have the right to withhold from payments due Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from Contractor's performance or failure to perform under this Contract or the failure of Contractor to make proper payment to any suppliers or subcontractors. If a liquidated damages provision is contained in the Scope of Work and if Contractor has, in Metro's opinion, violated that provision, Metro shall have the right to withhold from payments due Contractor such sums as shall satisfy that provision. All sums withheld by Metro under this Article shall become the property of Metro and Contractor shall have no right to such sums to the extent that Contractor has breached this Contract.

**ARTICLE XI
SAFETY**

If services of any nature are to be performed pursuant to this Contract, Contractor shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provision of federal, state and local safety laws and building codes, including the acquisition of any required permits.

**ARTICLE XII
INTEGRATION OF CONTRACT DOCUMENTS**

All of the provisions of any proposal documents including, but not limited to, Requests for Proposals, Proposals and Scopes of Work that were utilized in conjunction with the award of this Contract are hereby expressly incorporated herein by reference. Otherwise, this Contract represents the entire and integrated agreement between Metro and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both Metro and Contractor. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

**ARTICLE XIII
ASSIGNMENT**

Contractor shall not assign any rights or obligations under or arising from this Contract without prior written consent from Metro.

NAME

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3816, APPROVING SECOND ROUND FUNDING FOR NATURE IN NEIGHBORHOODS GRANTS

Date: May 24, 2007

Prepared by: Janelle Geddes

BACKGROUND

On June 9, 2005, Council adopted Resolution 05-3580A, "Transferring \$1,250,000 From the Balance of the FY 2004-05 Recovery Rate Stabilization Reserve to a General Fund Reserve for Nature in Neighborhoods Restoration Projects." Of the monies transferred, \$1,000,000 was provided for a two-year grants program for use in restoration projects. In May 2006, Metro Council awarded \$560,000 in the first round of funding to projects throughout the Region.

The second round of funding was announced in the fall of 2006 and pre-applications were received. Of these proposals, 32 were invited to participate in the final grant application process.

In April 2007, 30 final applications were received by the Nature in Neighborhoods team. An interdisciplinary, interdepartmental team of 9 individuals reviewed these applications and recommended those projects which best met the criteria and intent of the Nature in Neighborhoods grant program.

Of the 30 final grant applications received, 21 are recommended for either full or partial funding. The projects recommended for funding best met the criteria for funding and are located throughout the region. The recommended projects represent innovative partnerships, the education community, the solid waste community, groups, organizations and individuals doing on-the-ground restoration work, hands-on education and curriculum development and community/partnership building.

The total for the second round of funding is \$420,682.55. It is anticipated that projects will begin after July 1, 2007. Projects are from one to three years in length.

ANALYSIS/INFORMATION

1. **Known Opposition:**

None.

2. **Legal Antecedents:**

- Resolution 05-3551, "For the Purpose of Designating Council Projects and Assigning Lead Councilors and Council Liaisons," adopted March 3, 2005
- Resolution 05-3574A, "Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative called Nature in Neighborhoods, adopted May 12, 2005"
- Resolution 05-3580A, "Transferring \$1,250,000 From the Balance of the FY 2004-05 Recovery Rate Stabilization Reserve to a General Fund Reserve for Nature in Neighborhoods Restoration Projects," adopted June 9, 2005

3. **Anticipated Effects:** This Resolution approves the second round funding and award for Nature in Neighborhoods grants and begins the individual contract award process for the selected grant applicants with an anticipated start project date of July 1, 2007. Projects are from one to three years in length.
4. **Budget Impacts:** A total of \$1,000,000 was approved in 2005. Metro Council awarded \$560,000 in May 2006 in the first round of grant awards. The balance is included in the approved FY 2007-08 budget.

RECOMMENDED ACTION

Staff recommends adoption of Resolution No. 07-3816.

