



**METRO**

**Agenda**

MEETING: METRO COUNCIL  
DATE: June 11, 2009  
DAY: Thursday  
TIME: 2:00 p.m.  
PLACE: Metro Council Chamber

**CALL TO ORDER AND ROLL CALL**

**1. INTRODUCTIONS**

**2. CITIZEN COMMUNICATIONS**

**3. 2009-10 SLATE OF AWARDS, NORTH PORTLAND ENHANCEMENT GRANT PROGRAM**

**4. OREGON ZOO DIRECTOR TONY VECCHIO FAREWELL**

**5. CONSENT AGENDA**

5.1 Consideration of Minutes for the June 4, 2009 Metro Council Regular Meeting.

5.2 **Resolution No. 09-4057**, Resolution of Metro Council, Acting as the Metro Contract Review Board, For the Purpose of Approving Contract Amendments for the Predators of the Serengeti and Red Ape Reserve Exhibits at the Oregon Zoo.

**6. ORDINANCES – FIRST READING**

6.1 **Ordinance No. 09-1218**, Amending the FY 2008-09 Budget and Appropriations Schedule Transferring Appropriation in the MERC Fund for Oregon Convention Center Operations and Declaring an Emergency. Park

6.2 **Ordinance No. 09-1219**, Amending the FY 2008-09 Budget and Appropriations Schedule for the Oregon Zoo by Transferring Appropriations From Contingency, Recognizing Donations and Other Contributions, Amending the Capital Improvement Plan and Declaring an Emergency. Collette

6.3 **Ordinance No. 09-1216**, For the Purpose of Amending and Re-adopting Metro Code 7.03 (Investment Policy) for Fiscal Year 2009-2010 and Declaring an Emergency. Harrington

6.4 **Ordinance No. 09-1221**, For the Purpose of Amending Metro Code Chapter 6.01. Park

**7. ORDINANCES - SECOND READING**

7.1 **Ordinance No. 09-1220**, An Ordinance Extending the Metro Construction Excise Tax and Amending Metro Code Chapter 7.04. Liberty

(PUBLIC HEARING)

7.2 **Ordinance No. 09-1215A**, Adopting the Annual Budget for Fiscal Year 2009-10, Making Appropriations, Levying Ad Valorem Taxes, and Declaring an Emergency. Bragdon

(PUBLIC HEARING)

**8. CHIEF OPERATING OFFICER COMMUNICATION**

**9. COUNCILOR COMMUNICATION**

**ADJOURN**

**10. EXECUTIVE SESSION: COO AND METRO ATTORNEY ANNUAL REVIEW**

**Television schedule for June 11, 2009 Metro Council meeting**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, Wash.</b> Channel 11 – Community Access Network <a href="http://www.tvctv.org">www.tvctv.org</a> – (503) 629-8534 2 p.m. Thursday, June 11 (Live)</p>	<p><b>Portland</b> Channel 30 (CityNet 30) – Portland Community Media <a href="http://www.pcmtv.org">www.pcmtv.org</a> – (503) 288-1515 8:30 p.m. Sunday, June 14 2 p.m. Monday, June 15</p>
<p><b>Gresham</b> Channel 30 – MCTV <a href="http://www.mctv.org">www.mctv.org</a> – (503) 491-7636 2 p.m. Monday, June 15</p>	<p><b>Washington County</b> Channel 30 – TVC-TV <a href="http://www.tvctv.org">www.tvctv.org</a> – (503) 629-8534 11 p.m. Saturday, June 13 11 p.m. Sunday, June 14 6 a.m. Tuesday, June 16 4 p.m. Wednesday, June 17</p>
<p><b>Oregon City, Gladstone</b> Channel 28 – Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> – (503) 650-0275 Call or visit website for program times.</p>	<p><b>West Linn</b> Channel 30 – Willamette Falls Television <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> – (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 in which they are listed. If you have questions about the agenda, please call the Council Office at (503) 797-1540. 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 Council Office to be included in the decision record. Documents may be submitted by e-mail, fax, mail or in person at the Council Office. For additional information about testifying before the Metro Council, and for other public comment opportunities, please go to this section of the Metro website [www.oregonmetro.gov/participate](http://www.oregonmetro.gov/participate). For assistance per the American Disabilities Act (ADA), dial Metro’s TDD line (503) 797-1804 or (503) 797-1540 for the Council Office.

Agenda Item Number 3.0

**2009-10 SLATE OF AWARDS, NORTH PORTLAND ENHANCEMENT  
GRANT PROGRAM**

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

Agenda Item Number 4.0

**OREGON ZOO DIRECTOR TONY VECCHIO FAREWELL**

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

Agenda Item Number 5.1

**Consideration of Minutes for the June 4, 2009 Metro Council Regular Meeting.**

*Consent Agenda*

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

Agenda Item Number 5.2

**Resolution No. 09-4057**, Resolution of Metro Council, Acting as the Metro Contract Review Board, For the Purpose of Approving Contract Amendments for the Predators of the Serengeti and Red Ape Reserve Exhibits at the Oregon Zoo.

*Consent Agenda*

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

RESOLUTION OF METRO COUNCIL, ACTING )  
AS THE METRO CONTRACT REVIEW BOARD, )  
FOR THE PURPOSE OF APPROVING )  
CONTRACT AMENDMENTS FOR THE  
PREDATORS OF THE SERENGETI AND RED  
APE RESERVE EXHIBITS AT THE OREGON  
ZOO

RESOLUTION NO. 09-4057

Introduced by Chief Operating Officer  
Michael Jordan with the concurrence of  
Council President David Bragdon.

WHEREAS, pursuant to ORS 279A.060 and Metro Code 2.04.058 the Metro Council is designated as the Public Contract Review Board for the agency; and

WHEREAS, Metro Code 2.04.058 requires Council approval for contract amendments that exceed five percent of the initial contract value or \$25,000; and

WHEREAS, The Oregon Zoo has determined that the additional work in these change orders is necessary and appropriate, and is within the contingency budget for the project; and

WHEREAS, under the direction of the Zoo Construction Manager, 2KG Contractors, Inc. is constructing the Predators of the Serengeti and Red Ape Reserve exhibits in accordance with the project specifications and schedule; and

WHEREAS, the original contract was awarded as a result of an open competitive bid process with 2KG Contractors, Inc. being deemed the lowest responsive and responsible bidder; and

WHEREAS, the current contract amount is \$\$5,715,185 and the proposed contract amendments total \$146,114. The additional work has been reviewed by the Zoo Construction Manager and the project architect and has been approved as necessary and appropriately priced; and

WHEREAS, the additional work in change order two is unforeseen and not part of the original contract. The additional work elements include rerouting of sprinkler line, moving sewer line, and electrical fan wiring and total \$43,015; and

WHEREAS, the work covered in change order three in the amount of \$103,099 is for work that the Oregon Zoo originally planned to contract directly for. However, due to the timing of the work and the necessary coordination with the prime contractor, it is believed that incorporating the hydraulic system for the shift doors into the 2KG contract is more cost effective and efficient; and

WHEREAS, the Metro Procurement Officer believes that the amending the existing contract with 2KG Contractors, Inc. is appropriate and that such action is in the best interests of Metro and will better ensure a timely project delivery for these exhibits; and

WHEREAS, the total dollar increase of change orders on this project is less than four percent of the original contract value, which represents an acceptable industry range for complex construction projects; and

BE IT RESOLVED that the Metro Council acting as the Public Contract Review Board authorizes the Procurement Officer to execute contract amendments in the amount of \$43,015 and \$103,099 with 2KG Contractors, Inc. for the Predators of the Serengeti and Red Ape Reserve project.

ADOPTED by the Metro Council Contract Review Board this \_\_\_\_ day of June, 2009.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney



## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 09-4057, RESOLUTION OF METRO COUNCIL, ACTING AS THE METRO CONTRACT REVIEW BOARD, FOR THE PURPOSE OF APPROVING A CONTRACT AMENDMENT FOR THE PREDATORS OF THE SERENGETI AND RED APE RESERVE EXHIBITS AT THE OREGON ZOO

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Date: June 2, 2009

Prepared by:

Darin Matthews, 503 797-1626  
Steve Chaney, 503 525-4297

### **BACKGROUND**

An open, competitive Request for Bid (RFB) was issued for the Predators of the Serengeti and Red Ape Reserve projects in 2008. In accordance with Metro Code, the lowest responsive, responsible bidder was selected, which was 2KG Contractors, Inc.

The project specifications and design drawings were prepared by Peck Smiley Ettlin Architects and adequately represented the scope of the project.

This contract was awarded on July 2, 2008 in the amount of \$5,659,300 and work began on July 25, 2008. The zoo Construction and Maintenance Manager reports that these projects have progressed as planned and that 2KG Contractors, Inc. has provided construction services in accordance with the contract.

In February 2009 the Metro Council approved change order #1 in the amount \$55,885. This represented additional work with excavation, slab demolition, and yard footings.

During the course of construction these past several months, a number of unforeseen issues have come up. These include the rerouting of a sprinkler line, moving an existing sewer line, additional wiring for electrical fans, additional steel wall bracing, and additional roof framing. These items are combined into change order #2 and total \$43,015.

The Zoo Construction and Maintenance Manager reviewed these additional items and agreed the work is necessary and can be paid within the existing project budgets. The consulting architect for the projects also reviewed the requests and verified that the work is outside of the existing contract scope and reasonably priced, which the Metro Procurement Officer concurs with.

The Oregon Zoo and Metro Procurement Office had originally planned to contract separately for the installation of hydraulic system controls for the exhibit shift doors. However, in order to stay on schedule and better coordinate the hydraulic work with the ongoing construction, it is believed that incorporating this work into the prime contract with 2KG is more practical. Metro had issued a Request for Bid (RFB) for this work and subsequently canceled that solicitation. The hydraulic work can be included in the prime contract for the amount of \$103,099. This is less than the engineer's estimate as well as the bid amounts received in the RFB process.

The total for change orders #2 and #3 is \$146,114. Combined with change order #1, the contract amount has increased by less than four percent. This is lower than industry standard for complex construction work in the public sector and we believe represents effective cost control and project management. While

Metro's procurement rules limit construction change orders to five percent, the Oregon Attorney General's Model Rules set this amount at 20 percent.

Metro Code 2.04.058, Public Contract Amendments, requires Metro Council approval of contract amendment or change orders that exceed \$25,000 or five percent of the original contract value. The Metro Procurement Officer has deemed this amendment to be appropriate and reasonably related to the original scope of work, and therefore, believes the amendment is in Metro's best interest to approve.

The Zoo will continue to manage and administer this contract to ensure these exhibits are constructed in accordance with the contract, including all plans and specifications. The Predators of the Serengeti and Red Ape Reserve exhibits are scheduled to open in summer 2009 and fall 2009, respectively.

#### **ANALYSIS/INFORMATION**

1. **Known Opposition:** None known.
2. **Legal Antecedents:** Metro Code 2.04.058, ORS Chapter 279C.
3. **Anticipated Effects:** Construction will continue on the new exhibits under the direction of Zoo Construction and Maintenance Manager and in accordance with schedules.
4. **Budget Impacts:** These change orders fall within budgeted contingency amounts. Total contract amount for 2KG Contractors will be \$5,861,299.

#### **RECOMMENDED ACTION**

Metro Council, acting as Public Contract Review Board, approves the attached contract amendment representing change orders #2 and #3 with 2KG Contractors, Inc.

Agenda Item Number 6.1

**Ordinance No. 09-1218**, Amending the FY 2008-09 Budget and Appropriations Schedule Transferring Appropriation in the MERC Fund for Oregon Convention Center Operations and Declaring an Emergency.

*Ordinances – First Reading*

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2008-09 BUDGET AND ) ORDINANCE NO. 09-1218  
APPROPRIATIONS SCHEDULE TRANSERRING )  
APPROPRIATION IN THE MERC FUND FOR ) Introduced by Michael Jordan, Chief  
OREGON CONVENTION CENTER ) Operating Officer, with the concurrence of  
OPERATIONS AND DECLARING AN ) Council President David Bragdon  
EMERGENCY )

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2008-09 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 2008-09 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 transferring appropriation in the MERC Fund for Oregon Convention Center operations.
- 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 \_\_\_\_\_ 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Anthony Andersen, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A  
Ordinance No. 09-1218**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Exposition-Recreation Commission Fund</b>							
<b>MERC Fund</b>							
<b><u>Resources</u></b>							
BEGBAL	Beginning Fund Balance						
	* MERC Admin		659,769		0		659,769
	* Expo Center		5,819,337		0		5,819,337
	* Oregon Convention Center		8,536,675		0		8,536,675
	* Portland Center for the Performing Arts		7,075,383		0		7,075,383
LGSHRE	Local Gov't Share Revenues						
4130	Hotel/Motel Tax		11,114,685		0		11,114,685
4142	Intergovernment Misc. Revenue		43,955		0		43,955
GVCNTB	Contributions from Governments						
4145	Government Contributions		962,449		0		962,449
CHGSVC	Charges for Service						
4500	Admission Fees		1,759,268		99,600		1,858,868
4510	Rentals		7,473,243		0		7,473,243
4550	Food Service Revenue		12,579,134		0		12,579,134
4560	Retail Sales		15,000		0		15,000
4570	Merchandising		10,000		0		10,000
4575	Advertising		67,000		0		67,000
4580	Utility Services		1,456,200		25,500		1,481,700
4590	Commissions		624,000		0		624,000
4620	Parking Fees		2,503,325		0		2,503,325
4645	Reimbursed Services		3,179,641		0		3,179,641
4647	Reimbursed Services - Contract		445,758		0		445,758
4650	Miscellaneous Charges for Svc		316,000		0		316,000
INTRST	Interest Earnings						
4700	Interest on Investments		860,366		0		860,366
DONAT	Contributions from Private Sources						
4750	Donations and Bequests		405,000		0		405,000
4760	Sponsorship Revenue		18,500		76,000		94,500
MISCRV	Miscellaneous Revenue						
4805	Financing Transaction		61,500		0		61,500
4890	Miscellaneous Revenue		22,500		0		22,500
4891	Refunds and Reimbursements		25,000		0		25,000
EQTREV	Fund Equity Transfers						
4970	Transfer of Resources						
	* from General Fund		758,083		0		758,083
<b>TOTAL RESOURCES</b>			<b>\$66,791,771</b>		<b>\$201,100</b>		<b>\$66,992,871</b>
<b>Total Personal Services</b>		<b>191.00</b>	<b>\$18,285,681</b>	<b>0.00</b>	<b>\$0</b>	<b>191.00</b>	<b>\$18,285,681</b>
<b><u>Materials &amp; Services</u></b>							
GOODS	Goods						
5201	Office Supplies		211,295		0		211,295
5205	Operating Supplies		279,864		0		279,864
5210	Subscriptions and Dues		104,707		0		104,707
5214	Fuels and Lubricants		17,650		0		17,650
5215	Maintenance & Repairs Supplies		469,604		0		469,604
5225	Retail		8,000		0		8,000
SVCS	Services						
5240	Contracted Professional Svcs		1,361,427		(29,000)		1,332,427
5245	Marketing Expense		2,619,362		0		2,619,362
5247	POVA Pass-Through		412,681		0		412,681
5251	Utility Services		2,595,590		0		2,595,590

**Exhibit A  
Ordinance No. 09-1218**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Exposition-Recreation Commission Fund</b>							
<b>MERC Fund</b>							
5255	Cleaning Services		31,500		0		31,500
5260	Maintenance & Repair Services		705,889		0		705,889
5265	Rentals		610,136		0		610,136
5270	Insurance		13,057		0		13,057
5280	Other Purchased Services		427,451		117,500		544,951
5281	Other Purchased Services - Reimb		382,292		0		382,292
5291	Food and Beverage Services		9,791,999		0		9,791,999
5292	Parking Services		288,553		0		288,553
IGEXP	<i>Intergov't Expenditures</i>						
5300	Payments to Other Agencies		201,603		0		201,603
5310	Taxes (Non-Payroll)		12,000		0		12,000
OTHEXP	<i>Other Expenditures</i>						
5450	Travel		161,050		0		161,050
5455	Staff Development		201,005		0		201,005
5490	Miscellaneous Expenditures		8,500		10,000		18,500
GAAP	<i>GAAP Account</i>						
5520	Bad Debt Expense		3,000		0		3,000
<b>Total Materials &amp; Services</b>			<b>\$20,918,215</b>		<b>\$98,500</b>		<b>\$21,016,715</b>
<b>Total Capital Outlay</b>			<b>\$2,228,871</b>		<b>\$0</b>		<b>\$2,228,871</b>
<b>Total Debt Service</b>			<b>\$17,805</b>		<b>\$0</b>		<b>\$17,805</b>
<b><u>Interfund Transfers</u></b>							
INDTEX	<i>Interfund Reimbursements</i>						
5800	Transfer for Indirect Costs						
	* to General Fund-Support Services		1,755,551		104,000		1,859,551
	* to General Fund		87,251		0		87,251
	* to Risk Management Fund - Liability		429,822		0		429,822
	* to Risk Management Fund - Workers Comp.		152,939		0		152,939
EQTCHG	<i>Fund Equity Transfers</i>						
5810	Transfer of Resources						
	* to General Revenue Bond Fund		1,192,232		0		1,192,232
<b>Total Interfund Transfers</b>			<b>\$3,617,795</b>	<b>0.00</b>	<b>\$104,000</b>		<b>\$3,721,795</b>
<b><u>Contingency and Ending Balance</u></b>							
CONT	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		2,064,067		(202,500)		1,861,567
	* Renewal and Replacement		815,000		0		815,000
	* Prior Year PERS Reserve		2,516,217		0		2,516,217
	* Reimbursable HQH Contingency		3,700,000		0		3,700,000
	* Contingency for Capital (TL TAX)		698,885		0		698,885
UNAPP	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Restricted Fund Balance (User Fees)		1,154,728		0		1,154,728
	* Ending Balance		10,774,507		201,100		10,975,607
<b>Total Contingency and Ending Balance</b>			<b>\$21,723,404</b>		<b>(\$1,400)</b>		<b>\$21,722,004</b>
<b>TOTAL REQUIREMENTS</b>		<b>191.00</b>	<b>\$66,791,771</b>	<b>0.00</b>	<b>\$201,100</b>	<b>191.00</b>	<b>\$66,992,871</b>

**Exhibit A  
Ordinance No. 09-1218**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
<b><u>Resources</u></b>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
3500	Beginning Fund Balance						
	* Undesignated		4,094,902		0		4,094,902
	* Prior period audit adjustment: TOD		5,865,983		0		5,865,983
	* Reserved for Underspending		334,000		0		334,000
	* Project Carryover		1,481,337		0		1,481,337
	* Tourism Opportunity & Comp. Account		96,655		0		96,655
	* Recovery Rate Stabilization Reserve		1,012,884		0		1,012,884
	* Reserved for Local Gov't Grants (CET)		602,046		0		602,046
	* Reserve for Future Debt Service		2,397,852		0		2,397,852
	* Tibbets Flower Account		352		0		352
	* Reserved for Future Planning Needs		1,604,140		0		1,604,140
	* Reserved for Future Election Costs		290,000		0		290,000
	* Reserved for Nature in Neighborhood Grants		1,050,000		0		1,050,000
	* Reserved for Reg. Afford. Housing Revolving Fund		1,000,000		0		1,000,000
	* Reserved for Metro Regional Center Remodel		413,000		0		413,000
	* Reserve for Future Natural Areas Operations		764,453		0		764,453
	* Prior year PERS Reserve		2,782,174		0		2,782,174
<i>EXCISE</i>	<i>Excise Tax</i>						
4050	Excise Taxes		15,106,909		0		15,106,909
4055	Construction Excise Tax		1,497,954		0		1,497,954
<i>RPTAX</i>	<i>Real Property Taxes</i>						
4010	Real Property Taxes-Current Yr		10,618,031		0		10,618,031
4015	Real Property Taxes-Prior Yrs		318,541		0		318,541
<i>GRANTS</i>	<i>Grants</i>						
4100	Federal Grants - Direct		3,999,452		0		3,999,452
4105	Federal Grants - Indirect		5,578,045		0		5,578,045
4110	State Grants - Direct		1,351,000		0		1,351,000
4120	Local Grants - Direct		5,503,093		0		5,503,093
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
4135	Marine Board Fuel Tax		114,000		0		114,000
4139	Other Local Govt Shared Rev.		447,967		0		447,967
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
4145	Government Contributions		410,633		0		410,633
<i>LICPER</i>	<i>Licenses and Permits</i>						
4150	Contractor's Business License		412,000		0		412,000
<i>CHGSVC</i>	<i>Charges for Service</i>						
4160	Boat Ramp Use Permits		508		0		508
4165	Boat Launch Fees		150,000		0		150,000
4180	Contract & Professional Service		563,178		0		563,178
4200	UGB Fees		50,000		0		50,000
4230	Product Sales		387,519		0		387,519
4280	Grave Openings		179,325		0		179,325
4285	Grave Sales		144,675		0		144,675
4500	Admission Fees		7,759,908		0		7,759,908
4501	Conservation Surcharge		150,000		0		150,000
4510	Rentals		807,341		0		807,341
4550	Food Service Revenue		5,155,669		0		5,155,669
4560	Retail Sales		2,216,110		0		2,216,110