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ACQUIRE PROPERTIES IN THE JOHNSON CREEK AND EAST BUTTES TARGET AREAS UNDER THE 2006 NATURAL AREAS BOND MEASURE AND TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF GRESHAM REGARDING THE CITY'S FINANCIAL CONTRIBUTION TOWARD THE PURCHASE PRICE OF ONE OF THE ACQUIRED PROPERTIES

RESOLUTION NO. 07-3812

Introduced by Chief Operating Officer Michael J. Jordan, with the concurrence 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, the voters approved the 2006 Natural Areas Bond Measure at the general election held on November 7, 2006; and

WHEREAS, as provided in the Measure, Metro is currently undertaking a public refinement process to establish specific acquisition strategies, goals and objectives, and confidential tax-lot specific acquisition target maps, for each of the 27 target areas; and

WHEREAS, in advance of completing the refinement process, Metro staff has identified opportunities to purchase specific properties in the 2006 Natural Areas Bond Measure East Buttes and Johnson Creek Target Areas, which properties are identified and further described in Exhibit A; and

WHEREAS, all terms of the transactions contemplated herein shall comply with the 2006 Natural Areas Acquisition Parameters and Due Diligence Guidelines, set forth in Metro Council Resolution No. 07-3766A "Authorizing the Chief Operating Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan," adopted on March 1, 2007; and

WHEREAS, the City of Gresham has agreed to enter into an intergovernmental agreement with Metro providing for the City to contribute funds toward the purchase of one of the properties in the East Buttes Target Area, a copy of which agreement is attached hereto as Exhibit B; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to:

1. Acquire the properties identified in Exhibit A, in accord with the Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan; and
2. Enter into an intergovernmental agreement with the City of Gresham substantially similar to the agreement attached hereto as Exhibit B.

ADOPTED by the Metro Council this _____ day of _____ 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

PLACEHOLDER FOR
EXHIBIT A

RESOLUTION NO. 07-3812

PROPERTY DESCRIPTIONS

EXHIBIT B
RESOLUTION NO. 07-3812

INTERGOVERNMENTAL AGREEMENT

Regarding the Darby Ridge Property

This Intergovernmental Agreement (“IGA”), effective on the date it is fully executed (the “Effective Date”), is by and between Metro, a metropolitan service district and municipal corporation organized under the laws of the state of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland, Oregon, 97232-2736 (“Metro”), and the City of Gresham, a municipal corporation, located at 1333 NW Eastman Parkway, Gresham, Oregon 97030-3813 (“the City”).

RECITALS

WHEREAS, Wellner Morey-Gresham I, LLC, (“Seller”) is acquiring approximately 37 acres of real property known as the Darby Ridge Property (the “Property”), located on Southwest Gabbert Road in Gresham, Oregon, commonly known as Tax Lot 100, Section 21A, Township 1 South, Range 3 East, and more particularly described in Exhibit A attached hereto and incorporated herein;

WHEREAS, the Property is within the East Buttes regional target area, as identified in the Open Spaces, Parks and Streams 1995 Ballot Measure 26-26, approved by the voters in 1995 and the property has been identified as an acquisition priority in the Metro Open Space Acquisition Program Refinement Plan for East Buttes, approved by the Metro Council by its adoption of Resolution No. 96-2361 on July 25, 1996;

WHEREAS, the voters of the Metro region approved Ballot Measure 26-80 on November 7, 2006, authorizing Metro to issue \$227.4 million in bonds to preserve natural areas, clean water, and protect fish and wildlife (the “2006 Metro Natural Areas Acquisition Measure”);

WHEREAS, as provided in the 2006 Metro Natural Areas Acquisition Measure, a portion of the proceeds from the 2006 Natural Areas Acquisition Measure will be provided to the City of Gresham to fund natural areas property acquisition and capital improvements that are priorities for the City (the “Gresham Local Share Funds”);

WHEREAS, the Property is within the East Buttes regional target area, as identified in the 2006 Natural Areas Acquisition Measure;

WHEREAS, on March 1, 2007, the Metro Council adopted Resolution No. 07-3766A to approve the *Acquisition Parameters* and *Due Diligence Guidelines* that establish the rules with which Metro staff must comply in order to acquire property using 2006 Natural Areas Acquisition Measure funds;

WHEREAS, Seller wishes to sell the Property to Metro and the City for THREE MILLION SIX HUNDRED THOUSAND DOLLARS (\$3,600,000);