**Exhibit A**  
**Ordinance No. 09-1218**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
4580	Utility Services		2,000		0		2,000
4610	Contract Revenue		883,315		0		883,315
4620	Parking Fees		930,000		0		930,000
4630	Tuition and Lectures		1,239,645		0		1,239,645
4635	Exhibit Shows		1,049,986		0		1,049,986
4640	Railroad Rides		805,462		0		805,462
4645	Reimbursed Services		270,000		0		270,000
4650	Miscellaneous Charges for Service		13,831		0		13,831
4760	Sponsorships		57,000		0		57,000
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		994,972		0		994,972
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		1,346,495		0		1,346,495
<i>INCGRV</i>	<i>Internal Charges for Service</i>						
4670	Charges for Service		48,124		0		48,124
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		20,000		0		20,000
4890	Miscellaneous Revenue		151,000		0		151,000
4891	Reimbursements		1,411,973		0		1,411,973
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from MERC Pooled Capital Fund		97,174		0		97,174
<i>INDTRV</i>	<i>Interfund Reimbursements</i>						
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,842,802		104,000		1,946,802
	* from Natural Areas Fund		1,028,311		0		1,028,311
	* from Solid Waste Revenue Fund		3,681,110		0		3,681,110
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4980	Transfer for Direct Costs						
	* from Natural Areas Fund		128,513		0		128,513
	* from Smith & Bybee Lakes Fund		119,980		0		119,980
	* from Solid Waste Revenue Fund		738,056		0		738,056
<b>TOTAL RESOURCES</b>			<b>\$103,571,385</b>		<b>\$104,000</b>		<b>\$103,675,385</b>



**Exhibit A**  
**Ordinance No. 09-1218**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>General Expenditures</b>							
<b>Total Interfund Transfers</b>			<b>\$5,240,928</b>		<b>\$0</b>		<b>\$5,240,928</b>
<i>Contingency &amp; Unappropriated Balance</i>							
CONT	<i>Contingency</i>						
5999	Contingency						
	* Contingency		2,803,838		0		2,803,838
	* Opportunity Account		164,500		0		164,500
	* Reserved for Future Planning Needs		351,000		0		351,000
	* Reserved for Future Election Costs		290,000		0		290,000
	* Reserved for Nature in Neighborhood Grants		250,000		0		250,000
	* Reserved for Reg. Afford. Housing Revolving F		1,000,000		0		1,000,000
	* Reserved for Metro Regional Center Remodel		378,000		0		378,000
	* Recovery Rate Stabilization reserve		1,771,867		0		1,771,867
	* Reserved for Integrated Mobility Strategy		276,500		0		276,500
UNAPP	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Stabilization Reserve		2,320,000		0		2,320,000
	* Undesignated		0		104,000		104,000
	* Reserve for Future Natural Areas Operations		1,023,070		0		1,023,070
	* PERS Reserve		2,782,174		0		2,782,174
	* Computer Replacement Reserve (Planning)		90,000		0		90,000
	* Tibbets Flower Account		201		0		201
	* Reserve for Future Debt Service		2,521,852		0		2,521,852
<b>Total Contingency &amp; Unappropriated Balance</b>			<b>\$16,023,002</b>		<b>\$104,000</b>		<b>\$16,127,002</b>
<b>TOTAL REQUIREMENTS</b>		<b>434.23</b>	<b>\$103,571,385</b>	<b>0.00</b>	<b>\$104,000</b>	<b>434.23</b>	<b>\$103,675,385</b>

**Exhibit B**  
**Ordinance 09-1218**  
**Schedule of Appropriations**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Revised</u> <u>Appropriation</u>
<b>GENERAL FUND</b>			
Council Office	3,168,046	0	3,168,046
Finance & Administrative Services	5,489,506	0	5,489,506
Human Resources	1,737,211	0	1,737,211
Information Technology	2,808,244	0	2,808,244
Metro Auditor	651,286	0	651,286
Office of Metro Attorney	1,997,616	0	1,997,616
Oregon Zoo	26,713,162	0	26,713,162
Planning	24,408,799	0	24,408,799
Public Affairs & Government Relations	1,993,617	0	1,993,617
Regional Parks & Greenspaces	8,350,902	0	8,350,902
Special Appropriations	3,538,480	0	3,538,480
Former ORS 197.352 Claims & Judgments	100	0	100
Non-Departmental			
Debt Service	1,450,486	0	1,450,486
Interfund Transfers	5,240,928	0	5,240,928
Contingency	7,285,705	0	7,285,705
Unappropriated Balance	8,737,297	104,000	8,841,297
<b>Total Fund Requirements</b>	<b>\$103,571,385</b>	<b>\$104,000</b>	<b>\$103,675,385</b>
<b>MERC FUND</b>			
MERC	41,432,767	202,500	41,635,267
Non-Departmental			
Debt Service	17,805	0	17,805
Interfund Transfers	3,617,795	104,000	3,721,795
Contingency	9,794,169	(306,500)	9,487,669
Unappropriated Balance	11,929,235	201,100	12,130,335
<b>Total Fund Requirements</b>	<b>\$66,791,771</b>	<b>\$201,100</b>	<b>\$66,992,871</b>

*All other appropriations remain as previously adopted*

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 09-1218 FOR THE PURPOSE OF AMENDING THE FY 2008-09 BUDGET AND APPROPRIATION SCHEDULE TRANSFERRING APPROPRIATION IN THE MERC FUND FOR OREGON CONVENTION CENTER OPERATIONS, AND DECLARING AN EMERGENCY

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Date: April 27, 2009

Presented by: Kathy Taylor  
503-731-7847

## BACKGROUND

### Oregon Convention Center Achieve Green Event

This action will provide appropriation for the first Achieve Green NW Event promoted by the Oregon Convention Center. The event is funded through sponsorships, registration fees, booth sales and other fees for services. The revenue forecast is \$201,100 with expenditures estimated at \$202,500 which generates a slightly less than break even budget.

Achieve Green NW is designed for business, government, education, environment and political leaders to convene and engage in a range of topics associated with sustainable business practices. Conference discussions will focus on environmentally responsible strategies and attendees will witness case studies, learn best practices, and choose among various one-on-one work sessions. Upon leaving the event, attendees will have developed an actionable toolkit containing the resources unique and necessary to implement sustainable practices within their individual businesses immediately.

<b>Revenue</b>	
Sponsorship	\$76,000
Admission Fees	99,600
Utility Services	25,500
<b>Total Revenue</b>	<b>\$201,100</b>
<b>Expenditures</b>	
Contracted Personal Services	\$75,000
Other Purchased Services	97,500
Miscellaneous Expense	10,000
Advertising	20,000
<b>Total Expenditures</b>	<b>\$202,500</b>
<b>Net Decrease to Fund Balance</b>	<b>(\$1,400)</b>
<b>Fund Balance</b>	
General Contingency	(\$202,500)
Ending Fund Balance	\$201,100

### Metro Central Support for the Convention Center Hotel Project

The Adopted Budget included an additional \$104,000 held in reserve in the MERC budget for a potential increase in the Metro central services indirect support requirement charged to MERC. It was anticipated that the Convention Center Hotel project might require a substantially different level of support than historically provided to MERC. The Office of the Metro Attorney in particular has dedicated significant

resources on the Headquarter Hotel Project. This amendment reclassifies \$104,000 from Contracted Personal Services to Interfund Transfers to provide for this additional appropriation requirement. All indirect support transfers will be reconciled back to actual expenditures as part of the FY 2008-09 audit process.

<i><b>Expenditures</b></i>	
Contracted Personal Services	(\$104,000)
<i><b>Interfund Transfers</b></i>	
Metro Support Indirect	\$104,000

**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:**
4. **Budget Impacts:**

**RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of this Ordinance.

Agenda Item Number 6.2

**Ordinance No. 09-1219**, Amending the FY 2008-09 Budget and Appropriations Schedule for the Oregon Zoo by Transferring Appropriations From Contingency, Recognizing Donations and Other Contributions, Amending the Capital Improvement Plan and Declaring an Emergency.

*Ordinances – First Reading*

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2008-09 BUDGET AND ) ORDINANCE NO. 09-1219  
APPROPRIATIONS SCHEDULE FOR THE )  
OREGON ZOO BY TRANSFERRING ) Introduced by Michael Jordan, Chief  
APPROPRIATIONS FROM CONTINGENCY, ) Operating Officer, with the concurrence of  
RECOGNIZING DONATIONS AND OTHER ) Council President David Bragdon  
CONTRIBUTIONS, AMENDING THE CAPITAL )  
IMPROVEMENT PLAN AND DECLARING AN )  
EMERGENCY )

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2008-09 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 2008-09 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 transferring appropriations from contingency to operating expenses in the General Fund Oregon Zoo, recognizing donations and other contributions for the Oregon Zoo, and transferring appropriations from contingency to capital outlay in the Metro Capital Fund Oregon Zoo Account.
2. That the FY 2008-09 through FY 2012-13 Capital Improvement Plan is hereby amended to include the project shown in Exhibit C to this Ordinance.
3. 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 \_\_\_\_\_ 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Anthony Andersen, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

**Exhibit A  
Ordinance No. 09-1219**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
<i>Resources</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
3500	Beginning Fund Balance						
	* Undesignated		4,094,902		0		4,094,902
	* Prior period audit adjustment: TOD		5,865,983		0		5,865,983
	* Reserved for Underspending		334,000		0		334,000
	* Project Carryover		1,481,337		0		1,481,337
	* Tourism Opportunity & Comp. Account		96,655		0		96,655
	* Recovery Rate Stabilization Reserve		1,012,884		0		1,012,884
	* Reserved for Local Gov't Grants (CET)		602,046		0		602,046
	* Reserve for Future Debt Service		2,397,852		0		2,397,852
	* Tibbets Flower Account		352		0		352
	* Reserved for Future Planning Needs		1,604,140		0		1,604,140
	* Reserved for Future Election Costs		290,000		0		290,000
	* Reserved for Nature in Neighborhood Grants		1,050,000		0		1,050,000
	* Reserved for Reg. Afford. Housing Revolving Fu		1,000,000		0		1,000,000
	* Reserved for Metro Regional Center Remodel		413,000		0		413,000
	* Reserve for Future Natural Areas Operations		764,453		0		764,453
	* Prior year PERS Reserve		2,782,174		0		2,782,174
<i>EXCISE</i>	<i>Excise Tax</i>						
4050	Excise Taxes		15,106,909		0		15,106,909
4055	Construction Excise Tax		1,497,954		0		1,497,954
<i>RPTAX</i>	<i>Real Property Taxes</i>						
4010	Real Property Taxes-Current Yr		10,618,031		0		10,618,031
4015	Real Property Taxes-Prior Yrs		318,541		0		318,541
<i>GRANTS</i>	<i>Grants</i>						
4100	Federal Grants - Direct		3,999,452		0		3,999,452
4105	Federal Grants - Indirect		5,578,045		0		5,578,045
4110	State Grants - Direct		1,351,000		0		1,351,000
4120	Local Grants - Direct		5,503,093		0		5,503,093
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
4135	Marine Board Fuel Tax		114,000		0		114,000
4139	Other Local Govt Shared Rev.		447,967		0		447,967
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
4145	Government Contributions		410,633		0		410,633
<i>LICPER</i>	<i>Licenses and Permits</i>						
4150	Contractor's Business License		412,000		0		412,000
<i>CHGSVC</i>	<i>Charges for Service</i>						
4160	Boat Ramp Use Permits		508		0		508
4165	Boat Launch Fees		150,000		0		150,000
4180	Contract & Professional Service		563,178		0		563,178
4200	UGB Fees		50,000		0		50,000
4230	Product Sales		387,519		0		387,519
4280	Grave Openings		179,325		0		179,325
4285	Grave Sales		144,675		0		144,675
4500	Admission Fees		7,759,908		0		7,759,908
4501	Conservation Surcharge		150,000		0		150,000
4510	Rentals		807,341		0		807,341
4550	Food Service Revenue		5,155,669		0		5,155,669
4560	Retail Sales		2,216,110		0		2,216,110
4580	Utility Services		2,000		0		2,000

**Exhibit A  
Ordinance No. 09-1219**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Resources</b>							
4610	Contract Revenue		883,315		0		883,315
4620	Parking Fees		930,000		0		930,000
4630	Tuition and Lectures		1,239,645		0		1,239,645
4635	Exhibit Shows		1,049,986		0		1,049,986
4640	Railroad Rides		805,462		0		805,462
4645	Reimbursed Services		270,000		0		270,000
4650	Miscellaneous Charges for Service		13,831		0		13,831
4760	Sponsorships		57,000		0		57,000
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		994,972		0		994,972
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		1,346,495		119,924		1,466,419
<i>INCGRV</i>	<i>Internal Charges for Service</i>						
4670	Charges for Service		48,124		0		48,124
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		20,000		0		20,000
4890	Miscellaneous Revenue		151,000		0		151,000
4891	Reimbursements		1,411,973		0		1,411,973
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from MERC Pooled Capital Fund		97,174		0		97,174
<i>INDTRV</i>	<i>Interfund Reimbursements</i>						
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,842,802		0		1,842,802
	* from Natural Areas Fund		1,028,311		0		1,028,311
	* from Solid Waste Revenue Fund		3,681,110		0		3,681,110
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4980	Transfer for Direct Costs						
	* from Natural Areas Fund		128,513		0		128,513
	* from Smith & Bybee Lakes Fund		119,980		0		119,980
	* from Solid Waste Revenue Fund		738,056		0		738,056
<b>TOTAL RESOURCES</b>			<b>\$103,571,385</b>		<b>\$119,924</b>		<b>\$103,691,309</b>



**Exhibit A  
Ordinance No. 09-1219**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
<b>Oregon Zoo</b>							
<i>Personal Services</i>							
<i>SALWGE Salaries &amp; Wages</i>							
5010	Reg Employees-Full Time-Exempt						
	Administrative Specialist IV	1.00	48,991	-	0	1.00	48,991
	Associate Natural Resource Scientist	1.00	54,204	-	0	1.00	54,204
	Associate Visual Communications Designer	3.00	159,672	-	0	3.00	159,672
	Director II	1.00	132,605	-	0	1.00	132,605
	Education Coordinator II	1.00	44,468	-	0	1.00	44,468
	Events Coordinator	1.00	56,388	-	0	1.00	56,388
	Manager I	4.00	316,547	-	0	4.00	316,547
	Manager II	1.00	85,505	-	0	1.00	85,505
	Program Analyst II	2.00	113,029	-	0	2.00	113,029
	Program Analyst III	3.00	190,719	-	0	3.00	190,719
	Program Director II	2.00	230,990	-	0	2.00	230,990
	Program Supervisor II	3.00	253,950	-	0	3.00	253,950
	Project Coordinator	1.00	68,908	-	0	1.00	68,908
	Registrar	1.00	48,991	-	0	1.00	48,991
	Research Coordinator II	1.00	61,730	-	0	1.00	61,730
	Senior Public Affairs Specialist	1.00	65,592	-	0	1.00	65,592
	Service Supervisor I	3.00	143,536	-	0	3.00	143,536
	Service Supervisor II	10.00	532,544	-	0	10.00	532,544
	Service Supervisor III	5.00	330,357	-	0	5.00	330,357
	Service Supervisor IV	1.00	71,439	-	0	1.00	71,439
	Veterinarian I	1.00	70,271	-	0	1.00	70,271
	Veterinarian II	1.00	89,236	-	0	1.00	89,236
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Assistant III	1.00	39,902	-	0	1.00	39,902
	Administrative Specialist I	1.00	31,675	-	0	1.00	31,675
	Administrative Specialist II	1.00	34,890	-	0	1.00	34,890
	Administrative Specialist III	4.00	165,975	-	0	4.00	165,975
	Animal Keeper	31.00	1,377,766	-	0	31.00	1,377,766
	Custodian	6.00	241,999	-	0	6.00	241,999
	Education Coordinator I	2.00	88,990	-	0	2.00	88,990
	Exhibits Lead	1.00	60,322	-	0	1.00	60,322
	Exhibits Technician II	1.00	49,152	-	0	1.00	49,152
	Gardener I	7.00	307,524	-	0	7.00	307,524
	Maintenance Electrician	1.00	68,298	-	0	1.00	68,298
	Maintenance Lead	1.00	60,322	-	0	1.00	60,322
	Maintenance Technician	2.00	115,508	-	0	2.00	115,508
	Maintenance Worker 2	12.00	586,441	-	0	12.00	586,441
	Nutrition Technician	1.00	43,932	-	0	1.00	43,932
	Program Assistant I	2.00	67,150	-	0	2.00	67,150
	Program Assistant 2	2.00	68,131	-	0	2.00	68,131
	Safety and Security Officer	4.00	130,667	-	0	4.00	130,667
	Senior Animal Keeper	6.00	299,166	-	0	6.00	299,166
	Senior Gardener	1.00	52,409	-	0	1.00	52,409
	Storekeeper	1.00	46,646	-	0	1.00	46,646
	Typist/Receptionist-Lead	1.00	29,733	-	0	1.00	29,733
	Veterinary Technician	2.00	91,288	-	0	2.00	91,288
	Volunteer Coordinator I	2.00	113,378	-	0	2.00	113,378

**Exhibit A  
Ordinance No. 09-1219**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Oregon Zoo</b>							
5020	Reg Emp-Part Time-Exempt						
	Assistant Public Affairs Specialist	0.63	30,865	-	0	0.63	30,865
	Associate Visual Communications Designer	0.50	28,342	-	0	0.50	28,342
	Video/Photography Technician	0.50	26,998	-	0	0.50	26,998
5025	Reg Employees-Part Time-Non-Exempt						
	Animal Keeper-PT	1.50	68,466	-	0	1.50	68,466
	Clerk/Bookkeeper	0.75	26,293	-	0	0.75	26,293
	Food Service/Retail Specialist	3.90	151,777	-	0	3.90	151,777
	Lead Cash Office Clerk	0.85	31,272	-	0	0.85	31,272
	Nutrition Technician I	0.50	21,966	-	0	0.50	21,966
	Nutrition Technician II	0.50	22,822	-	0	0.50	22,822
	Program Assistant 1	0.75	28,814	-	0	0.75	28,814
	Program Assistant 2	0.75	28,814	-	0	0.75	28,814
	Security Officer I	0.50	15,086	-	0	0.50	15,086
	Veterinary Technician	0.50	22,822	-	0	0.50	22,822
	Visitor Service Worker 3-reg	0.85	25,646	-	0	0.85	25,646
5030	Temporary Employees		1,631,394		300,000		1,931,394
5040	Seasonal Employees		1,500,000		0		1,500,000
5080	Overtime		346,313		79,000		425,313
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		40,783		0		40,783
	Step Increases (AFSCME)		25,598		0		25,598
	COLA (represented employees)		162,930		0		162,930
	Other Adjustments (non-represented)		40,783		0		40,783
	Other Adjustments (AFSCME)		7,529		0		7,529
	Other Adjustments (Class & Comp Study)		40,783		0		40,783
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		3,768,825		60,000		3,828,825
5190	PERS Bond Recovery		325,798		0		325,798
<b>Total Personal Services</b>		<b>153.98</b>	<b>\$15,761,655</b>	<b>0.00</b>	<b>\$439,000</b>	<b>153.98</b>	<b>\$16,200,655</b>
<b><u>Materials &amp; Services</u></b>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		115,715		0		115,715
5205	Operating Supplies		1,393,158		32,732		1,425,890
5210	Subscriptions and Dues		58,754		0		58,754
5214	Fuels and Lubricants		82,000		0		82,000
5215	Maintenance & Repairs Supplies		367,550		170,000		537,550
5220	Food		1,260,000		0		1,260,000
<i>SVCS</i>	<i>Services</i>						
5245	Marketing		6,650		48,192		54,842
5240	Contracted Professional Svcs		1,029,772		40,000		1,069,772
5251	Utility Services		2,228,970		0		2,228,970
5255	Cleaning Services		37,600		0		37,600
5260	Maintenance & Repair Services		160,775		0		160,775
5265	Rentals		179,350		0		179,350
5280	Other Purchased Services		940,091		0		940,091
5290	Operations Contracts		1,962,692		140,000		2,102,692
<i>CAPMNT</i>	<i>Capital Maintenance</i>						
5262	Capital Maintenance - Non-CIP		314,800		0		314,800