WHEREAS, Metro and the City wish to acquire the Property to preserve it as a natural area in accordance with the 2006 Natural Areas Acquisition Measure;

WHEREAS, Metro has entered into an Agreement of Purchase and Sale with Seller, effective March 13, 2007, for the purchase of the Property, contingent on the approval of this IGA by the City (the "Purchase and Sale Agreement");

WHEREAS, the Purchase and Sale Agreement provides for closing on the sale of the Property to occur on or before June 15, 2007 ("Closing" or "Closing Date");

WHEREAS, the City will contribute a total of NINE HUNDRED THOUSAND DOLLARS (\$900,000.00) toward the purchase price of the Property, as described herein, and Metro will provide the balance of the purchase price; and

WHEREAS, Metro and the City wish to enter into this IGA to provide for the responsibilities and obligations of the parties with respect to the acquisition, allowable uses, and operation of the Property;

NOW, THEREFORE, the parties agree as follows:

Acquisition

1. At Closing, Metro shall pay THREE MILLION SIX HUNDRED THOUSAND DOLLARS (\$3,600,000.00), the total purchase price for the Property, from the following funds:
 - a. THREE MILLION TWO HUNDRED THOUSAND DOLLARS (\$3,200,000.00) shall come from regional 2006 Metro Natural Areas Acquisition Measure funds; and
 - b. FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) shall come from the Gresham Local Share Funds.
2. The City's total payments toward the purchase of the Property shall be NINE HUNDRED THOUSAND DOLLARS (\$900,000.00), payable as follows:
 - a. FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) shall come from the Gresham Local Share Funds, as described in Paragraph 1 .b, above; and
 - b. Not later than five years following the Closing Date, the City shall pay to Metro the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) (the "Additional City Payments") The Additional City Payments may be made at any time the City

chooses; provided, however, that the City shall make payment(s) totaling not less than FIFTY THOUSAND DOLLARS (\$50,000.00) in each fiscal year (July 1 through June 30 of the following year), with the first such payment due sometime in the 2007-2008 fiscal year.

3. Not later than ten days after Closing, in consideration of the payment described in Paragraph 2.a of this IGA, Metro shall convey to the City by statutory warranty deed an undivided 11.11% interest in the Property as a tenant in common.
4. Not later than ten days after the City has made all payments described in Paragraph 2.b of this IGA, Metro shall convey to the City by statutory warranty deed an additional undivided 13.89% interest in the Property as a tenant in common, at which point the City's total undivided interest in the Property as a tenant in common shall be 25% and Metro's total undivided interest in the Property as a tenant in common shall be 75%.
5. The deeds for the Property shall be subject to all the provisions of this IGA and to all existing covenants and restrictions that encumber the Property.

Management, Maintenance, and Operation

6. Metro shall be responsible for the ongoing management, maintenance, and operation of the Property until such time as Metro and the City enter into a separate intergovernmental agreement regarding management of the Property. Prior to entering into such separate management intergovernmental agreement, Metro will manage, maintain and operate the Property consistent with Metro's Greenspaces Master Plan and in accordance with its intended use as a natural area open space and not inconsistent with future potential passive recreational use on the Property.
7. City employees, volunteers, contractors and agents may enter the Property at any time without notification to Metro for the purpose of undertaking activities related to the future management, maintenance and operation of the Property. The Property shall not be posted, nor otherwise made available, for general public access until the management plan is completed and adopted by Metro and the City.
8. The City shall not adopt any comprehensive plan amendment relating to the management, maintenance or operation of the Property without providing Metro with written notice not less than 45 days in advance of such adoption. Such notice shall be addressed to the Director of the Metro Parks and Greenspaces Department, 600 NE Grand Avenue, Portland, Oregon 97232.
9. The Property shall not be subdivided or partitioned, nor shall any development rights, timber rights, mineral rights, or other rights related to the Property be sold or otherwise granted, nor shall there be any alteration of any water or timber resource, except as necessary for construction of a trail or other improvements approved in advance by Metro.