**Exhibit A  
Ordinance No. 09-1219**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Oregon Zoo</b>							
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		91,680		0		91,680
	5315 Grants to Other Governments		10,000		0		10,000
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5445 Grants		165,000		0		165,000
	5450 Travel		105,705		0		105,705
	5455 Staff Development		50,980		0		50,980
	5490 Miscellaneous Expenditures		135,265		0		135,265
	<b>Total Materials &amp; Services</b>		<b>\$10,696,507</b>		<b>\$430,924</b>		<b>\$11,127,431</b>
	<b>Total Capital Outlay</b>		<b>\$255,000</b>		<b>\$0</b>		<b>\$255,000</b>
	<b>TOTAL REQUIREMENTS</b>	<b>153.98</b>	<b>\$26,713,162</b>	<b>0.00</b>	<b>\$869,924</b>	<b>153.98</b>	<b>\$27,583,086</b>

**Exhibit A**  
**Ordinance No. 09-1219**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>General Expenditures</b>							
<u>Interfund Transfers</u>							
<i>INDTEX</i>	<i>Interfund Reimbursements</i>						
5800	Transfer for Indirect Costs						
	* to Risk Mgmt Fund-Liability		309,234		0		309,234
	* to Risk Mgmt Fund-Worker Comp		385,818		0		385,818
<i>EQTCHG</i>	<i>Fund Equity Transfers</i>						
5810	Transfer of Resources						
	* to Smith & Bybee Lakes Fund		91,740		0		91,740
	* to General Revenue Bond Fund-Zoo		402,089		0		402,089
	* to Metro Capital Fund-FAS Capital Account		65,000		0		65,000
	* to Metro Capital Fund-IT Projects		140,000		0		140,000
	* to Gen'l Revenue Bond Fund-Debt Serv Acct		1,504,342		0		1,504,342
	* to MERC Operating Fund		11,937		0		11,937
	* to MERC Capital Fund (Tourism Opp. & Compt. Acce		746,146		0		746,146
	* to General R&R Fund-General R&R		404,459		0		404,459
	* to General R&R Fund-IT Renewal & Replacement		257,815		0		257,815
	* to Metro Capital Fund-Parks Capital		75,000		0		75,000
	* to General R&R Fund-Regional Center R&R		277,000		0		277,000
	* to Metro Capital Fund-Parks Cap (per ton on SW)		270,000		0		270,000
	* to General R&R Fund- Parks R&R (earned on SW rev)		200,000		0		200,000
	* to Solid Waste Revenue Fund		100,348		0		100,348
<b>Total Interfund Transfers</b>			<b>\$5,240,928</b>		<b>\$0</b>		<b>\$5,240,928</b>
<u>Contingency &amp; Unappropriated Balance</u>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* Contingency		2,803,838		(750,000)		2,053,838
	* Opportunity Account		164,500		0		164,500
	* Reserved for Future Planning Needs		351,000		0		351,000
	* Reserved for Future Election Costs		290,000		0		290,000
	* Reserved for Nature in Neighborhood Grants		250,000		0		250,000
	* Reserved for Reg. Afford. Housing Revolving Fund		1,000,000		0		1,000,000
	* Reserved for Metro Regional Center Remodel		378,000		0		378,000
	* Recovery Rate Stabilization reserve		1,771,867		0		1,771,867
	* Reserved for Integrated Mobility Strategy		276,500		0		276,500
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Stabilization Reserve		2,320,000		0		2,320,000
	* Reserve for Future Natural Areas Operations		1,023,070		0		1,023,070
	* PERS Reserve		2,782,174		0		2,782,174
	* Computer Replacement Reserve (Planning)		90,000		0		90,000
	* Tibbets Flower Account		201		0		201
	* Reserve for Future Debt Service		2,521,852		0		2,521,852
<b>Total Contingency &amp; Unappropriated Balance</b>			<b>\$16,023,002</b>		<b>(\$750,000)</b>		<b>\$15,273,002</b>
<b>TOTAL REQUIREMENTS</b>		<b>434.23</b>	<b>\$103,571,385</b>	<b>0.00</b>	<b>\$119,924</b>	<b>434.23</b>	<b>\$103,691,309</b>

**Exhibit A**  
**Ordinance No. 09-1219**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Capital Fund</b>							
<b>Total Personal Services</b>		<b>2.00</b>	<b>\$179,631</b>	<b>-</b>	<b>\$0</b>	<b>2.00</b>	<b>\$179,631</b>
<b>Total Materials &amp; Services</b>			<b>\$540,000</b>		<b>\$0</b>		<b>\$540,000</b>
<b><u>Capital Outlay</u></b>							
CAPNON	Capital Outlay (non-CIP Projects)						
5750	Office Furniture & Equip		25,000		0		25,000
CAPCIP	Capital Outlay (CIP Projects)						
5710	Improve-Oth thn Bldg		8,453,800		0		8,453,800
5720	Buildings & Related		100,000		0		100,000
5730	Exhibits and Related		5,852,625		750,000		6,602,625
5740	Equipment & Vehicles		315,959		0		315,959
5750	Office Furniture & Equip		265,000		0		265,000
<b>Total Capital Outlay</b>			<b>\$15,012,384</b>		<b>\$750,000</b>		<b>\$15,762,384</b>
<b>Total Interfund Transfers</b>			<b>\$97,174</b>		<b>\$0</b>		<b>\$97,174</b>
<b><u>Contingency &amp; Unappropriated Balance</u></b>							
CONT	Contingency						
5999	Contingency						
	* General contingency		2,293,857		(750,000)		1,543,857
UNAPP	Unappropriated Fund Balance						
5990	Unappropriated Fund Balance						
	* Prior Year PERS Reserve		6,553		0		6,553
	* Oxbow Park Nature Center Account		351,151		0		351,151
<b>Total Contingency &amp; Unappropriated Balance</b>			<b>\$2,651,561</b>		<b>(\$750,000)</b>		<b>\$1,901,561</b>
<b>TOTAL REQUIREMENTS</b>		<b>2.00</b>	<b>\$18,480,750</b>	<b>-</b>	<b>\$0</b>	<b>2.00</b>	<b>\$18,480,750</b>

**Exhibit B**  
**Ordinance 09-1219**  
**Schedule of Appropriations**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Revised</u> <u>Appropriation</u>
<b>GENERAL FUND</b>			
Council Office	3,168,046	0	3,168,046
Finance & Administrative Services	5,489,506	0	5,489,506
Human Resources	1,737,211	0	1,737,211
Information Technology	2,808,244	0	2,808,244
Metro Auditor	651,286	0	651,286
Office of Metro Attorney	1,997,616	0	1,997,616
Oregon Zoo	26,713,162	869,924	27,583,086
Planning	24,408,799	0	24,408,799
Public Affairs & Government Relations	1,993,617	0	1,993,617
Regional Parks & Greenspaces	8,350,902	0	8,350,902
Special Appropriations	3,538,480	0	3,538,480
Former ORS 197.352 Claims & Judgments	100	0	100
Non-Departmental			
Debt Service	1,450,486	0	1,450,486
Interfund Transfers	5,240,928	0	5,240,928
Contingency	7,285,705	(750,000)	6,535,705
Unappropriated Balance	8,737,297	0	8,737,297
<b>Total Fund Requirements</b>	<b>\$103,571,385</b>	<b>\$119,924</b>	<b>\$103,691,309</b>
<b>METRO CAPITAL FUND</b>			
Capital Program	15,732,015	750,000	16,482,015
Non-Departmental			
Interfund Transfers	97,174	0	97,174
Contingency	2,293,857	(750,000)	1,543,857
Unappropriated Balance	357,704	0	357,704
<b>Total Fund Requirements</b>	<b>\$18,480,750</b>	<b>\$0</b>	<b>\$18,480,750</b>

*All other appropriations remain as previously adopted*

**Capital Project Request - Project Detail**

**Project Title:**  **Fund:**

**Project Status:**  **Funding Status:**  **FY First Authorized:**  **Department:**

**Project Number:**  **Active:**  **Dept. Priority:**  **Facility:**  **Division:**

**Source Of Estimate:**  **Source:**  **Start Date:**  **Date:**  **Cost Type:**

**Type of Project:**  **Request Type:**  **Completion Date:**  **Prepared By:**

Project Estimates	Actual	Budget/Est	Prior						
Capital Cost:	Expend	2007-2008	Years	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	Total
Design and Engineering	\$50,730	\$330,000	\$380,730	\$170,000	\$0	\$0	\$0	\$0	\$550,730
Construction	\$0	\$0	\$0	\$3,269,124	\$1,200,000	\$0	\$75,000	\$0	\$4,544,124
1% for Art	\$0	\$0	\$0	\$35,000	\$0	\$0	\$0	\$0	\$35,000
<b>Total:</b>	\$50,730	\$330,000	\$380,730	\$3,474,124	\$1,200,000	\$0	\$75,000	\$0	\$5,129,854

**Funding Source:**

Grants	\$0	\$0	\$0	\$104,973	\$0	\$0	\$0	\$0	\$104,973
Donations	\$50,730	\$330,000	\$380,730	\$3,369,151	\$1,200,000	\$0	\$75,000	\$0	\$5,024,881
<b>Total:</b>	\$50,730	\$330,000	\$380,730	\$3,474,124	\$1,200,000	\$0	\$75,000	\$0	\$5,129,854

**Annual Operating Budget Impact**

<b>Annual Revenues</b>				\$0	\$2,100,000	\$1,600,000	\$1,300,000	\$1,000,000	\$6,000,000
<b>Annual Expenditures</b>									
Personal Services				\$0	\$64,000	\$66,000	\$68,000	\$70,000	\$268,000
Materials and Services				\$0	\$30,000	\$32,000	\$33,000	\$34,000	\$129,000
Subtotal, Expenditures:				\$0	\$94,000	\$98,000	\$101,000	\$104,000	\$397,000
<b>Net Operating Contribution (Cost):</b>				\$0	\$2,006,000	\$1,502,000	\$1,199,000	\$896,000	\$5,603,000

**Project Description / Justification:**  **Estimated Useful Life (yrs):**  **First Full Fiscal Year of Operation:**

Convert the existing Alaska Tundra exhibit into additional African exhibits, including lions, wild dogs, cheetahs, and caracals. The exhibit's name is 'Predators of the Serengeti'. The project includes upgrades to building structure, utilities and animal containment areas. The new exhibit will provide visitors with viewing opportunities for close-up interaction with exhibit predators. Included will be interpretive graphics that educate visitors about predators. These animals all have a strong conservation message and will contribute to the Zoo's mission. The exhibit will focus on in-situ environmental conservation projects and community education and sustainable economic practices. The existing Alaska Tundra exhibit will be completely renovated and incorporated into the Predators exhibit. The Oregon Zoo Foundation has committed to a capital campaign to finance the \$5.1 million exhibit renovations and \$1 million for an operating endowment. The exhibit will positively influence attendance.

The FY 2011-12 project is the addition of Hyenas to the exhibit. This expansion of the exhibit will use a portion of the prior Tundra exhibit that was not converted in the original construction.

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 09-1219 FOR THE PURPOSE OF AMENDING THE FY 2008-09 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE OREGON ZOO BY TRANSFERRING APPROPRIATIONS FROM CONTINGENCY, RECOGNIZING DONATIONS AND OTHER CONTRIBUTIONS, AMENDING THE CAPITAL IMPROVEMENT PLAN AND DECLARING AN EMERGENCY

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Date:

Presented by: Craig Stroud  
503-220-2451

### BACKGROUND

This action requests amended appropriation authority for the Oregon Zoo for three purposes:

- 1) To increase spending authority resulting from increased operating activity.
- 2) To recognize donations from IKEA, DEX, Idearc, and private sources.
- 3) To provide capital appropriation authority for the Predators of the Serengeti exhibit.

#### Increased Operating Activity - \$750,000

The zoo continues to experience record-breaking attendance and strong guest spending. Attendance through April is at 1.25 million guests, 123,000 ahead of the fiscal year forecast and significantly exceeding last year's near record of 1.5 million.

Financial analysis of operations through April 2009 results in a June 30, 2009, operating expenditure forecast that is \$300,000 greater than appropriations. The record number of guests visiting the zoo and the associated costs of providing services to guests is driving costs above budget. The increased activity requires increased spending for additional temporary Guest Services staffing (personal services) and more frequent maintenance and repairs in the high use guest areas (materials and services). Other cost drivers include the birth of baby elephant Samudra, grounds and maintenance costs for the wind, ice, and snow storms, commission expenses on robust Aramark retail sales, and staffing support of numerous renewal and replacement projects across zoo grounds.

In addition, the artist fees for the zoo's summer concert series are forecast to exceed budget. Budgeting for the series requires assumptions about the number of concerts in a fiscal year and variable artist fees. In the current fiscal year, the July and August 2008 concerts were extremely successful, and the zoo will take advantage of an opportunity to host an additional premium concert in June 2008 with artist 'The B-52s'. The zoo realizes positive financial return on concert expenditures.

Current revenue and expenditure forecasts through June 30, 2009 are based on trends through the end of April. If attendance is actually higher than currently projected the Zoo's appropriation authority will be insufficient to provide for operational needs. To ensure the zoo has adequate operating appropriation to support guest operations through the end of FY 2008-09, management requests the transfer of \$750,000 from General Fund contingency to zoo operations for personal services and materials and services. These funds will be used to support revenue-generating activities, and we expect a positive rate of return for every dollar spent in these operating areas. A similar amendment was required last year as a result of increased attendance. The transfer of contingency provides the legal spending authority and will be managed to the corresponding revenues. Any revenue in excess of actual expenditures will revert to FY 2009-10 operating fund beginning balance.



Recognizing Donation from IKEA - \$32,732

The Oregon Zoo received a generous in-kind donation from IKEA, which refurbished outdated and worn zoo classrooms 3 and 4 using IKEA equipment and furnishings. The installation was completed in March 2009, and the renovated space is both functionally improved and aesthetically pleasing. IKEA provided a similar donation in FY 2007-08. We are required to recognize the value of this gift as a resource and an expense for budgetary and accounting purposes.

Recognizing Donations from DEX and Idearc - \$48,192

The Oregon Zoo received in-kind donations from DEX totaling \$39,816 and Idearc totaling \$8,376 for publication in promotional and marketing materials. We are required to recognize the value of this gift as a resource and an expense for budgetary and accounting purposes.

Recognizing Donations from Private Sources - \$39,000

The Oregon Zoo received restricted donations totaling \$39,000 from private sources. These donations were originally made to The Oregon Zoo Foundation and subsequently transferred to the zoo. The donations are restricted to elephant husbandry.

Predators of the Serengeti Exhibit Construction - \$750,000

This action requests an increase to appropriation authority to the Oregon Zoo for the *Predators of the Serengeti* exhibit construction. The zoo is remodeling and expanding an existing exhibit to create a naturalistic exhibit for African lions, cheetahs, wild dogs, and other predators. Based on the theme "It's Hard to Be a Hunter," the interpretive elements make learning an integral part of the Zoo experience, enlightening visitors about why African predators are key to the entire Serengeti system ... and the wider world. *Predators of the Serengeti* has a two-year construction schedule and will open to the public late summer 2009.

In November 2008, the Metro Council amended the project's Capital Improvement Plan by increasing the total project budget from \$4 million to \$5.2 million. The CIP amendment was driven by The Oregon Zoo Foundation's capital campaign exceeding goal by \$1.2 million. At that time, management believed the project's adopted budget of \$3.67 million would be adequate to cover FY 2008-09 construction activity. The project's general contractor is slightly ahead of schedule and could complete work by June 30, 2009 that must be paid from FY 2008-09 appropriations. To ensure adequate appropriations exist, the zoo requests an amendment of the capital budget by increasing capital outlay and decreasing funds held in contingency by \$750,000. The total project budget remains \$5.2 million. Remaining funds at June 30 will revert to FY 2009-10 beginning fund balance and be used to finish construction in July and August 2009.

**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. 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 provides the zoo operating appropriation for staff and supplies. This increase is needed to ensure guests receive a zoo experience that meets their expectations as we move from the FY 2008-09 to FY 2009-10 budgets. This ordinance will also allow the department to recognize the IKEA, DEX, Idearc, and private donations dedicated to the purposes described in this report. Finally, it provides the zoo capital appropriation for the Predators of the Serengeti exhibit construction. This increase is needed to ensure adequate appropriation as we move from the FY 2008-09 to FY 2009-10 budgets.
  
4. **Budget Impacts:** This action increases the personal services and materials and services operating appropriations in the zoo operating fund, and decreases the contingency appropriation in the General Fund by \$750,000 in the FY 2008-09 budget. These funds will be used to support revenue-generating activities, and we expect a positive rate of return for every dollar spent in these operating areas. Unused funds will revert to beginning fund balance in the FY 2009-10 budget year. This action also requests the recognition of \$119,924 in private contributions revenue and increases appropriation authority in the General Fund Expenditures by the same amount. Finally, it transfers \$750,000 from Contingency to Capital Outlay in the Metro Capital Fund, Oregon Zoo account to ensure adequate construction appropriation authority for the current fiscal year.

#### **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of this Ordinance.

Agenda Item Number 6.3

**Ordinance No. 09-1216**, For the Purpose of Amending and Re-adopting  
Metro Code 7.03 (Investment Policy) for Fiscal Year 2009-2010 and  
Declaring an Emergency.

*Ordinances – First Reading*

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING AND RE-	)	ORDINANCE NO. 09-1216
ADOPTING METRO CODE 7.03 (INVESTMENT	)	
POLICY) FOR FISCAL YEAR 2009-2010 AND	)	Introduced by Michael Jordan, Chief
DECLARING AN EMERGENCY	)	Operating Office in concurrence with
	)	Council President Bragdon

WHEREAS, Metro Code Section 7.03 contains the investment policy which applies to all cash-related assets held by Metro; and

WHEREAS, the Investment Advisory Board reviews and approves the Investment Policy for submission to Metro Council; and

WHEREAS, the Investment Coordinator has proposed three changes to the Investment Policy:

- (1) Update scope language to remove hard dollar references to portfolio size as it constantly changes;
- (2) Update collateralization language to match new changes in ORS Chapter 295;
- (3) Update Competitive Selection of Investments Instruments language that formerly was restricted to oral bidding to include the use of electronic competitive bidding platforms; and

WHEREAS, on April 21, 2009, the Investment Advisory Board voted to recommend the three changes to Metro Code 7.03 as amended hereto and submit to the Metro Council for approval and readoption; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

That Metro Code Chapter 7.03 is hereby amended and readopted as attached hereto in Exhibit A to this ordinance.

That this Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that the new fiscal year begins, July 1, 2009 and Oregon Budget Law requires the adoption of a budget prior to the beginning of the fiscal year, and that amending and readoption of the Investment Policy should coincide with the adoption of the annual budget, 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 25th day of June 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Tony Andersen, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

CHAPTER 7.03

INVESTMENT POLICY\*\*

SECTIONS	TITLE
7.03.010	Scope
7.03.020	General Objectives
7.03.030	Standards of Care
7.03.040	Safekeeping and Custody
7.03.050	Suitable and Authorized Investments
7.03.060	Investment Parameters
7.03.070	Reporting
7.03.080	Policy Adoption and Re-Adoption
7.03.090	List of Documents Used in Conjunction with this Policy

\*\*Former Chapter 2.06 (readopted April 9, 1998; amended December 10, 1998; readopted April 15, 1999; readopted April 27, 2000; readopted December 11, 2001; readopted October 3, 2002; renumbered by Ordinance No. 02-976, Sec. 1; readopted June 12, 2003; amended and readopted April 7, 2005, by Ordinance No. 05-1075; readopted April 20, 2006; readopted June 21, 2007; amended and readopted June 26, 2008, by Ordinance No. 08-1190.)

7.03.010 Scope

These investment policies apply to all cash-related assets included within the scope of Metro's audited financial statements and held directly by Metro.

~~Other than bond proceeds or other segregated revenues, the total of funds pooled for investments ranges from \$60 million to \$100 million with an average of \$80 million.~~ Funds held and invested by trustees or fiscal agents are excluded from these policies; however, such funds are subject to the regulations established by the state of Oregon.

Funds of Metro will be invested in compliance with the provisions of ORS 294.035 to 294.048; ORS 294.125 to 294.145; ORS 294.810; and other applicable statutes. Investments will be in accordance with these policies and written administrative procedures. Investment of any tax-exempt borrowing proceeds and of any debt service funds will comply with the 1986 Tax Reform Act provisions and any subsequent amendments thereto.

(Ordinance No. 90-365. Amended by Ordinance No. 97-684, Sec. 1; Ordinance No. 02-976, Sec. 1; Ordinance No. 05-1075.)

7.03.020 General Objectives

Due to Metro's fiduciary responsibility, safety of capital and availability of funds to meet payment requirements are the overriding objectives of the investment program. Investment yield targets are secondary.