10. If the Property is ever sold, acquired by eminent domain, or otherwise liquidated:
 - a. Prior to the City making all payments described in Paragraph 1 .b of this IGA, then the City shall be entitled to 11.11% of the proceeds from such sale, condemnation or liquidation and Metro shall be entitled to 88.9% of such proceeds;
 - b. After the City has made all payments described in Paragraph 1 .b of this IGA, then the City shall be entitled to 25% of the proceeds from such sale, condemnation or liquidation and Metro shall be entitled to 75% of such proceeds; and
 - c. The Parties shall obtain an appraisal of the fair market value of the Property, and shall direct funds equal to the greater amount of the sales price for the Property or that fair market value to purchase other property for use as public natural areas.

General Provisions

11. Indemnification. The City, to the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30, shall defend, indemnify and save harmless Metro and Metro's officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, arising out of or relating to the City's performance of this IGA or access to the Property by City employees or agents. Metro, to the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30, shall defend, indemnify and save harmless the City and the City's officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, arising out of or relating to the Metro's performance of this IGA or access to the Property by Metro employees or agents.
12. Oregon Constitution and Tax Exempt Bond Covenants. The source of funds for the acquisition of this Property is from the sale of voter-approved general obligation bonds that are to be paid from ad valorem property taxes exempt from the limitations of Article XI, section 11(b), 11(c), 11(d) and 11(e) of the Oregon Constitution, and the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The City covenants that it will take no actions that would cause Metro to be unable to maintain the current status of the real property taxes as exempt from Oregon's constitutional limitations or the income tax exempt status of the bond interest. In the event the City breaches this covenant, Metro shall be entitled to whatever remedies are available to either cure the default or to compensate Metro for any loss it may suffer as a result thereof.

13. **Funding Declaration.** Metro and the City shall document on-site and in any publication, media presentation or other presentations providing information about the Property, that funding for the acquisition came from the 2006 Metro Natural Areas Acquisition Measure bond proceeds, with regional and local share contributions by Metro and the City. On-site signage that provides recognition of Metro funding shall be subject to prior review and comment by Metro. All signage shall be consistent with Metro guidelines for Natural Areas Projects.
14. **Joint Termination for Convenience.** Metro and the City may by mutual agreement terminate all or part of this IGA based upon a mutual determination that such action is in the public interest.
15. **Documents are Public Property.** All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs, or models which are prepared or developed in connection with the acquisition, management, maintenance or operation of the Property shall become public property. Nothing in this section or in any other part of this IGA shall be construed as limiting Metro's or the City's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).
16. **Law of Oregon.** The laws of the state of Oregon shall govern this IGA, and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279, 279A, 279B and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this IGA including but not limited to ORS 279B.220 through 279B.235. Specifically, it is a condition of this Agreement that the parties are subject employers that will comply with ORS 656.017.
17. **Assignment.** The City may not assign any of its rights or responsibilities under this IGA without prior written consent from Metro, except the City may delegate or subcontract for performance of any of its responsibilities under this IGA.
18. **Severability.** If any covenant or provision in this IGA shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this IGA.
19. **Entire Agreement.** This IGA constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or representations relating to this Property. No waiver, consent, modification or change of terms of this IGA shall bind either party unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth below.

CITY OF GRESHAM

METRO

Print Name:

Michael Jordan

Title: _____

Chief Operating Officer

Date: _____

Date: _____

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3812, AUTHORIZING THE CHIEF OPERATING OFFICER TO ACQUIRE PROPERTIES IN THE JOHNSON CREEK AND EAST BUTTES TARGET AREAS UNDER THE 2006 NATURAL AREAS BOND MEASURE AND TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF GRESHAM REGARDING THE CITY'S FINANCIAL CONTRIBUTION TOWARD THE PURCHASE PRICE OF ONE OF THE ACQUIRED PROPERTIES.

Date: May 24, 2007

Prepared by: Kathleen Brennan Hunter

BACKGROUND

Resolution No. 07-3812 requests authorization for Metro to purchase property in the East Buttes Target Area and Johnson Creek Target Area as described in the resolution's Exhibit A. This resolution proposes authorization for the purchase of the properties subject to the terms of a Purchase and Sale Agreement executed between Metro and the Seller. Authorization from Council is needed because Metro Council has not yet approved an acquisition refinement plan for the East Buttes Target Area or the Johnson Creek Target Area under the 2006 Natural Areas Bond Measure.