(a) Safety. Investments shall be undertaken in a manner that seeks to ensure the preservation of principal in the overall portfolio and security of funds and investments. The objective will be to mitigate credit risk and interest rate risk.

(1) Credit Risk. Metro will minimize credit risk, the risk of loss due to the financial failure of the security issuer or backer, by:

- Limiting exposure to poor credits and concentrating the investments in the safest types of securities.
- Pre-qualifying the financial institutions, broker/dealers, and advisers with which Metro will do business.
- Diversifying the investment portfolio so that potential losses on individual securities will be minimized. For securities not backed by the full faith and credit of the federal government, diversification is required in order that potential losses on individual securities would not exceed the income generated from the remainder of the portfolio.
- Actively monitoring the investment portfolio holdings for ratings changes, changing economic/market conditions, etc.

(2) Interest Rate Risk. Metro will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need

to sell securities on the open market prior to maturity.

- Investing operating funds primarily in shorter-term securities or short-term investment pools.

(b) Liquidity. The investment officer shall assure that funds are constantly available to meet immediate payment requirements, including payroll, accounts payable and debt service.

(c) Yield. The investment portfolio shall be designed with the objective of regularly exceeding the average return on 90-day U.S. Treasury Bills. The investment program shall seek to augment returns above this level, consistent with risk limitations described in this policy and prudent investment principles.

This policy shall not preclude the sale of securities prior to their maturity in order to improve the quality, net yield, or maturity characteristic of the portfolio.

(d) Legality. Funds will be deposited and invested in accordance with statutes, ordinances and policies governing Metro.

(Ordinance No. 87-228, Sec. 3. Amended by Ordinance No. 90-365; Ordinance No. 02-976, Sec. 1; Ordinance No. 05-1075.)

#### 7.03.030 Standards of Care

(a) Prudence. The standard of prudence to be applied by the investment officer shall be the "prudent investor" rule: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall portfolio.

(b) Delegation of Authority. The Chief Operating Officer is the investment officer of Metro. The authority for investing Metro funds is vested with the investment officer, who, in turn, designates the investment manager to manage the day-to-day operations of Metro's investment portfolio, place purchase orders and sell orders with dealers and financial institutions, and prepare reports as required.

(c) Investment Advisory Board (IAB). There shall be an investment advisory board composed of five (5) members.

- (1) Terms of Service. The term of service for citizens appointed to the IAB shall be three (3) calendar years. The term of appointment shall be staggered so that not more than two (2) members' terms expire in any calendar year.
- (2) Appointment. The investment officer shall recommend to the Council for confirmation the names of persons for appointment to the IAB.
- (3) Duties. The IAB shall meet quarterly. The IAB will serve as a forum for discussion and act in an advisory capacity for investment strategies, banking relationships, the legality and probity of investment activities and the establishment of written procedures for the investment operations.

(d) Quarterly Reports. At each quarterly meeting, a report reflecting the status of the portfolio will be submitted for review and comment by at least three (3) members of the IAB. Discussion and comment on the report will be noted in minutes of the meeting. If concurrence is not obtained, notification will be given to the investment officer, including comments by the IAB.

(e) Monitoring the Portfolio. The investment manager will routinely monitor the contents of the portfolio comparing the holdings to the markets, relative values of competing instruments, changes in credit quality, and benchmarks. If there are advantageous transactions, the portfolio may be adjusted accordingly.

(f) Indemnity Clause. Metro shall indemnify the investment officer, chief financial officer, investment manager, staff and the IAB members from personal liability for losses that might occur pursuant to administering this investment policy.

The investment officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported to the council as soon as practicable.

(g) Accounting Method. Metro shall comply with all required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies, including, but not necessarily limited to, the American Institute of Certified



Public Accountants (AICPA); the Financial Accounting Standards Board (FASB); and the Government Accounting Standards Board (GASB).

(Ordinance No. 05-1075.)

7.03.040 Safekeeping and Custody

(a) Authorized Financial Dealers and Institutions. The investment officer shall maintain a listing of all authorized dealers and financial institutions that are approved for investment purposes. Financial institutions must have a branch in Oregon. Any firm is eligible to apply to provide investment services to Metro and will be added to the list if the selection criteria are met. Additions or deletions to the list will be made by the investment officer and reviewed by the IAB. At the request of the investment officer, the firms performing investment services for Metro shall provide their most recent financial statements or Consolidated Report of Condition (call report) for review. Further, there should be in place proof as to all the necessary credentials and licenses held by employees of the broker/dealers who will have contact with Metro, as specified by but not necessarily limited to the National Association of Securities Dealers (NASD), Securities and Exchange Commission (SEC), etc. At minimum, the investment officer and the IAB shall conduct an annual evaluation of each firm's qualifications to determine whether it should be on the authorized list.

Securities dealers not affiliated with a Qualified Financial Institution, as defined in ORS 294.035, will be required to have headquarters located in the states of Oregon, Washington or Idaho and, if not headquartered in the state of Oregon, to have an office located in Oregon. Notwithstanding the above, securities dealers who are classified as primary dealers with the New York Federal Reserve Bank are also eligible.

(b) Internal Controls. The investment officer shall maintain a system of written internal controls, which shall be reviewed annually by the IAB and the independent auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation or imprudent actions.

Metro's independent auditor at least annually shall audit investments according to generally accepted auditing standards and this ordinance.

(c) Delivery vs. Payment. All securities purchased pursuant to this investment policy will be delivered by either book entry or physical delivery to a third party for safekeeping

by a bank designated as custodian. Purchase and sale of all securities will be on a payment versus delivery basis. Delivery versus payment will also be required for all repurchase transactions and with the collateral priced and limited in maturity in compliance with ORS 294.035(11).

(d) Safekeeping. The trust department of the bank designated as custodian will be considered to be a third party for the purposes of safekeeping of securities purchased from that bank. The custodian shall issue a safekeeping receipt to Metro listing the specific instrument, rate, maturity and other pertinent information.

Notwithstanding the preceding, an exception to the delivery versus payment policy is made when purchasing State and Local Government Series Securities (SLGS) from the United States Treasury's Bureau of Public Debt to satisfy arbitrage yield restriction requirements of the Internal Revenue Code for tax-exempt bond issues.

(Ordinance No. 05-1075.)

#### 7.03.050 Suitable and Authorized Investments

(Definitions of terms and applicable authorizing statutes are listed in the "Summary of Investments Available to Municipalities" provided by the State Treasurer.)

(a) Investment Types. The following investments are permitted by this policy and ORS 294.035 and 294.810.

- (1) U.S. Treasury Bills, Notes, Bonds, Strips  
(Separate Trading of Registered Interest and Principal of Securities) and/or State and Local Government Series Securities (SLGS)
- (2) Securities of U.S. Government Agencies and U.S. Government Sponsored Enterprises
- (3) Certificates of Deposit (CD) from commercial banks in Oregon and insured by the Federal Deposit Insurance Corporation (FDIC)
- (4) Repurchase Agreements (Repo's)
- (5) Banker's Acceptances (BA)
- (6) Commercial Paper (CP) issued by a financial institution, commercial, industrial or utility business enterprise

- (7) State of Oregon and Local Government Securities with A ratings or better
- (8) State of Oregon Investment Pool
- (9) Market Interest Accounts and Checking Accounts

(b) Collateralization. Deposit-type securities (i.e., Certificates of Deposit) and all bank deposits for any amount exceeding FDIC coverage shall be collateralized through the ~~state collateral pool~~ Public Funds Collateralization Program as required by ORS ~~Chapter 295.015 and ORS 295.018 for any amount exceeding FDIC coverage, recognizing that ORS 295.015 requires only 25 percent collateralization and ORS 295.018 requires 110 percent collateralization when the institution is notified by the State Treasurer.~~ ORS Chapter 295 governs the collateralization of Oregon public funds and provides the statutory requirements for the Public Funds Collateralization Program. Bank depositories are required to pledge collateral against any public funds deposits in excess of deposit insurance amounts. ORS 295 sets the specific value of the collateral, as well as the types of collateral that are acceptable.

(Ordinance No. 05-1075.)

7.03.060 Investment Parameters

(a) Diversification by Maturity. Only investments which can be held to maturity shall be purchased. Investments shall not be planned or made predicated upon selling the security prior to maturity. This restriction does not prohibit the use of repurchase agreements under ORS 294.135(2).

Maturity limitations shall depend upon whether the funds being invested are considered short-term or long-term funds. All funds shall be considered short-term, except those reserved for capital projects (e.g., bond sale proceeds).

(1) Short-Term Funds.

(A) Investment maturities for operating funds and bond reserves shall be scheduled to meet projected cash flow needs. Funds considered short-term will be invested to coincide with projected cash needs or with the following serial maturity:

25% minimum to mature under three months  
75% minimum to mature under 18 months

100% minimum to mature under five years

- (B) Investments may not exceed five (5) years. Investment maturities beyond 18 months may be made when supported by cash flow projections which reasonably demonstrate that liquidity requirement will be met. Maturities beyond 18 months will be limited to direct U.S. Treasury obligations.

(2) Long-Term Funds.

- (A) Maturity scheduling shall be timed according to anticipated need. ORS 294.135 permits investment beyond 18 months for any bond proceeds or funds accumulated for any purpose that the district is permitted by state law to accumulate and hold funds for a period exceeding one (1) year. The maturities should be made to coincide as nearly as practicable with the expected use of the funds.
- (B) Investment of capital project funds shall be timed to meet projected contractor payments. The drawdown schedule used to guide the investment of the funds shall evidence the approval of the investment officer and review of the Chief Financial Officer.

(b) Diversification by Investment. The investment officer will diversify the portfolio to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions, or maturities.

The maximum percentages of the portfolio and the maximum maturities for investments are as follows:

Security	Maximum Percent of Portfolio	Maximum Maturity
U.S. Treasury Bills, Notes, Bonds, Strips and/or State and Local Government Series (SLGS)	100%	
Securities of U.S. Government Agencies and U.S. Government Sponsored Enterprises	100%	

Certificates of Deposit (CD) Commercial Banks in Oregon Insured by FDIC	100%	
Repurchase Agreements (Repo's)	50%	90-day maturity
Bankers Acceptances (BA)	25%	
Commercial Paper (CP) - Issued by a financial institution, commercial, industrial, or utility business enterprise.  For a corporation headquartered in Oregon  For a corporation headquartered outside of Oregon	35%	A-1 and P-1 only, 90-day maturity; A-2 and P-2, A-1/P-2, or A-2/P1, 60-day maturity  A-1 and P-1 only; 90-day maturity
State of Oregon and Local Government Securities with A ratings or better	25%	
State of Oregon Investment Pool	100%	
Market Interest Accounts and Checking Accounts	Minimum necessary for daily cash management efficiency	

(c) Diversification by Financial Institution.

- (1) Qualified Institutions. The investment officer shall maintain a listing of financial institutions and securities dealers recommended by the IAB. Any financial institution and/or securities dealer is eligible to make an application to the investment officer and upon due consideration and approval hold available funds.

A listing of the eligible institutions shall be held by the investment officer and provided any fiduciary agent or trustee.

- (2) Diversification Requirements. The combination of investments in Certificates of Deposit and Banker's Acceptances invested with any one institution shall not exceed 25 percent of the total available funds or 15 percent of the equity of the institution.

The following limitations avoid over-concentration in securities from a specific issuer or business sector:

<b>Type of Security</b>	<b>Limitation</b>
U.S. Government Treasuries	No limitations
U.S. Government Agencies	Securities of U.S. Government Agencies and U.S. Government Sponsored Enterprises as defined under ORS 294.035 and/or 294.040. No more than 40 percent of the portfolio in any one agency.
Certificates of Deposit - Commercial Banks	No more than the lesser of 25 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.
Repurchase Agreements	<p>May be purchased from any qualified institution provided the master repurchase agreement is effective and the safekeeping requirements are met. All repurchase agreements will be fully collateralized by general obligations of the U.S. Government, the agencies and instrumentalities of the United States or enterprises sponsored by the United States government, marked to market.</p> <p>The investment officer shall not enter into any reverse repurchase agreements.</p>
Bankers Acceptances	<p>Must be guaranteed by, and carried on the books of, a qualified financial institution whose short-term letter of credit rating is rated in the highest category by one or more nationally recognized statistical rating organizations.</p> <p>Qualified institution means:</p>

	<p>i) A financial institution that is located and licensed to do banking business in the state of Oregon; or</p> <p>ii) A financial institution located in the states of California, Idaho, or Washington that is wholly owned by a bank holding company that owns a financial institution that is located and licensed to do banking business in the state of Oregon.</p> <p>No more than the lesser of 25 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.</p>
Commercial Paper	No more than 5 percent of the total portfolio with any one corporate entity.
State and Local Government Securities	No more than 15 percent of the total portfolio in any one local entity.
State of Oregon Investment Pool	Not to exceed the maximum amount established in accordance with ORS 294.810, with the exception of pass-through funds (in and out within 10 days)

(d) Total Prohibitions. The investment officer may not make a commitment to invest funds or sell securities more than 14 business days prior to the anticipated date of settlement of the purchase or sale transaction and may not agree to invest funds or sell securities for a fee other than interest. Purchase of standby or forward commitments of any sort are specifically prohibited.

(e) Adherence to Investment Diversification. Diversification requirements must be met on the day an investment transaction is executed. If due to unanticipated cash needs, investment maturities or marking the portfolio to market, the investment in any security type, financial issuer or maturity spectrum later exceeds the limitations in the policy, the investment officer is responsible for bringing the investment portfolio back into compliance as soon as is practical.

(f) Competitive Selection of Investment Instruments. Before the investment officer invests any surplus funds, a competitive offering solicitation shall be conducted orally, or |

alternatively through an electronic competitive bidding platform that compares several offers of the same security class like commercial paper, new issue GSE's and treasury issues. Offerings will be requested from financial institutions for various options with regards to term and instrument. The investment officer will accept the offering, which provides the highest rate of return within the maturity required and within the prudent investor rule. Records will be kept of offerings and the basis for making the investment decision.

(Ordinance No. 05-1075. Amended by Ordinance No. 08-1190.)

#### 7.03.070 Reporting

(a) Methods. A transaction report shall be prepared by the investment manager not later than one business day after the transaction, unless a trustee, operating under a trust agreement, has executed the transaction. The trustee agreement shall provide for a report of transactions to be submitted by the trustee on a monthly basis.

Quarterly reports shall be prepared for each regular meeting of the IAB to present historical information for the past 12-month period. Copies shall be provided to the Chief Operating Officer and the Metro Council.

(b) Performance Standards. The overall performance of Metro's investment program is evaluated quarterly by the IAB using the objectives outlined in this policy. The quarterly report which confirms adherence to this policy shall be provided to the Metro Council as soon as practicable.

The performance of Metro's portfolio shall be measured by comparing the average yield of the portfolio at month-end against the performance of the 90-day U.S. Treasury Bill issue maturing closest to 90 days from month-end and the Local Government Investment Pool's monthly average yield.

(Ordinance No. 05-1075.)

#### 7.030.080 Policy Adoption and Re-adoption

(a) The investment policy must be reviewed by the IAB and the Oregon Short-Term Fund Board prior to adoption by the Metro Council. Adoption of this policy supersedes any other previous Council action or policy regarding Metro's investment management practices.

(b) This policy shall be subject to review and re-adoption annually by the Metro Council in accordance with ORS 294.135.



(Ordinance No. 05-1075.)

7.030.090 List of Documents Used in Conjunction with this Policy

The following documents are used in conjunction with this policy and are available from the investment manager upon request:

- List of Authorized Brokers and Dealers
- List of Primary Dealers
- Calendar of Federal Reserve System Holidays
- Calendar of Local Government Investment Pool Holidays
- Broker/Dealer Request for Information
- Oregon State Treasury's Summary of Liquid Investments Available to Local Governments for Short-Term Fund Investment
- Oregon State Treasury's U.S. Government and Agency Securities for Local Government Investment Under ORS 294.035 and 294.040
- Oregon State Treasury's List of Qualified Depositories for Public Funds
- Attorney General's letter of advice: Certificates of Deposit, ORS 294.035 and ORS 295
- Oregon Revised Statute Chapter 294 - County and Municipal Financial Administration
- Oregon Revised Statute Chapter 295 - Depositories of Public Funds and Securities
- Government Finance Officers Association Glossary of Cash Management Terms

(Ordinance No. 05-1075.)

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 09-1216 FOR THE PURPOSE OF AMENDING AND READOPTING METRO CODE 7.03 (INVESTMENT POLICY) FOR FISCAL YEAR 2009-2010 AND DECLARING AN EMERGENCY

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Date: May 22, 2009

Prepared by: Calvin Smith  
Telephone: 503-797-1612

#### BACKGROUND

Metro Code, Chapter 7.03 contains the Investment Policy that applies to all cash-related assets held by Metro. This Investment Policy is being submitted to Council for review and re adoption in accordance with Section 7.03.160 of Metro Code.

The format of Metro's Investment Policy conforms to the Oregon State Treasury's Sample Investment Policy for Local Governments and the Government Finance Officers Association's (GFOA) Sample Investment Policy. This allows Metro's policy to be readily compared to investment policies of other local governments that have adopted the same GFOA format.

Three changes to the investment policy are proposed as a part of this re adoption. The Investment Manager proposes to (1) Update Scope language to remove hard dollar references to portfolio size as it constantly changes. (2) Update Collateralization language to match new changes in ORS Chapter 295. (3) Update Competitive Selection of Investments Instruments language that formerly was restricted to oral bidding to include use of electronic competitive bidding platforms. This amended policy has been submitted to the Oregon State Short Term Fund Board (OSTFB) for its concurrent review and approval. OSTFB staff has stated the proposed Metro policy meets the requisite due diligence with proposed processes. In the unlikely event that anything other than a positive review is received, the policy will be returned to the Metro Council for approval of any changes required by OSTFB.

#### ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code, Chapter 7.03, Investment Policy, Section 7.030.080(b) proscribes that the policy shall be subject to review and re adoption annually by the Metro Council in accordance with ORS 294.135.

Chapter 7.03 was formerly Chapter 2.06 (readopted April 9, 1998; amended December 10, 1998; readopted April 15, 1999; readopted April 27, 2000; readopted December 11, 2001; readopted October 3, 2002; renumbered by Ordinance No. 02-976, Sec. 1; readopted June 12, 2003; amended and readopted April 7, 2005, by Ordinance No. 05-1075; readopted April 20, 2006, by Ordinance 06-1114; readopted June 21, 2007 by Ordinance 07-1149; readopted June 26, 2008 by Ordinance 08-1190).

3. **Anticipated Effects:** N/A
4. **Budget Impacts:** N/A

**RECOMMENDED ACTION:** Staff recommends re adoption as amended of Metro Code Chapter 7.03 by Ordinance No. 09-1216.

Agenda Item Number 6.4

**Ordinance No. 09-1221**, For the Purpose of Amending Metro Code Chapter  
6.01.

*Ordinances – First Reading*

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING  
METRO CODE CHAPTER 6.01

) Ordinance No. 09-1221  
)  
) Introduced by Councilor Park and  
Councilor Burkholder

WHEREAS, in 2000, the voters of the Portland region approved changes to Metro’s charter that improved the efficiency and accountability of regional government by providing direct elected-official oversight of senior staff members; and

WHEREAS, the change in governance at Metro created efficiencies, and improved accountability and transparency; and

WHEREAS, the facilities operated by the Metropolitan Exposition and Recreation Commission – the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition Center require an annual budget of approximately \$40 million; and

WHEREAS, the value of the assets under MERC management total half of \$1 billion; and

WHEREAS, the elected members of the Metro Council ultimately are responsible for the fiscal management and health of the regional facilities managed by the Metropolitan Exposition and Recreation Commission; and

WHEREAS, the expertise of private citizens, working as a volunteer commission, provides valuable advice and direction on the management of enterprise-based facilities; and

WHEREAS, the members of the Metro Council continually seek improvements in the efficiency and effectiveness in the management of the facilities and programs under its control; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Chapter 6.01 of the Metro Code is hereby amended as set forth below:

1. Metro Code Chapter 6.01.020 “Definitions” is amended to add the following subsection (f):

(f) “MERC General Manager” means the chief administrative office of the Commission or any other position employed by the Commission that directly reports to the Commission.

2. Metro Code Chapter 6.01.040 Powers is hereby amended as follows [new provisions underlined]:

The commission shall have the following power and authority: . . .

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission, notwithstanding the foregoing, however, the Metro Council must vote to approve of the General Manager’s initial hiring; continuation of employment beyond the end of the current or any future fiscal year; termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments.

And the Metro Council Also Ordains that:

3. Emergency Clause. This Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that a new fiscal year begins July 1, 2009, and there is a need for the Metro Council to have a role in the employment of the MERC General Manager immediately, 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 June, 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to form:

\_\_\_\_\_  
Tony Anderson, Recording Secty.

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

TITLE VI

COMMISSIONS

CHAPTERS	TITLE
6.01	Metropolitan Exposition-Recreation Commission

CHAPTER 6.01

METROPOLITAN EXPOSITION-RECREATION COMMISSION

SECTIONS	TITLE
6.01.010	Purpose
6.01.020	Definitions
6.01.030	Commission Created
6.01.040	Powers
6.01.050	Budget and Accounts
6.01.060	Commission Meetings
6.01.070	Delegation
6.01.080	Filing and Effective Date of Commission Resolutions
6.01.090	Initial Charge to Commission (repealed Ord. 97-677B §3)
6.01.100	Commission Business Plans

6.01.010 Purpose

The purpose of this chapter is to establish a metropolitan commission to renovate, maintain, operate, and manage metropolitan convention, trade and spectator facilities pursuant to the Metro Charter. The commission established by this chapter is intended by the Metro Council to operate in a cost effective, independent, entrepreneurial and accountable manner, so as to provide the greatest benefit to the residents of the Metro region. The provisions of this chapter shall therefore be liberally construed so as to achieve these ends. The commission is subject to the authority of the Metro Auditor to perform the duties of that office.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.020 Definitions

As used herein:

- (a) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;
- (b) "Council" means the Metro Council;
- (c) "Councilor" means a member of the Council;
- (d) "Council President" means the Council President of Metro;

(e) "Metro Auditor" means the Office of Metro Auditor created pursuant to the Metro Charter;

(f) "MERC General Manager" means the chief administrative officer of the Commission or any other position employed by the Commission that directly reports to the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 09-XXXX; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

#### 6.01.030 Commission Created

There is hereby created a Metropolitan Exposition-Recreation Commission consisting of seven (7) members. All members shall be residents of Metro.

(a) The Council President will make all appointments.

(b) The Council President may reject a nomination. Appointments of all members are subject to confirmation by the Metro Council.

(c) All members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a member may serve until the successor is confirmed; thereafter, upon the expiration of a term, the position shall be considered vacant until a member is appointed or re-appointed and confirmed.

(d) Nomination Process. The Council President will accept nominations to the commission as follows:

- (1) The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one (1) candidate. The candidates must be residents of the district and nominating county.
- (2) The City Council of the City of Portland shall nominate one (1) candidate for each of two (2) positions. The candidates must be residents of Metro and the City of Portland.
- (3) Two (2) nominees shall be at the sole discretion of the Council President. The candidates must be residents of Metro.

(e) Appointment Process.

- (1) For those positions on the commission which are subject to nomination by a local governmental



body, the Council President will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro Council for confirmation. If the Council President fails to concur with any candidate so nominated by a local government, the Council President shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the Council for confirmation as a result of this process is rejected by the Council, the Council President shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate nominated by a local government has been forwarded by the Council President to the Council for confirmation and has been confirmed.

- (2) If the Council fails to confirm an appointment made at the sole discretion of the Council President, the Council President may submit the name of another person for confirmation by the Council.

(f) A vacancy shall occur from the death, resignation, failure to continue residency within Metro and in the case of members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any member or from the removal of a member by the Council President, subject to approval of the removal by a majority of the members of the Council.

(g) Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term.

(h) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

(i) The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 89-325, Sec. 1; Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

6.01.040 Powers

The commission shall have the following power and authority:

(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of Metro by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the Council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within Metro;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission, notwithstanding the foregoing, however, the Metro Council must vote to approve of the General Manager's initial hiring; continuation of employment beyond the end of the current or any

future fiscal year; termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to Metro, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the Council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this chapter. Services of Metro including accounting, personnel, risk management, public affairs, and other services shall be provided by Metro subject to compensation being provided by the commission to Metro. The commission may acquire such services by other means, provided that the Council determines by duly adopted resolution that the provision of such services by other means is cost effective and results in a net benefit to the residents of Metro and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by the Metro Attorney. The commission may purchase legal services outside of Metro only with the permission of the Metro Attorney;

(n) To recommend to the Council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration by the Council, by the other public owners of buildings or facilities managed by the commission, or the electors of Metro, but the commission may not adopt such measures itself;

(o) To recommend to the Council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec 1; Ordinance No. 02-975, Sec. 1.)

#### 6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are Metro's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The commission shall include in its budget necessary cost allocations for services provided by Metro as recommended by the Chief Operating Officer.

(c) Procedure for Submission of Commission Budget to Metro. The commission shall transmit its proposed budget to the Metro Chief Operating Officer at the same time that Metro departments do so. The Chief Operating Officer shall review the submitted budget and submit the commission's proposed budget to the Council with the Chief Operating Officer's general budget submission to the Council, together with any recommendations the Chief Operating Officer may have for changes in the commission's proposed budget. The Chief Operating Officer shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the Council. The Council shall make the final determination of cost allocations for services provided by Metro.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the Council, any changes in the adopted appropriations not previously approved by the Council must be ratified in advance by the Council.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1; Ordinance No. 07-1164A, Sec. 5.)

#### 6.01.060 Commission Meetings

All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law. All Metro elected officials shall receive notice of all meetings in the same form, manner and substance given to all commission members.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1.)

#### 6.01.070 Delegation

The commission may delegate to its employees any of the power and authority of the commission subject to those limitations the commission deems appropriate. Any delegation shall be by resolution of the commission.

(Ordinance No. 87-225, Sec. 1.)

#### 6.01.080 Filing and Effective Date of Commission Resolutions

(a) Within five (5) days after the passage of any resolution, the commission shall file a copy of the resolution with the Council Clerk, or such other officer as the Council may designate, who shall maintain a special record of the commission's resolutions which shall be accessible to the public under like terms as the ordinances of Metro. The Council Clerk or such other officer as the Council may designate shall immediately notify the Council of the receipt of the resolution.

(b) Resolutions of the commission shall be effective upon adoption or at such other time as specified by the commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1.)

6.01.100 Commission Business Plans

(a) The commission shall prepare business plans for each of its facilities and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the Council. Such reports shall occur as directed by the Council, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten (10) working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the Council progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 01-888B, Sec. 1; Ordinance No. 02-975, Sec. 1.)

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 09-1221 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 6.01

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Date: June 11, 2009

Prepared by: Kathryn Sofich  
503-797-1941

## BACKGROUND

In 2000, the voters of the Portland region approved changes to Metro's charter that improved the efficiency and accountability of regional government by providing direct elected-official oversight of senior staff members. This change in governance at Metro created efficiencies, and improved accountability and transparency.

The elected members of the Metro Council ultimately are responsible for the fiscal management and health of the regional facilities managed by the Metropolitan Exposition and Recreation Commission. The facilities operated by the Metropolitan Exposition and Recreation Commission – the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition Center - require an annual budget of approximately \$40 million. In addition, the value of the assets under MERC management total more than half a billion dollars.

The Metro Council recognizes the expertise of private citizens, working as a volunteer commission, providing valuable advice and direction on the management of enterprise-based facilities. At the same time, the members of the Metro Council continually seek improvements in the efficiency and effectiveness in the management of the facilities and programs under its control.

In order to continually improve the efficiency and effectiveness, Ordinance 09-1221 is being proposed to amend Chapter 6.01 of the Metro Code to the following:

1. Define "MERC General Manager" to mean the chief administrative office of the Commission or any other position employed by the Commission that directly reports to the Commission.
2. Metro Council must to approve, by vote, the General Manager's initial hiring; continuation of employment beyond the end of the current or any future fiscal year; termination; and compensation including, but not limited to, the salary and any salary changes or performance incentive payments.

## ANALYSIS/INFORMATION

1. **Known Opposition:** Unknown
2. **Legal Antecedents:** Metro Code Chapter 6.01
3. **Anticipated Effects:** The adoption of this ordinance will improve the decision making process in the hiring and evaluation of the MERC General Manager.
4. **Budget Impacts:** No impacts.

## RECOMMENDED ACTION

Councilor Rod Park and Councilor Rex Burkholder recommend the Metro Council consider approving Ordinance No. 09-1221.

Agenda Item Number 7.1

**Ordinance No. 09-1220**, An Ordinance Extending the Metro Construction  
Excise Tax and Amending Metro Code Chapter 7.04.

PUBLIC HEARING

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber



BEFORE THE METRO COUNCIL

AN ORDINANCE EXTENDING THE METRO	)	ORDINANCE NO. 09-1220
CONSTRUCTION EXCISE TAX AND	)	
AMENDING METRO CODE CHAPTER 7.04	)	Introduced by Chief Operating Officer
	)	Michael Jordan, with the concurrence of
	)	Council President David Bragdon
	)	
	)	

WHEREAS, implementation of the Regional Framework Plan by cities and counties through their comprehensive plans and land use regulations will help them come into compliance with the requirements of the Plan, including the Urban Growth Management Functional Plan, Chapter 3.07 of the Metro Code, and the requirements of state planning laws; and

WHEREAS, city and county planning efforts undertaken in accordance with the Regional Framework Plan will help them and the region achieve the Desired Outcomes established by the Metro Council on the recommendation of the Metropolitan Policy Advisory Committee for regional planning; and

WHEREAS, in March of 2006, after engaging in months of investigation and consultation with a broad-based stakeholder group regarding the regional needs for funding concept and comprehensive planning, including the October 2005 establishment of a tax study committee, the Metro Council adopted Ordinance No. 06-1115, "AN ORDINANCE CREATING A NEW METRO CODE CHAPTER 7.04 ESTABLISHING A CONSTRUCTION EXCISE TAX," ("2006 CET Ordinance"); and

WHEREAS, the construction excise tax rate established in the 2006 CET Ordinance was 0.12% of the value of new construction as defined in the CET Ordinance; and

WHEREAS, the 2006 CET Ordinance and Code chapter contain a sunset provision which states that the CET "shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after the last day of the month in which a total of \$6.3 million has been collected under this Chapter, received by Metro, and certified as received by Metro to the local jurisdictions;" and

WHEREAS, the CET program has succeeded in raising revenues in accordance with the expected timeframe to pay for planning work that could not have been funded otherwise, and Metro has obligated the entire \$6.3 million to local jurisdictions who have applied for CET grants; and

WHEREAS, Metro estimates that the \$6.3 million amount will be reached in the fall of 2009 and that the CET will sunset at that time if further action is not taken; and

WHEREAS, in 2007 the Oregon state legislature adopted Senate Bill 1036, which authorizes school districts to levy construction excises taxes to pay for school facility construction, and prohibits the establishment of new construction excises taxes by other local governments, but the law states that the prohibition does not apply to "a tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;" and

WHEREAS, during 2008 and 2009 Metro engaged in months of analysis and investigation regarding the CET including a CET Performance Review dated April 3, 2009; and

WHEREAS, in Spring of 2009 the Metro Chief Operating Officer convened an Advisory Group consisting of a broad-based stakeholder group, including the local jurisdictions affected by the CET, to advise the Metro COO regarding the continued regional needs for funding regional and local planning, and regarding the extension of Metro's CET in light of the recent passage of Senate Bill 1036; and

WHEREAS, after a series of meetings the Advisory Group recommended to the Metro COO that the Metro CET be extended for an additional five-year period; that the funds continue to be collected by local jurisdictions and remitted to Metro pursuant to Intergovernmental Agreements; that Metro distribute the funds in two cycles, first a two-year cycle and then a three-year cycle, in the form of grants to the local jurisdictions; that a grant screening committee be established, which committee will review proposed grants submitted by local jurisdictions and make grant recommendations to the Metro COO, who will then make grant recommendations to the Metro Council, which shall ultimately determine the grants and amounts that will be awarded; and

WHEREAS, the Advisory Group's studies and recommendations were presented to the Metropolitan Policy Advisory Group ("MPAC") on May 27, 2009, and MPAC voted to endorse the recommendations of the 2009 CET Advisory Group to extend the Metro construction excise tax (CET) for the purpose of funding grants for planning areas inside the urban growth boundary ("UGB"), future expansion areas, and urban reserves, with an emphasis on planning projects that advance the 2040 Regional Framework Plan and result in on-the-ground development; and also that the Metro Council direct the Metro COO to submit draft Administrative Rules for MPAC's review and comment; and

WHEREAS, Metro finds that it is in the best interests of the region to continue the funding source provided by the CET, and Metro is willing to assist local governments to fund their planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary, by continuing to implement a region-wide Construction Excise Tax; and

WHEREAS, as required by Senate Bill 1036, the rate of Metro's Construction Excise Tax will not increase from the rate in effect as of May 1, 2007, which is 0.12%; and

WHEREAS, Metro will continue to exempt from the Construction Excise Tax all new construction valued at less than \$100,000 and also the construction of low-income housing; and

WHEREAS, the Metro Construction Excise Tax will maintain the same stated "policy and purpose," which is "to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary;" and

WHEREAS, the Metro Construction Excise Tax will maintain the same stated dedication of revenue, such that "funds derived from the imposition of this tax after deduction of necessary costs of collection shall be dedicated to fund for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary;" and

WHEREAS, the allocation of CET funds shall be determined by the Metro Council after receiving recommendations from the Metro Chief Operating Officer, who shall have convened and received recommendations from a grant screening committee that shall review requested grants submitted by local jurisdictions setting forth the expected completion of certain milestones associated with Metro Code Chapter 3.07, the Urban Growth Management Functional Plan; and

WHEREAS, the Construction Excise Tax shall sunset on a date five (5) years after the effective date of this Ordinance; and

WHEREAS, Metro has incurred not insignificant costs in implementing the CET program and is willing to continue to incur implementation costs but finds that retaining 2.5% of the taxes remitted to Metro is appropriate to partially reimburse Metro for its administrative costs; and

WHEREAS, the Metro Council hereby directs the Metro Chief Operating Officer to extend the Intergovernmental Agreements with local jurisdictions for collection of the Construction Excise Tax and remittance of such funds to Metro consistent with this Ordinance, and also hereby directs the Metro Chief Operating Officer to prepare yearly reports to the Metro Council, advising the Metro Council of the amounts collected from the Construction Excise Tax and the status of the grant requests by the local jurisdictions.

**NOW, THEREFORE, THE METRO COUNCIL ORDAINS AS FOLLOWS:**

Section 1. Extension of Metro Construction Excise Tax. Effective ninety (90) days after the passage of this Ordinance, the Metro Construction Excise Tax established pursuant to Metro Code Chapter 7.04 shall be extended to provide that the Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after the last day of the month five years after the Effective Date of this Ordinance, i.e., September 30, 2014.

Section 2. Metro Code Amendment. Metro Code Chapter 7.04 shall be amended consistent with this Ordinance, in the form attached hereto as Exhibit A.

Section 3. Administrative Rules. The Metro Council hereby directs the Metro Chief Operating Officer to promulgate additional rules and regulations necessary for the administration and enforcement of the CET Code Chapter consistent with this Ordinance, and to return to the Metropolitan Policy Advisory Committee and to the Metro Council for consultation prior to adopting the Administrative Rules.

ADOPTED by the Metro Council this \_\_\_\_\_ day of June, 2009.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney  
Alison Kean Campbell, Deputy Metro Attorney

Effective Date: September \_\_, 2009.

## Exhibit A

### METRO CODE - TITLE VII FINANCE Chapter 7.04 CONSTRUCTION EXCISE TAX

#### 7.04.220 Procedures for Distribution

The Chief Operating Officer shall distribute the revenues from the Construction Excise Tax as grants to local governments based on an analysis of grant requests submitted by the local jurisdiction which set forth the expected completion of certain milestones associated with ~~Title 11 of~~ Metro Code Chapter 3.07, the Urban Growth Management Functional Plan.

#### 7.04.225 Metro Administrative Fee

Metro shall retain 2.5 percent (2.5%) of the taxes remitted to Metro for payment towards Metro's administrative expenses.

#### 7.04.230 Sunset Provision

The Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued on or after the last day of the month five years after the effective date of this amendment to Chapter 7.04; i.e., September 30, 2014. ~~in which a total of \$6.3 million has been collected under this Chapter, received by Metro, and certified as received by Metro to the local collecting jurisdictions.~~

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 09-1220, FOR THE PURPOSE OF EXTENDING THE METRO CONSTRUCTION EXCISE TAX AND AMENDING METRO CODE CHAPTER 7.04

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Date: June 4, 2009

Prepared by: Andy Shaw

#### **CET ESTABLISHMENT**

In 2005, Metro convened an informal stakeholder group to discuss the challenge of completing planning mandated by the Urban Growth Management Functional Plan (UGMFP) for 2002-2005 Urban Growth Boundary (UGB) expansion areas. Many of the jurisdictions responsible for planning these areas lacked resources to conduct the required concept and comprehensive planning. The group was tasked with developing a funding mechanism to aid jurisdictions comply with the UGMFP in UGB expansion areas. Stakeholders discussed and examined various funding options, and the excise tax emerged as a preferred finance tool. Metro established an 11-member Tax Study Committee to explore and define the parameters of the tax including the rate, structure, exceptions, exemptions, duration, and oversight. After three months of study, discussions, and collaboration, the Tax Study Committee presented their finding and recommendations on the establishment of a construction excise tax (CET) to the Metro Policy Advisory Committee (MPAC) and the Metro Council. MPAC approved the Committee's recommendation, and on March 23, 2006, the Metro Council enacted OR 06-1115 establishing the CET, effective July 1, 2006.

The CET applies to building permits issued within the Metro service district boundary. The tax is assessed at 0.12 percent of the total value of the improvements for which a permit is sought. Permits valued below \$100,000 and those issued to 501(c)(3) nonprofits for affordable housing are exempt from the tax. Permits for construction valued at more than \$10 million are assessed a flat fee of \$12,000. The CET ordinance included a sunset provision that limits collection of the tax to the last day of the month in which Metro certifies receipts for a total of \$6.3 million. The sunset is likely to occur early in the fall if this year. Attached as Attachment I to this report is a Performance Review of the current CET program.

#### *2009 CET ADVISORY GROUP*

Starting in April 2009, Metro convened an informal CET advisory group to make recommendations to Metro's Chief Operating Officer (COO) on the future of the CET program as it approaches its sunset. New state legislation preempts Metro from levying another excise tax until 2018 if the current tax is allowed to lapse (discussed further below). The Advisory Group met three times, with the final meeting and recommendation to the COO taking place on May 19, 2009.

The advisory group recommended continuing the CET and maintaining its existing tax structure relatively unchanged from its original form. The same rate, exceptions and exemptions would apply if the program is extended. Expanding the sunset clause and the allocation of funds were recommended. Unlike the original round of the CET program in which the sunset was connected to total target revenue of \$6.3 million for planning of UGB expansion areas, the group recommended that CET be extended for a five year period, and that the scope of eligible projects include existing urban area planning, new area planning, and urban reserves area planning. Attachments A-G to this staff report provide summary information from the informal advisory group process.

### *MPAC RECOMMENDATION*

The Metro Policy Advisory Committee (MPAC) considered the recommendations of the 2009 CET advisory group on May 13 and May 27, 2009. On May 27, MPAC unanimously passed a motion recommending that the Metro Council extend the CET for the purposes identified by the 2009 informal CET advisory group.

### *ORDINANCE 09-1220*

Ordinance 09-1220, for consideration before the Metro Council, reflects the recommendation of the advisory group on the extension of the program. Specifically, the ordinance calls for:

- Extending the sunset of the tax for 5 years to September 2014
- Maintaining the original tax structure
- Maintaining the original dedication of revenues
- Maintaining the original policy and purpose
- The retention of a 2.5% administrative fee by Metro

### **ANALYSIS/INFORMATION**

#### **1. Known Opposition**

The Home Builders Association (HBA) sent a letter to the Metro Council on May 18, 2009 expressing strong interest in continuing to use CET funds exclusively for new expansion area planning. On May 27, 2009 Metro Councilors also received a letter from an independent home builder expressing similar concerns.

#### **2. Legal Antecedents**

Since the Metro CET was established in 2006, state law regarding local taxing authority has changed, limiting local government's authority to levy excise taxes on construction. In 2007, the Oregon Legislature enacted Senate Bill 1036, which authorized school districts to levy a construction excise tax on new residential, commercial, and industrial construction to pay for school facility construction. However, the bill also prohibited the establishment of new construction excise taxes by other local governments. The state preemption expires in 2018. Existing CETs are "grandfathered" in such that the local preemption does not apply to any tax "that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007". Thus, state law allows Metro to continue levying a CET so long as the rate does not increase. However, if the tax is allowed to sunset, SB 1036 would prohibit the enactment of an excise tax until 2018.

In evaluating the legal and political implications of the state legislation for the Metro CET, several issues were considered by the CET advisory group. First, when CET was instituted in 2006, there were no limitations on Metro's authority to levy such a tax. Senate Bill 1036, supported by the Oregon Home Builders Association (OHBA), included an exemption created at Metro's request, allowing Metro to extend its CET beyond the sunset date so long as the tax rate was not increased. Under the recommendation from the CET advisory group, the tax rate, exceptions, and exemptions would remain the same.