Metro Council has directed staff to bring forward for consideration for purchase any high quality sites that are available now, under some threat of being lost if not acted upon at this time, and highly likely to be recommended by key stakeholders and staff as priority sites for acquisition when the refinement plan for their respective target areas are brought forward.

EAST BUTTES TARGET AREA

As stated in the 2006 Natural Areas bond description of the East Buttes Target Area, as adopted by Metro Council,

The remaining undeveloped wooded slopes of extinct lava domes in our eastern metropolitan region provide opportunities to protect water quality and large areas for wildlife habitat and wildlife corridors from the outer reaches of the Cascades to the inner Portland urban area such as Scouter Mountain and buttes in the Damascus area. Panoramic vistas east and south from the butte tops provide stunning views of valleys, farmland and the Cascades. The forested buttes frame the valleys, create a unique geography for local residents and provide welcome visual relief from surrounding land uses. Expansion of the urban growth boundary in and around Damascus presents a sense of urgency to preserve these features.

Hogan Butte – Hogan Creek Headwaters

Staff has secured an opportunity to protect over 93 acres of forested butte in this target area. Purchase of this property advances the vision, initiated with the 1995 bond measure, to link

wildlife habitat from Gresham to the Clackamas River. Acquisition of these ridgetops protects a vital scenic resource and provides visual relief to urban neighborhoods.

The property consists of two separate parcels. The larger parcel, a contiguous 84 acres is located just west of Hogan Road and south of Butler Road on the Southern boundary of Gresham before Damascus on a hillside offering panoramic views. The other 8-acre parcel is located northwest of Butler Road, surrounded by properties previously purchased and protected by Metro and the City of Gresham.

The second growth hillsides, comprising most of the property provide much-needed canopy for drainages that feed into the upper reaches of Johnson Creek. The properties also host various ground species and migratory birds. Both parcels are highly visible ridgelines and butte tops, the development of which would have a significant impact on water quality, wildlife corridor protection and visual aesthetics. The larger parcel includes one single-family residence that will be retained in the near term.

Development that would significantly impact the wildlife habitat and natural resources threaten both parcels. The larger parcel is in the final stages of permitting and building approvals from the city of Gresham, as the final phase of the Persimmon development. If this offer is not acted upon, the developer will proceed with development. There is a common principal for each of the entities that are the sellers of the two parcels and that principal and its related entities have been the developer of the adjacent Persimmon residential and golf development. The seller of both parcels is the developer of the adjacent Persimmon residential and golf development. The developer is offering these sites to Metro on a very limited time basis at a price that staff believes will prove to be far below their appraised market value. Thus this purchase will likely include a significant land donation. As such, this opportunity is a significant one.

The city of Gresham strongly supports this purchase and has agreed to assume management of both parcels.

Darby Ridge

Over the past several years, Metro has assembled a broad, forested corridor of natural area within the East Buttes/Boring Lava Domes Target Area to protect a viable wildlife habitat area as a buffer against urban encroachment. To date, Metro has acquired approximately 439 acres of some of the most valuable property in the region, both from a natural area and development perspective. However, Metro's 439 acres currently do not comprise a completely viable wildlife habitat corridor because a few key, privately-owned parcels interrupt Metro's and the City of Gresham's ownership. If developed, these parcels would become obstacles within the natural area corridor and prevent Metro and the City of Gresham from achieving a contiguous intact habitat corridor. Consequently, Metro had identified these parcels, located between Gresham Butte and Borges Road, as Tier I acquisitions in the 1995 bond measure.

Within this area, Metro staff identified an opportunity to acquire a 37-acre property located north of Butler Road and west of SE Regner Road within the City of Gresham in an area commonly referred to as Gresham Butte ("Darby Ridge"). Directly adjacent to the west of the Property is natural area previously acquired by Metro, and adjacent to the south and northeast of the Property is natural area owned by the city of Gresham. The Property was identified as a "Tier I"

acquisition priority in the 1995 Open Spaces Bond Measure refinement plan for the East Buttes/Boring Lava Domes Target Area.