While changing the purpose of the tax is not prohibited by the SB 1036 exemption, the CET advisory group recommended maintaining the same purpose set forth in the 2006 Metro CET, which is "to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary."

Extending the tax requires an amendment to the current Metro ordinance (06-1115), which would take 90 days to become effective after approval by the Metro Council. If the Council chooses to continue the CET, a vote should take place no later than June 2009 to prevent the tax from lapsing.

Because this ordinance extends an existing tax, and does not establish new tax, Metro is not required to establish a Tax Study Committee as outlined in Metro Code Section 2.19.200

### **3. Anticipated Effects**

Should this legislation be adopted, CET funds will continue to be available for planning projects that make land ready for development after inclusion into the UGB. Areas that would be eligible for funding include existing urban areas, UGB expansion areas, and urban reserve areas. Funding for planning projects in these areas would be guided by key principles proposed by the advisory group and subject to the adoption of administrative rules by Metro's COO:

- *Expected Development Outcomes:* Applications weighed on ability to achieve on-the-ground development/redevelopment outcomes.
- *Regionally Significant:* Priority given to projects that clearly identify benefit to the region in achieving established regional development goals and outcomes. The region's development goals, expressed in the 2040 Growth Concept and the six Desired Outcomes adopted by the region to guide future planning, include:
  - People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
  - Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
  - People have safe and reliable transportation choices that enhance their quality of life.
  - The region is a leader in minimizing contributions to global warming.
  - Current and future generations enjoy clean air, clean water and healthy ecosystems.
  - The benefits and burdens of growth and change are distributed equitably.
- *Target funding towards planning that facilitates development in:*
  - Centers
  - Corridors/Main Streets
  - Station Centers
  - Employment & Industrial Areas
- *Equity:* Equitable distribution of funds based on collections of revenues and past funding. Equitable distribution of funds based on planning resource needs.
- *Leverage/Matching Potential:* Applications which leverage outcomes across jurisdictions and service providers, and that have opportunities for additional private/public investment will be given priority.

Should the CET be continued, the Metro COO will adopt the associated administrative rules governing this program and will present a draft to the Metro Council and MPAC for comments prior to adoption. In addition, staff time will be devoted to the development of a CET Grant Application Handbook, drafting collection and award IGAs, and monitoring funded projects. A CET grant Screening Committee will be established to screen and assess applications. This committee will represent a variety of regional interests and will report their recommendations to the Metro COO.

#### **4. Budget Impacts**

In the first round of CET, Metro staff dedicated over 2,150 hours to the administration of this program, for a cost of over \$105,000 to the agency. These estimates are conservative and likely do not reflect the true cost of administering the program. Metro does not currently collect an administrative reimbursement for administering the CET program.

If the program is extended, the establishment of a competitive application process, the redrafting of all collection and award IGAs, and monitoring the planning progress of grantees will require considerably more staff time and resources than the current program. An administrative reimbursement of 2.5% is proposed to cover the costs of administering the program. Currently, collecting jurisdictions receive a 5% administrative reimbursement, collected prior to the submission of receipts to Metro.

#### **5. Attachments**

Attached are the following attachments:

- Attachment A – CET Advisory Group Meeting Recommendation
- Attachment B – 2009 Informal CET Advisory Group Meeting Attendance
- Attachment C – Potential CET Grant Evaluation Criteria
- Attachment D – Potential CET Grant Screening Committee
- Attachment E – G – Meeting Summaries for 2009 Informal CET Advisory Group
- Attachment H – CET Revenue Collections and Grants to Date by Jurisdiction
- Attachment I – Construction Excise Tax (CET) Performance Review Report

#### **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of this ordinance



**ATTACHMENT A**  
**CET Advisory Group Recommendations**  
**Revised – May 26, 2009**

**Tax Structure**

Maintain the same tax rate, remove or revise the sunset.

*Rate:* 0.12% (unchanged)

*Floor:* \$100,000 (unchanged)

*Ceiling:* \$10,000,000 (unchanged)

*Sunset:* Extend the sunset for a 5-year cycle to raise \$7-\$10 million. Create a sunset or mandatory re-assessment after this second cycle.

*Exemptions:* 501(c)(3) affordable housing projects are exempt (unchanged).

*Administrative Fee:* 5% for collecting jurisdictions (unchanged), 2.5% for Metro

**Process**

*Screening Committee*

Create a new screening committee to assess applications for funding and bring recommendations to the Metro Council.

*Funding process & amounts*

Funding to be provided as grants for prospective projects, not reimbursements of expenses already incurred. The screening committee will evaluate planning applications and assess funding levels for the applications.

*Two Grant Cycles*

Grants would be allocated in two application cycles, one at the beginning of the five-year period, and another two years into the five-year period.

**Purpose**

Maintain the existing purpose of providing “funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary” to help implement the requirements of the Urban Growth Management Functional Plan (unchanged). Allocate funding for the planning activities described below, using the principles articulated under “guiding principles”:

- *Existing Area Planning:* Place an emphasis on planning activities in existing areas inside the UGB
- *Urban Reserve Planning:* Future urban reserve areas would be eligible for grant funding to conduct concept planning.
- *Expansion Area Planning:* Future UGB expansion areas would be eligible for grant funding to conduct concept and/or comprehensive planning.
- *New Area Set Aside:* Create a set-aside of collected revenues to fund planning in urban reserve and expansion areas.

**Guiding Principles**

*Expected Development Outcomes*

Applications weighed on ability to achieve on-the-ground development/redevelopment outcomes.

### *Regionally Significant*

Priority give to projects that clearly identify benefit to the region in achieving established regional development goals and outcomes. The region's development goals, expressed in the 2040 Growth Concept and the six Desired Outcomes adopted by the region to guide future planning, include:

- People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
- Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- People have safe and reliable transportation choices that enhance their quality of life.
- The region is a leader in minimizing contributions to global warming.
- Current and future generations enjoy clean air, clean water and healthy ecosystems.
- The benefits and burdens of growth and change are distributed equitably.

### *Target funding towards planning that facilitates development in:*

- Centers
- Corridors/Main Streets
- Station Centers
- Employment & Industrial Areas

### *Equity*

Equitable distribution of funds based on collections of revenues and past funding.

Equitable distribution of funds based on planning resource needs.

### *Leverage/Matching Potential*

Applications which leverage outcomes across jurisdictions and service providers, and that have opportunities for additional private/public investment will be given priority.

### *Focus*

Avoid spreading funding broadly and thinly. Instead, fund a set of larger projects to leverage more substantial outcomes for the region.

**ATTACHMENT B**  
**2009 Informal CET Advisory Group**  
**Meeting Attendance**

<b>Name</b>	<b>Organization</b>	<b>4/7/09</b>	<b>4/28/09</b>	<b>5/19/09</b>
Alice Norris	Mayor, Oregon City	X	X	X
Andrew Beyer	Associated General Contractors	X		
Andy Shaw	Metro	X	X	X
Bernie Bottomly	Portland Business Alliance	X	X	X
Beverly Bookin	Commercial Real Estate Economic Coalition (CREEC)	X	X	X
Bob Clay	Portland Bureau of Planning and Sustainability	X	X	X
Bob Stacey	1000 friends of Oregon	X		
Brian Blalock	City of Tigard	X		
Craig Dirksen	Mayor, Tigard		X	X
Dave Nielson	Homebuilders Association of Metro Portland	X	X	X
David Bragdon	Metro	X	X	X
Dennis Mulvihill	Washington County Planning	X		X
Dic Steinbrugge	Beaverton School District	X	X	X
Dom Colleta	ULI Oregon/SW Washington	X	X	X
Doug McClain	Clackamas County	X	X	X
Elissa Gertler	Clackamas County	X		
Fred Wearn	PDC	X		X
Gil Kelley		X		X
Ina Zucker	Metro	X	X	X
Jack Hoffman	Mayor, Lake Oswego	X		X
Jane Leo	PMAR		X	X
Jim Pauley	Columbia Pacific Building Trades	X		
John Mohlis	Columbia Pacific Building Trades	X	X	
Kelly Ross	Western Advocates	X		X
Lisa Libby	Office of Mayor Sam Adams		X	
Mark Murray	Portland Public Schools	X		X
Mary Kyle McCurdy	1000 friends of Oregon		X	X
Michael Jordan	Metro	X	X	X
Mike Salsgiver	Associated General Contractors (AGC)	X		X
Paul Smith	PDOT	X	X	
Ray Valone	Metro Planning	X	X	X
Robert Liberty	Metro	X	X	X
Ron Papsdorf	City of Gresham	X	X	
Sarah Jo Chaplan	City Manager, Hillsboro	X	X	X
Susan Andersen	Portland Bureau of Planning and Sustainability	X		
Tom Brian	Chair, Washington County Board of Commissioners	X		
Tom Skaar	Home Builders Association	X		X

**ATTACHMENT C**  
**Potential CET Grant Evaluation Criteria**  
**May 28, 2009**

**Existing Urban Areas**

Weighing Criteria

1. The proposed project will be weighed on ability to achieve on-the-ground development/redevelopment outcomes.
2. The proposed project would facilitate the implementation of the Regional 2040 Concept Plan
  - A. The proposed planning project will produce significant new capacity for housing or employment in a Center, Corridor, Main Street, Station Community, or Employment/Industrial areas.
  - B. The proposed planning project will remove infrastructure and other regulatory barriers to zoned capacity.
  - C. The proposed planning project will facilitate the development of a Neighborhood Center, as described in Title 12 of the Urban Growth Management Functional Plan (UGMFP), to bring commercial services within walking distance of residents of underserved neighborhoods.
  - D. The proposed planning project will increase housing affordability and housing choice.
  - E. If the proposed planning project involves planning for a designated Center or Station Community, the area will be zoned to meet or exceed the thresholds in the UGMFP.
  - F. If the proposed planning project is a corridor study, the project will include an examination of zoning in and near the corridor to determine whether an increase in housing or employment capacity would improve the performance of existing or planned transportation facilities in the corridor.
3. The proposed planning project will leverage better outcomes, as measure against 2040 goals, from governments and service providers
4. The proposed project clearly identifies benefit to the region in achieving established regional development goals and outcomes.
  - A. People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
  - B. Residents benefit from the region's sustained economic competitiveness and prosperity.
  - C. People have safe and reliable transportation choices that enhance their quality of life.
  - D. The region is a leader in minimizing contributions to global warming.
  - E. Current and future generations enjoy clean air, clean water and healthy ecosystems.
  - F. The benefits and burdens of growth and change are distributed equitably.

*Funding Level Criteria*

1. Commitment of project funding or in-kind contribution by project sponsor.
2. Opportunities for additional private/public investment and matching funds.

**Urban Reserves/Post 2005 UGB Expansion Areas\***

Weighing Criteria

1. The proposed project will be weighed on the ability to move area closer to on-the-ground development outcomes.
2. The proposed planning project will facilitate the implementation of the 2040 growth concept and the Urban Growth Management Functional Plan (UGMFP).
3. The proposed planning project will help meet objectives for housing affordability and housing choice within reserve areas.
4. The proposed project will leverage outcomes across jurisdictions and service providers.
5. The proposed project will leverage and create opportunities for additional private/public investment and matching funds.

*Funding Level Criteria*

1. Commitment of project funding or in-kind contribution by project sponsor.
2. Commitment of funding or in-kind contribution by private development interests.

*\*Grants in this category will be considered during the second round of CET funding in 2012.*

## **ATTACHMENT D**

### **Potential CET Grant Screening Committee**

*Background:*

If the Metro construction excise tax (CET) is extended to fund a broader spectrum of planning projects, a Screening Committee is needed to review and assess applications according to program criteria.

*Purpose:*

To screen and assess CET grant applications and make recommendations to Metro Chief Operating Officer (COO) of candidates for funding.

*Duration/Time Commitment:*

The Screening Committee would assess two rounds of applications:

First tentative application assessment cycle: Dec 2009 – Jan 2010

Second tentative application assessment cycle: Dec 2011 – Jan 2012

*Scope/Deliverables:*

- Review applications for completion
- Assess applications according to program criteria
- Make recommendation to Metro COO on applications for funding and amounts. This recommendation is to be presented in written form
- All recommended applications must be supported by at least five members of the committee

*Who:*

The Committee will be comprised of nine individuals representing a variety of expertise from public and private interests and one non-voting Metro Councilor to serve as a liaison. Chair of the Committee to be appointed by the Metro Council. The committee should include at least:

- One member with expertise in economic development
- One member with expertise in urban planning
- At least one member with expertise in real estate development and finance
- One member representing local government
- One member with expertise in urban renewal and redevelopment
- One member representing business interests
- One member from a Neighborhood Association or Community Planning Commission with an understanding of community livability issues
- One member with expertise in environmental sustainability

*Metro COO:*

The CET Screening Committee will make recommendations to the Metro COO on applications. The COO will forward this recommendation to the Metro Council and may submit supplemental recommendations. The Metro Council approves funding of applications.

**ATTACHMENT E**  
**CET Advisory Group**  
**Meeting Summary, April 7, 2009**

**On the outcomes of the CET program:**

There was general consensus that the CET program has been successful in meeting the (narrow) purpose of funding comprehensive planning in UGB expansion areas.

Some members raised questions about the value of the planning in terms of its delivery of on-the-ground development. One participant asked: What is the tangible, measureable benefit to the region of completing concept and comprehensive plans? Answer: Comprehensive planning is a pre-requisite for development; planning facilitates development, even if it is not immediate. An example of “on the ground” results from the CET program is the Shutte/Evergreen employment area in Hillsboro where companies such as Genentech and Solar World have now located.

Representatives of local jurisdictions receiving CET funds commented that the funds had allowed them to create great development plans for expansion areas. This planning work would not have been possible otherwise.

However, three key challenges emerged to developing the planned areas:

- The lack of financing for infrastructure to implement plans
- Voter approved annexations have stalled implementation of some CET funded plans
- The need to invest time and energy into public participation and education to show the benefits of development (both in expansion areas and redeveloping areas)

Local government officials on the committee noted that the CET money ended up being only a part of the total cost of planning work, and they needed to pay for the remainder with general funds.

The Home Builders’ representative raised questions about Metro’s authority to ensure final adoption of comprehensive plans by jurisdictions. IGAs between Metro and local governments stipulate that final CET payments are contingent upon plan adoption. A suggestion was made to link final payment(s) of CET funds to approval of annexation by voters in places where such voter approval is required.

**On the CET tax structure & Metro administration:**

The Committee was briefed on the interaction between Metro’s CET ordinance and state statute restricting local adoption of construction excise taxes limits Metro’s ability to change the tax rate. Increases are disallowed, but decreases might permanently limit Metro’s authority. The majority of the group supported the inclusion of a sunset or review after a second phase, either tied to a certain date or a collection target.

The group expressed initial support for extending the CET, but subject to an understanding of the purposes of a second round of CET funding.

Committee members seemed satisfied with Metro's administration of the Construction Excise Tax program.

**On purposes for "round two" of CET:**

The group discussed the potential uses of CET planning funds across the range of possible planning activities: from urban reserve planning, new area planning, urban redevelopment planning, and assisting small jurisdictions in complying with Functional Plan requirements.

Themes that emerged on the issue of planning purposes included:

- A desire to avoid the "peanut -butter" effect, i.e. spreading the money too thinly over a large number of projects or jurisdictions. There is a limited amount of funding available via the CET.
- The use of funds for urban reserve planning is a good opportunity to conduct planning and identify both capacity and costs before considering expansion of the UGB. Urban reserves, though, will not need to be addressed over the next few years, so planning money should be focused on areas inside the UGB.
- Portland, where development projects generated a large share of the CET funds did not receive any benefit from the fund. This generated a few comments about making regional geographic equity in the allocation of funds a principle in round two.
- Washington and Clackamas counties both would like to conduct planning updates in lower-density, unincorporated county areas, such as Aloha and regional Center at Clackamas Town Center and the McLoughlin 2040 corridor.
- Employment areas should also be considered as areas needing investments in planning.
- Some participants expressed a desire to balance the focus between new areas and urban areas, to create the intent to make both areas successful, and to have some certainty that the money will deliver on-the-ground results.
- Just as in the first round of funding, money should be used in a strategic way for the benefit of increasing the capacity of the region and not just redistributed back to local governments to backfill local government budgets.
- Existing regional priorities and thematic or geographic guidelines should be used to assess project proposals.



**ATTACHMENT F**  
**CET Advisory Group**  
**Meeting Summary, April 28, 2009**

**Recap:** Metro staff summarized the first meeting's discussions and sought comments/corrections on the written meeting summary.

**On the draft CET proposal:** Based on the conversation held at the first advisory group meeting, Metro staff prepared, and the group discussed a draft proposal for a CET tax structure, process, purpose, and guiding principles of the program if renewed.

*Tax Structure*

With exception of the sunset, the tax structure proposed remained unchanged from the original. The proposal included a five year CET sunset cycle to raise \$7 - \$10 million with one round of grant applications and funding.

There was general consensus on the tax structure. Suggestions that were volunteered included lowering the rate for a limited duration, maintaining a lower rate through 2018 (when the SB 1036 pre-emption is lifted) in order to raise the same target revenue, or offering a percentage rebate to permit payees. After deliberation the group decided against these options because of the legal and administrative challenges they would raise. The group consensus was to keep the tax rate and structure unchanged.

*Process:*

Rather than providing for a contingency fund, the group opted for two rounds of grants during a five year CET cycle to allow for opportunities to local governments. The group deliberated on the issue of using grant funds for reimbursements for planning work done by jurisdictions in the second round of the program. Participants concluded that because the planning work to be funded in the second round is not a regional mandate, there should be no provision reimbursements.

The group agreed that the screening committee should be a broad group of interests representing the public and private sector. Interest was expressed in using the screening committee and IGAs to monitor and track of funded applications to support the expected development outcomes.

*Purpose:*

A suggestion was made to include "redevelopment" in the general purpose statement as a clarification.

The group discussion on purpose focused on providing a specific set-aside for urban reserve and new area planning. The group expressed confusion over whether the set-aside would cover both new urban areas and reserve areas. While most agreed that planning for urban reserve areas before they are brought into the UGB is important, many felt that having a set aside at 15 % for reserve area is potentially too high and an arbitrary a number. The group was not able to come to a clear consensus on the specifics of how to fund and evaluate urban reserve planning, but agreed that:

- There should be emphasis on investing in existing urban areas, but we should leave the door open for new areas to be funded. These areas include possible new areas brought into the UGB in 2010 and urban reserve areas.

### *Guiding Principles:*

One participant argued for specifically calling out “Main Streets” as one of the target areas for funding. There was general agreement that areas identified in the 2040 architecture are clear target areas for directing growth. However, other participants expressed concern that these target areas limit the places throughout the region that can be eligible for funding (i.e. areas that aren’t centers or corridors). Another participant mentioned that the private sector has also created centers that aren’t 2040 centers (i.e. Bridgeport Village). To address this, it was suggested that areas surrounding centers or corridors be included for eligibility by changing the language under “target areas” to read *‘areas that help facilitate the development of centers, corridors, station areas, employment areas, and main streets’*.

The group discussed the importance of evaluating projects on the ability to create “on-the-ground” development results. Participants expressed that the applicants should carefully detail how and when development will occur as a result of the planning process. This need to demonstrate timely development outcomes should also be paired with a regional significance factor for projects.

### **Key themes that emerged**

- The importance of plans to achieve timely development outcomes
- Concern about funding “studies” that lack implementation capacity
- Importance of funding projects that have regional significance.
- The screening committee should include a balance of interests, be driven by clear and technical criteria, and have some role in evaluating and monitoring of on-going work and milestones.
- Target areas should include adjacent neighborhoods and possibly undesignated target areas (i.e. Bridgeport).

### **Issues moving forward and next steps for the third meeting**

- Illustrate how different plans can meet or not meet guiding principles and criteria.
- Illustrate what the steering committee could look like.
- Resolve how new/existing area allocation can be embedded in guiding principles
- Define how applications can clearly document that plans will lead to expected development outcomes

**ATTACHMENT G**  
**CET Advisory Group**  
**Meeting Summary, May 19, 2009**

**Recap of Previous Meeting:**

Metro staff reviewed the discussion and recommendations from the previous advisory group meeting, summarized changes to the proposal for extending the CET, and sought initial comments, corrections or responses.

**Discussion on the HBA letter:**

Representatives from the Homebuilders Association of Metropolitan Portland shared a letter expressing concerns about a CET extension, including whether extending the tax and changing the purpose would be legal under state law, and stating that a majority of the CET funds should still be used to fund planning in expansion areas. HBA asked that there be additional legal review of the proposal to extend the CET. The group discussed the policy issue of trying to balance funding for reserve and expansion area planning with planning for existing areas. Group members recognized that it is a regional responsibility to plan for expansion and reserve areas, but also expressed a desire for future CET grant cycles to focus on whether planning projects prepare land for development. Members expressed interest in funding plans competitively based on outcomes, rather than on location in the region. This conversation touched on the issue of setting-aside funds specifically for reserves and expansion area planning.