A developer has optioned the property, and if Metro and the City of Gresham do not acquire this property from the developer, it is likely to be developed with up to 76 single-family homes. The acquisition fills existing critical gaps between public ownership, and the purchase of this site would connect three parcels owned by the city of Gresham and Metro.

The City of Gresham will commit to pay \$900,000—or 25% of the total purchase price of the property (\$400,000 at the time of purchase and the balance over the course of the next five years), as described in the intergovernmental agreement attached as Exhibit B to this resolution. The City of Gresham strongly supports this purchase and has agreed to work on an additional intergovernmental agreement providing for the City to assume management of the site.

JOHNSON CREEK TARGET AREA

Ambleside / Allesina Property

Staff has identified an opportunity to acquire a 1-acre in-holding within Metro property acquired under the 1995 Bond Measure known as “Ambleside” or Hogan Cedars. The existing Metro natural area is over 40 acres, is contiguous with Johnson Creek and the Springwater Corridor Trail, and contains the only known remaining native grove of Hogan Cedars in the Gresham area. Through partnerships with the Johnson Creek Watershed Council, SOLV, the Gresham Buttes Neighborhood Association, and Oregon Watershed Enhancement Board, Metro has built strong community partnerships for the protection and restoration of this unique site. The property now available was previously considered part of the East Buttes Target Area, and is now within the Johnson Creek Target Area.

This 1-acre inholding (“Allesina property”) is one of the last impediments to managing the site uniformly and effectively for public use. The property includes a house, which will be retained in the near term and leased. The Allesina property is on the essential property list for acquisition in the previous Bond Measure under the East Buttes Target Area and it is anticipated that closing gaps such as these will be prioritized in all Target Area Refinement Plans under the 2006 Natural Areas bond measure. Staff recommends acquisition of the Allesina property as a priority for both the East Buttes and Johnson Creek regional target areas.

ANALYSIS/INFORMATION

1. Known Opposition

None.

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.

The voters' approval of Metro's 2006 Natural Areas Bond Measure at the general election held on November 6, 2006.

Resolution No. 07-3766A "Authorizing the Chief Operating Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan," adopted by the Metro Council on March 1, 2007, established the Acquisition Parameters and Due Diligence Guidelines for the purchase of properties as part of the 2006 Natural Areas Bond Program.

This Resolution No. 07-3812 proposes to authorize the purchase of the Property subject to the terms of Purchase and Sale Agreements executed by the Property owners and Metro.

This authorization assumes that the purchase will meet the terms of the Acquisition Parameters and Due Diligence Guidelines of the 2006 Natural Areas Implementation Work Plan on matters such as appraisal review, environmental audit and title matters. This authorization does not cover any "unusual circumstances" and to the extent any "unusual circumstances" arise during Metro's due diligence process, further Council review and authorization will be required.

3. Anticipated Effects

Assuming that no unusual circumstances arise, Metro will close on the purchase of these properties and will own two of them outright, while the third will ultimately be owned 75% by Metro and 25% by the City of Gresham, as described above. Metro will manage the Ambleside property, while Metro and the City of Gresham have committed to negotiate an intergovernmental agreement to provide for the City to manage the Darby Ridge property. Management of the Hogan Butte parcels may also be negotiated with the City of Gresham.

Acquisition and ownership of the two parcels along Hogan Butte would protect important headwaters sites as well as a significant habitat and visual amenities.

Acquisition of the Darby Ridge property would help complete an important wildlife habitat corridor of natural area in the East Buttes Target Area where prior significant public investment has been made and would serve to buffer against urban encroachment.

Acquisition of the Ambleside / Allesina Property would complete the existing Ambleside Natural Area and facilitate more efficient and effective property management and restoration.

4. Budget Impacts

The properties are scheduled to close prior to July 31, 2007 and will be purchased utilizing 2006 Regional Bond proceeds. Landbanking and future management costs will be borne by Metro until such time as Metro and the City of Gresham enter into a separate intergovernmental agreement regarding management of the two of the properties.

RECOMMENDED ACTION

Staff recommends passage of Resolution No. 07-3812.