**Selection Committee:**

Staff presented a discussion proposal for a grant application screening committee. The group agreed that the screening committee should be a diverse, nine-person committee. There was discussion over whether the committee should deliver their recommendations directly to the Metro Council or if the COO should also provide recommendations to the Metro Council. The group recommended that Metro COO would receive the recommendations, forward them to the Council, and provide additional recommendations or comments to the Council. Also the group recommended that the Metro Council liaison on the committee would be a non-voting committee member.

**Planning Project Examples:**

Staff presented a Planning Project Examples Discussion Guide with sample planning proposals from a selection of local jurisdictions. Group members expressed appreciation for this information in conjunction with the list of criteria.

**Grant Criteria:**

The group discussed the proposed criteria for existing area plans and urban reserves/expansion area plans. The group discussed and suggested changes to the language of the criteria and definition of terms such as “affordable housing”, “service provider”, “corridor planning”, and ensuring that the term “development” includes redevelopment. The group emphasized the importance of having all applicants provide some matching funds or in-kind contribution to show commitment to the project.

*Criteria for urban reserves and expansion area planning:*

The group debated whether the criteria for expansion and reserve area planning should be limited to plans that help facilitate 2040 design types or should include all comprehensive planning projects. Some group members felt that it would be unrealistic to limit funding for center and corridor planning in expansion areas. Other group members expressed the concern that comprehensive plans might not result in ready to implement development outcomes. The group noted that most planning in these reserve or expansion areas might not result in development outcomes, so maybe the criteria for these areas should be changed to emphasize a priority for getting land closer to future development. Part of the complexity of pre-determining criteria to judge future expansion and reserve area planning projects is that this time around, areas will be planned before they are included in the UGB, which is different from past practice.

Another question that came up was whether applications for expansion and reserve area planning should be only compared to other similar applications or if they should be included in the same pool as applications for existing area planning. This discussion looped back to the question of whether there should be a percentage set-aside for urban reserve and expansion area planning. On this issue, the group was roughly split between yes, no, and mixed with a small majority in favor a set-aside. Staff noted that the original discussion proposal included an urban reserve planning set-aside, but the group had discussed and rejected that approach. The group did agree that involving and leveraging investment from the private sector should be an important consideration in the weighing criteria for reserve and expansion area planning.

**Final Recommendations:**

Councilor Liberty summarized the key elements of the proposal, as modified by the day's discussion, and asked participants to vote to recommend or not recommend the whole package. The majority of group members voted yes on recommending the CET extension proposal (15 support, 3 oppose, 2 mixed opinion, and 1 abstention). Councilor Liberty next asked for views on the issue of a set-aside for reserve and expansion area planning. A small majority favored the set-aside (11 support, 4 oppose, and 4 neutral). Members discussed what proportion of funds should be set aside, considered the original proposal of 15 percent, as well as 25 and 50 percent, but could not agree on a reasonable amount.

**ATTACHMENT H**

<b>CET Revenue Collections and Grants to Date by Jurisdiction</b>				
<b>Jurisdiction</b>	<b>Collection to Date</b>	<b>% of Total Collection</b>	<b>Grant Awarded</b>	<b>% of Total Grant Funds</b>
Beaverton	\$239,327.00	4.0%	\$3,750	0.1%
Clackamas County	\$461,097.95	8.0%	\$202,701	3.2%
Cornelius	\$20,183.00	0.0%	\$25,500	0.4%
Damascus	—	—	\$524,724	8.3%
Durham	\$1,177.00	0.0%	\$0	0.0%
Fairview	\$26,134.60	0.0%	\$0	0.0%
Forest Grove	\$95,734.00	2.0%	\$8,422	0.1%
Gresham	\$314,163.18	6.0%	\$1,067,129	17.0%
Happy Valley	\$175,480.00	3.0%	\$168,631	2.7%
Hillsboro	\$621,142.90	11.0%	\$532,500	8.5%
King City	\$29,296.67	1.0%	\$0	0.0%
Lake Oswego	\$131,789.87	2.0%	\$0	0.0%
Milwaukie	\$22,713.41	0.0%	\$0	0.0%
Multnomah County	—	—	\$202,500	3.2%
Oregon City	\$180,970.75	3.0%	\$702,000	11.2%
Portland	\$2,026,781.00	36.0%	\$0	0.0%
Sherwood	\$96,557.02	2.0%	\$376,964	6.0%
Tigard	\$169,418.52	3.0%	\$0	0.0%
Troutdale	\$64,215.79	1.0%	\$0	0.0%
Tualatin	\$182,221.00	3.0%	\$83,101	1.3%
Washington County	\$489,892.79	9.0%	\$2,397,478	38.1%
West Linn	\$93,084.16	2.0%	\$0	0.0%
Wilsonville	\$150,740.58	3.0%	\$0	0.0%
Wood Village	\$11,648.63	0.0%	\$0	0.0%
<b>Total</b>	<b>\$5,603,769.82</b>	<b>100%</b>	<b>\$6,295,400</b>	<b>100%</b>

Note: Multnomah County and Damascus did not enter into IGAs with Metro for the collection of CET revenues because they do not operate their own building permit counters.

A grant of \$365,278 was awarded for the planning of Coffee Creek 2 which will be a joint effort by Washington County, Clackamas County, Tualatin, or Willsonville. For the purposes of this table, the funds are shown as allocated to Washington County.

Metro funded the costs of grant awards up-front and is now in the process of collecting the revenues.

ATTACHMENT I



# Construction Excise Tax (CET) Performance Review

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April 3, 2009

# Background

## Overview

Metro is the directly elected regional government that serves 1.4 million residents in Clackamas, Multnomah and Washington counties, and the 25 cities in the Portland metropolitan area. Metro is responsible, among other things, for regional land use and transportation planning.

In 2006, after consultation with a broad-based stakeholder committee, the Metro Council established a construction excise tax (CET) to fund planning activities in areas recently added to the Portland metropolitan region's urban growth boundary (UGB). Cities and counties lacked the resources to conduct concept planning in these areas, which is a prerequisite to development. More importantly, this initial planning work is critical to creating vibrant communities, a key goal of Metro's *Making the Greatest Place* initiative.

### *Making the Greatest Place* goals:

**VIBRANT COMMUNITIES:** People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.

**ECONOMIC PROSPERITY:** Our Children and their children benefit from the region's sustained economic competitiveness and prosperity.

**SAFE AND RELIABLE TRANSPORTATION:** People have safe and reliable transportation choices that enhance their quality of life.

**SUSTAINABILITY:** The region is a leader in sustainability and minimizing contributions to climate change.

**CLEAN AIR AND WATER:** Current and future generations enjoy clean air, clean water, and healthy ecosystems.

**FAIRNESS AND EQUITY:** The benefits and burdens of growth and change are distributed fairly and equitably.

The CET program has succeeded in raising revenues in a timely fashion to pay for planning work that could not have been funded otherwise. Metro, cities, and counties promptly established intergovernmental agreements. The collection and transfer of excise tax revenues by local governments has been straightforward. Metro has worked closely with grantees to track the achievement of milestones and the payment of grants by Metro to local governments has been timely and simple. As a result the vast majority of the planning work that Metro's CET program was established to carry out is now complete.

The construction excise tax is due to sunset when the total amount of \$6.3 million has been levied (the amount required to fund new area planning activity), which is currently estimated to occur in the fall of 2009. This report provides an overview of how the CET program has performed during the past three years.

## Planning Mandates

Metro is responsible for managing the UGB and is required, by state law, to maintain a 20-year supply of land for future residential development inside the boundary. Every five years, the Metro Council is required to conduct a review of the land supply and, if necessary, change policy inside the existing UGB, expand the UGB, or both, to meet that requirement.

From 1998 to 2005, Metro added more than 23,000 acres to the UGB. Title 11 of Metro's Urban Growth Management Functional Plan requires the city(ies) or county that will provide services for the

new urban area to adopt comprehensive plan provisions concerning the future urbanization of the area. This must be completed before the land can be converted from rural to urban use. These comprehensive plan provisions must address issues like minimum residential density levels, diversity of housing stock, an adequate transportation system, protection of natural resource areas and needed school facilities.

*“The Metro CET grant is a valuable asset for communities in the region to conduct planning work that is necessary for compliance with regional and state requirements. Our city has limited funding, staffing and expertise to develop these studies. The CET grant allowed our community to complete these in a comprehensive manner.”*

-Anita Yap, Damascus

### **Obstacle to Compliance**

After these new areas were added to the UGB, it became clear that many of the jurisdictions responsible for the new area planning could not comply with planning requirements due to limited staff and a lack of resources. By 2007, less than 15 percent of the land added to the UGB since 1998 was planned and developed, turning Title 11 into what some call an “unfunded mandate”. Identifying money to support these planning needs became an issue of regional importance.

### **A Regional Planning Solution**

In 2005, Metro convened key stakeholders to discuss the challenge of paying for planning in expansion areas. Stakeholders included business, labor, development and environmental interests, as well as the Home Builders Association, local elected officials, and city and county planners. Early scoping and discussion with jurisdictions on the needs gap revealed that roughly \$6.3 million was needed to fund planning for the UGB expansions<sup>1</sup> from 2002-2005. There was strong agreement among stakeholders that paying for planning in these areas was a significant regional need. In examining various finance mechanisms, an excise tax on building permits emerged as a preferred tool.

Following the stakeholder meetings, Metro established a Tax Study Committee to further explore and define the parameters for such a tax including tax base, rate, target revenues, duration, dedications, allocation criteria and oversight. The Committee was composed of eleven members that represented various interests including development, schools, land-use advocates, building trades, county and city policy makers, municipal planners, community development groups, and non-voting members of Metro.

After three months of study, discussions, and collaboration, the Tax Study Committee presented their finding and recommendations on the establishment of a CET to the Metro Council and the Metro Policy Advisory Committee (MPAC). MPAC approved the Committee’s recommendation, and on March 23<sup>rd</sup>, 2006, the Metro Council enacted OR 06-1115 establishing the CET, effective July 1, 2006.

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<sup>1</sup>This number reflects total cost estimates reported to Metro by the jurisdictions for the completion of new area planning.



## Tax Structure

The CET applies to building permits issued within the Metro service district boundary. The purpose of the tax is to support new area planning required to make land ready for development after it is included in the UGB. The tax is assessed at 0.12 percent of the total value of the improvements for which a permit is sought.

## Exemptions and Exceptions

Permits valued below \$100,000, permits for affordable housing, and permits issued to 501(c)(3) nonprofits are exempt from the tax. Permits for construction valued at more than \$10 million are assessed a flat fee of \$12,000. There have been relatively few exemptions, mostly for qualifying low income housing projects. Metro staff works with the jurisdictions, and sometimes directly with the applicants, to evaluate exemption requests.

## Collection

Metro has established intergovernmental agreements (IGAs) with each city and county for the collection of the CET, including the provision of a five percent administrative fee to the jurisdictions responsible for collecting the tax. This administrative fee is collected on site by the jurisdictions and is not part of the funds submitted to Metro quarterly.

Apart from Metro, school districts are the only other entities currently collecting an excise tax in the Portland metro region (under SB 1036, enacted in 2007). The administrative fee provided to jurisdictions under the school excise tax is one percent of total revenues.

*"We found the process to be streamlined and easy to work with, and appreciate Metro's flexibility in working through CET milestones, deadlines and the invoicing process."*

-Michael Walter  
Happy Valley

## Sunset

The CET ordinance included a sunset provision that limits collection of the tax to the last day of the month in which a total of \$6.3 million has been collected. Metro must provide prompt written notice to collecting jurisdictions when the last of the funds are received and certified.

## Metro Administration of CET

### Review and Funding of Grant Applications

*"The process was easy to understand and reimbursements followed in a timely fashion. The City has one more concept plan to prepare, for South End, and we look forward to continuing a positive relationship in that endeavor."*

-Dan Drentlaw  
Oregon City

Metro worked with regional partners, the Tax Study Committee and MPAC to establish a process to distribute the \$6.3 million that would be raised through the CET. Ultimately, Metro determined that a process of distribution through jurisdictional application was most equitable. Metro became responsible for reviewing applications based on their relevance to regional planning requirements.

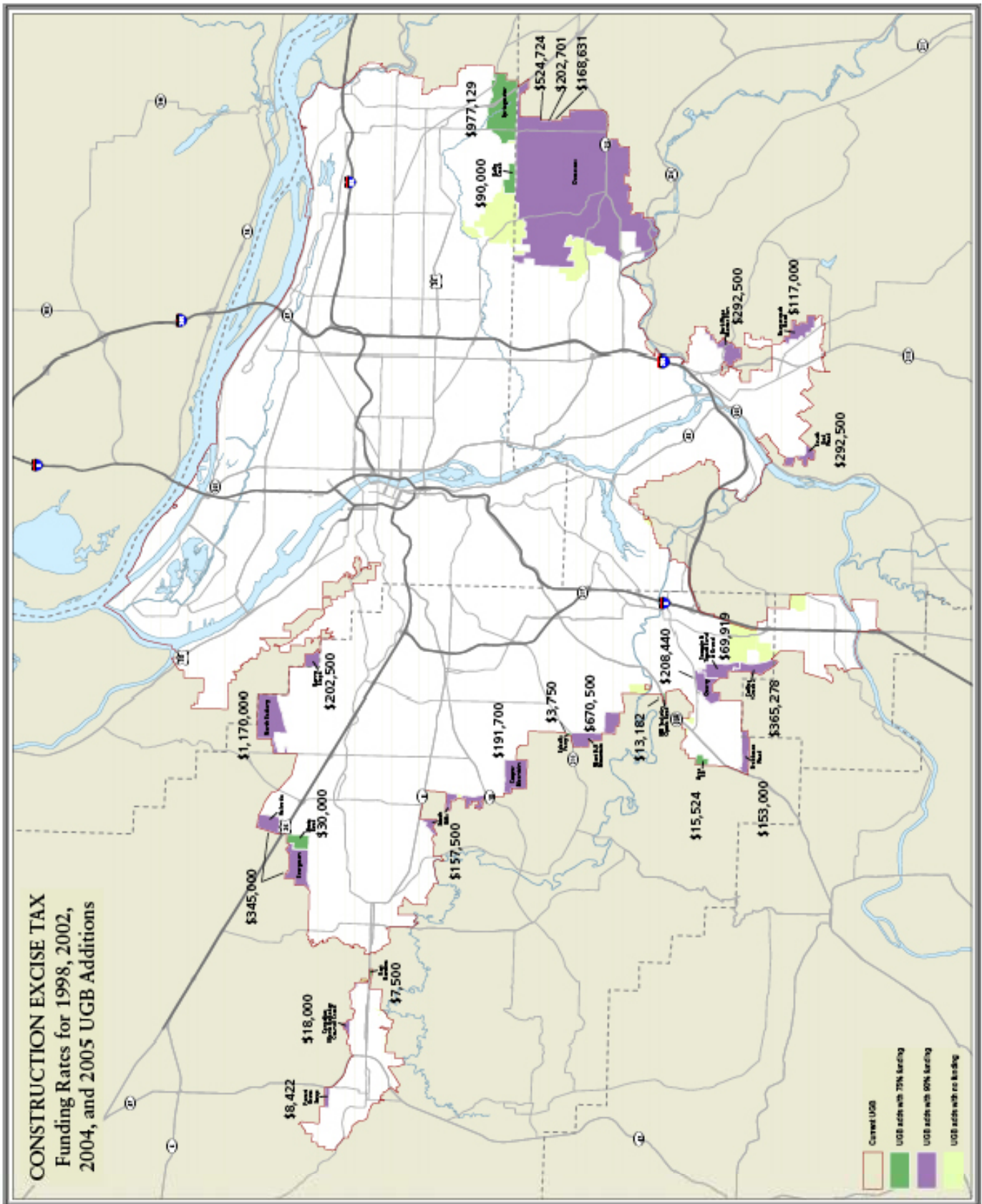
Though many jurisdictions had not yet begun any planning in new areas, some had already completed or commenced the work. To recognize the effort made by the latter jurisdictions, it was decided to partially reimburse them. To account for total grant requests that

exceeded the available funds, a formula for granting awards was developed that paid out grants at two different rates. Jurisdictions which had not completed or undertaken any planning received 90 percent funding of their grant requests. Jurisdictions that had already completed their new area planning were reimbursed at 75 percent of their total grant requests. Metro was responsible for providing the up-front financing of approved grant requests as CET was collecting revenue. Map 1, on the next page, displays the expansion areas that received CET grants along with the amount of each grant.

Payments of grants and reimbursements are not made in one lump sum. With each planning milestone met in the IGA timeline, such as substantial progress towards completion of a concept plan and eventually adoption of a comprehensive plan amendment, jurisdictions receive a partial payment or reimbursement. If a jurisdiction anticipates that a due date for a milestone will not be met, it must inform Metro in writing no later than ten days prior to the due date. Metro and a jurisdiction must mutually revise the milestones in the IGA's.

Metro collected no administrative fee or reimbursement for the development or administration of the CET program. Revenues collected were fully allocated to grant distribution and local administrative costs.

Map 1



# Performance

## Collections

Original Tax Study Committee estimates, based on historical construction activity in the region, concluded that the target collections of \$6.3 million could be collected in approximately three years by imposing an excise tax of 0.12 percent on the value of construction permits (including specified exceptions and exemptions). According to this estimate, the target collections would be met by June/July 2009. Figure 1 shows cumulative yearly totals of revenues through the second quarter of FY 2009. After two-and-a-half years of collection, \$5.2 million has been received. However, receipts have slowed during the first two quarters of FY 2009, compared to 2006/2007.

**Figure 1  
Construction Excise Tax (Cumulative)**

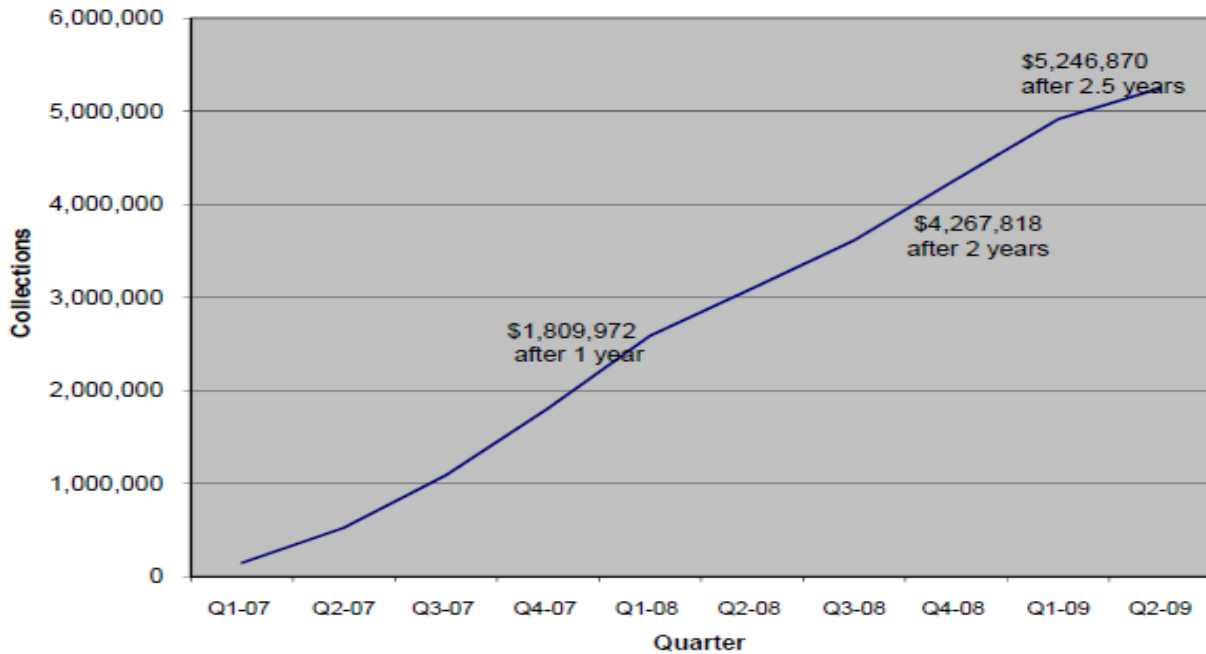
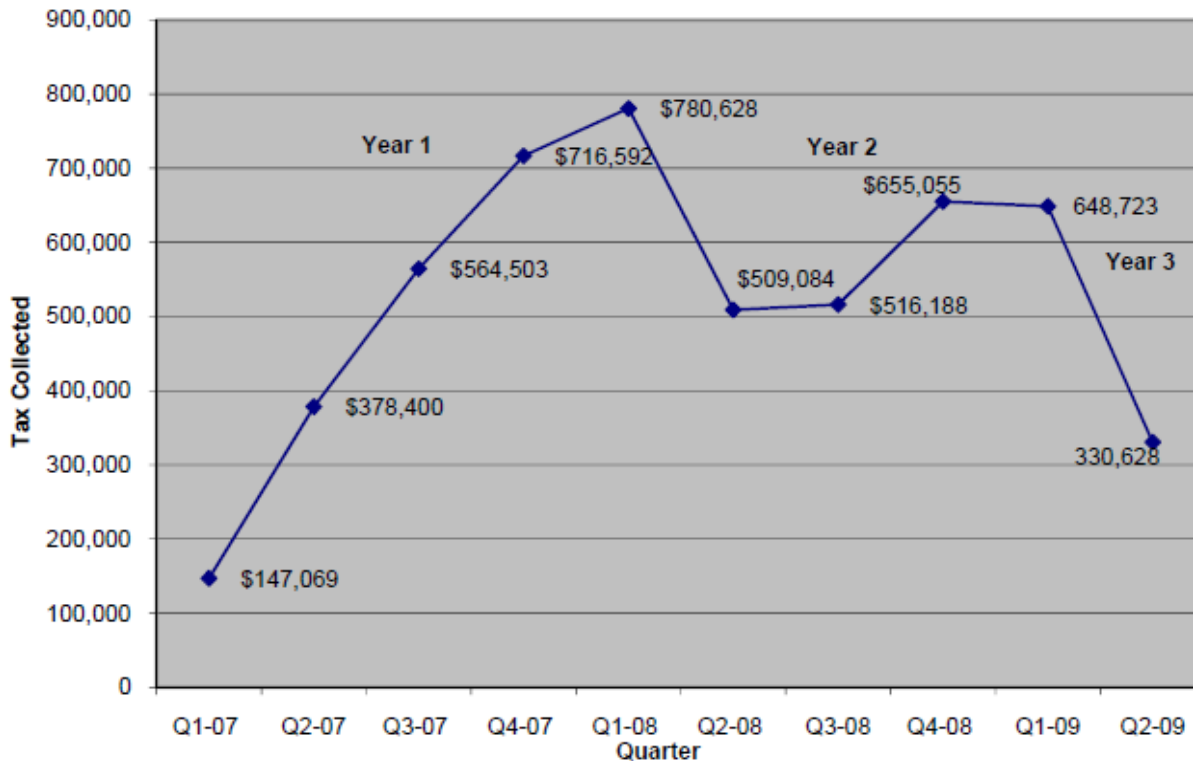


Figure 2 reflects total revenues collected by quarter. The first five quarters represent the highs of the real estate market. The dips in the second and third quarters of FY 2008 coincide with the cyclical dips of construction during cold wet months, while the fourth quarter of FY 2008 and the first quarter of FY 2009 reflect the surge of construction that occurs during the warmer months. Most notable however, is the steep decline in revenues in the second quarter of FY 2009. While this period does coincide with the beginning of the cold season, the decline also shows the impacts of the current recession on the construction and real estate markets. With the economy not predicted to begin stabilizing until mid-2010, it is likely that average CET revenues will be lower than average throughout the 2009 calendar year, affecting the timing of the CET sunset, which is connected to the collection of total target revenues (\$6.3 million).

Figure 2  
Construction Excise Tax by Quarter



The figure in Appendix A displays the *total value* of CET permits by type, commercial or residential, from July 2006 through September 2008. <sup>i</sup> The commercial category includes everything except residential development (industrial, commercial, etc.). As shown, for jurisdictions other than Portland and Fairview, the total value of permits for residential development has been greater than for commercial. These numbers attest to not only the real estate market peak, but also the increase in population and demand for housing on the region. Though residential permits greatly outnumbered those for commercial use, a few particularly expensive commercial projects in the cities of Portland and Fairview brought the total value of commercial permits to exceed that of residential.

Appendix B displays all new residential units throughout the region subject to the Construction Excise Tax separated out by the number of units per permit from 2006 to 2008. The map illustrates that the majority of residential permits subject to the CET were for single-family residential developments. Permits for residential developments of 35 units or more were rare throughout the region. The majority of these multi-family developments are concentrated in Portland but a few are also found in the Beaverton, Hillsboro, and Wilsonville areas.

Appendix C displays all new commercial units throughout the region subject to the Construction Excise Tax separated by the value of the permit from 2006 to 2008. The map shows that the majority of the permits subject to CET were in the range of one to 30 million, with a few permits having a value of 30 million and greater. The spatial display of these permits reveals clusters of commercial

permits in Portland’s city center as well as smaller clusters in Hillsboro and the Clackamas County 2040 regional center.

**Table 1 - New Area Planning Progress and Funding**

Lead Jurisdiction	Subarea for Planning	CET Funding Rate	Total CET Grant Allocation	New Planning Completed	New Planning Underway	Reimbursement Issued	Planning & Reimbursements not Yet Started
Beaverton	Scholls Ferry (portions of Bull Mtn/Area 64)	75%	\$3,750			X	
Clackamas Co.	Damascus/ Boring	75%	\$202,701			X	
Cornelius	E. Baselin (Area 77)	75%	\$7,500			X	
Cornelius	Cornelius/ N. Holladay/ Council Creek	90%	\$18,000				X
Damascus	Damascus Concept	90%	\$524,724		X		
Forest Grove	Forest Grove Swap	90%	\$8,422				X
Gresham	Springwater (Areas 6 & 12)	75%	\$977,129			X	
Gresham	Kelly Creek (Area 13)	75%	\$90,000		X		
Happy Valley	Happy Valley Comp.	90%	\$168,631	X			
Hillsboro	South Hills (Areas 69 & 71)	90%	\$157,500		X		
Hillsboro	Shute Rd	75%	\$30,000			X	
Hillsboro	Helvetia and Evergreen	90%	\$345,000	X			
Multnomah Co.	Bonny Slope (Area 93)	90%	\$202,500		X		
Oregon City	Park Place Master Plan	90%	\$292,500	X			
Oregon City	Beavercreek Rd. & Area 26	90%	\$117,000	X			
Oregon City	South End Rd (Area 32)	90%	\$292,500				X
Sherwood	Brookman Rd	90%	\$153,000		X		
Sherwood	Area 59	75%	\$15,524			X	
Sherwood	Quarry (portions of Areas 48 & 49)	90%	\$208,440		X		
Tualatin	SW Implementation Plan	90%	\$30,907				X
Tualatin	NW and SW Tualatin Plans	75%	\$52,194			X	
Washington & Clackamas Counties or Tualatin or Wilsonville	Coffee Creek 2/ portions of Areas 47 & 49	90%	\$365,278				X
Washington Co.	Bull Mountain (Areas 63 & 64)	90%	\$670,500		X		
Washington Co.	Cooper Mountain (Area 67)	90%	\$191,700				X
Washington Co.	N. Bethany	90%	\$1,170,000		X		
			<b>\$6,295,400</b>				

## **CET Grant Distribution**

Table 1 displays the jurisdictions and plans that have been allocated CET funds to conduct expansion area planning. The four columns on the right-hand show the progress of planning efforts as of March 2009. Eleven plans have been completed, eight are in progress, and six are yet to be commenced. Projects that have not been started were either awaiting other decision-making processes (for example, on the I-5/99W Connector) or were part of a series of plans being completed in phases by a jurisdiction (e.g. Washington County and Oregon City). The *New Planning Completed* and *New Planning Underway* columns refer to areas that received funds at a rate of 90 percent of the amount requested. The *Reimbursement Issued* column refers to sites that were funded at a rate of 75 percent, and have completed their required planning. The last column, *Planning & Reimbursements not yet Started*, refers to areas that have not yet commenced planning, or have not collected their reimbursements for planning completed or underway. Appendix D displays total CET collections and recipients by jurisdiction.

## **Next Steps**

### **Measuring Success**

The purpose of the construction excise tax was to secure funding for the planning required under Title 11 for areas added to the UGB from 2000-2005. The program has and continues to be successful in accomplishing this goal. More than half of new area plans identified by the stakeholder group are now complete, another third are progressing towards completion, and the remaining plans will be commenced soon.

Stakeholders who convened to establish the CET program recognized that planning is necessary, but not sufficient to accomplish the region's growth and development goals. There was a shared understanding that to actualize the type of development these new area plans call for, the greater issues of infrastructure and basic service delivery must be addressed. Identifying a strategy to fund local and regional infrastructure is critical to accomplishing the various planning goals throughout the metropolitan area.

### **State CET Preemption**

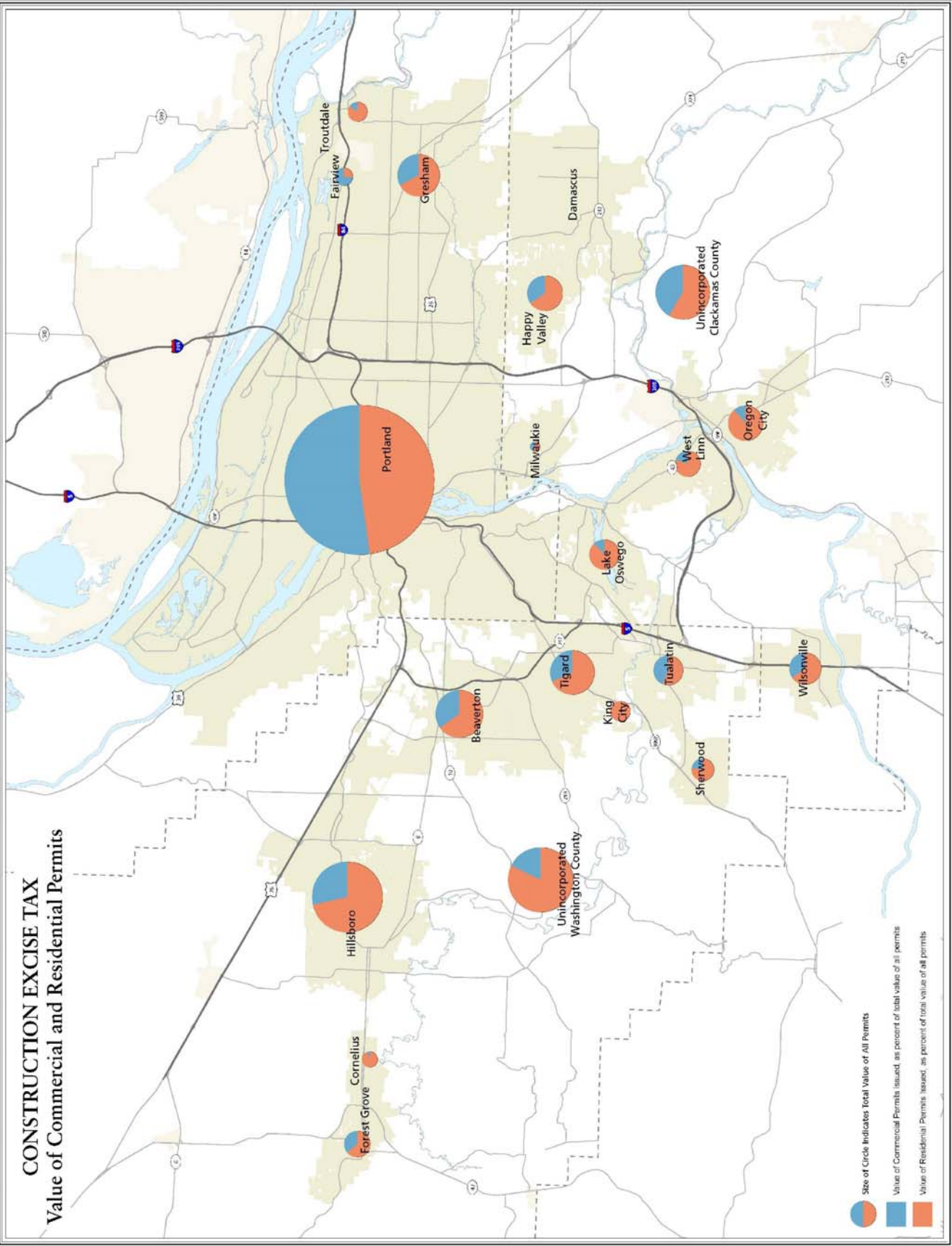
Since the Metro CET was established in 2006, state law regarding local taxing authority has changed, limiting local government's authority to levy excise taxes on construction. In 2007, the Oregon Legislature enacted Senate Bill 1036, which authorized school districts to levy a construction excise tax on new residential, commercial, and industrial construction to pay for school facility construction. However, the bill also prohibited the establishment of new construction excise taxes by other local governments. The state preemption expires in 2018. Existing CETs are "grandfathered" in – the local preemption does not apply to any tax "that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007". Thus, state law allows Metro to continue levying a CET so long as the rate does not change. However, if the tax is allowed to sunset, SB 1036 would prohibit the re-institution of an excise tax until 2018.

As the CET sunset approaches, Metro and its regional partners are considering the value of extending the tax to support a broader spectrum of planning needs throughout the region. If the tax sunsets, the tool will not be available again until 2018. Starting in April 2009, Metro will convene an advisory group whether to retain this taxing authority and discuss the range of options available for the CET, and make recommendations to Metro's Chief Operating Officer on what types of planning to support and how to distribute funds.

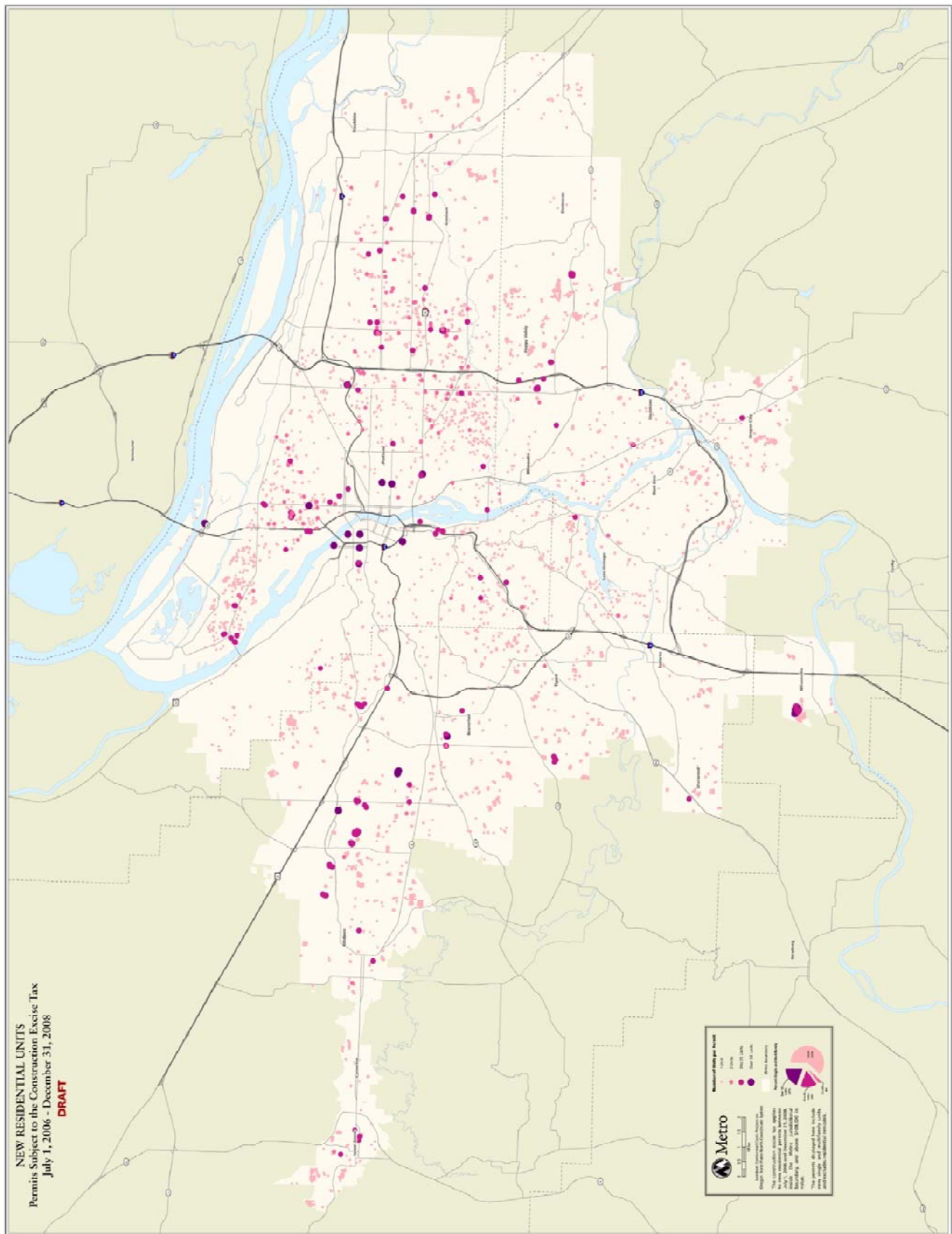


# Appendix A

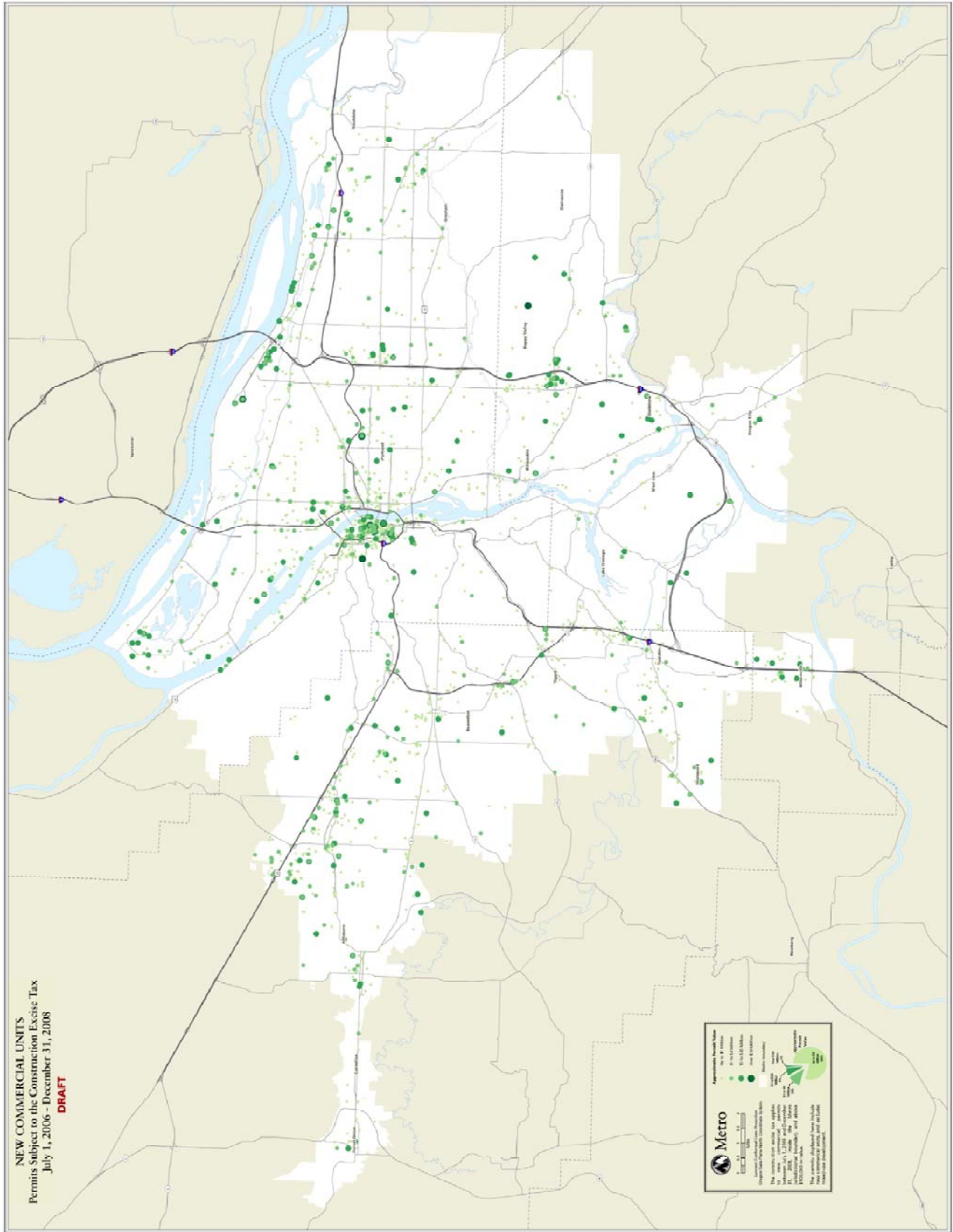
## CONSTRUCTION EXCISE TAX Value of Commercial and Residential Permits



# Appendix B

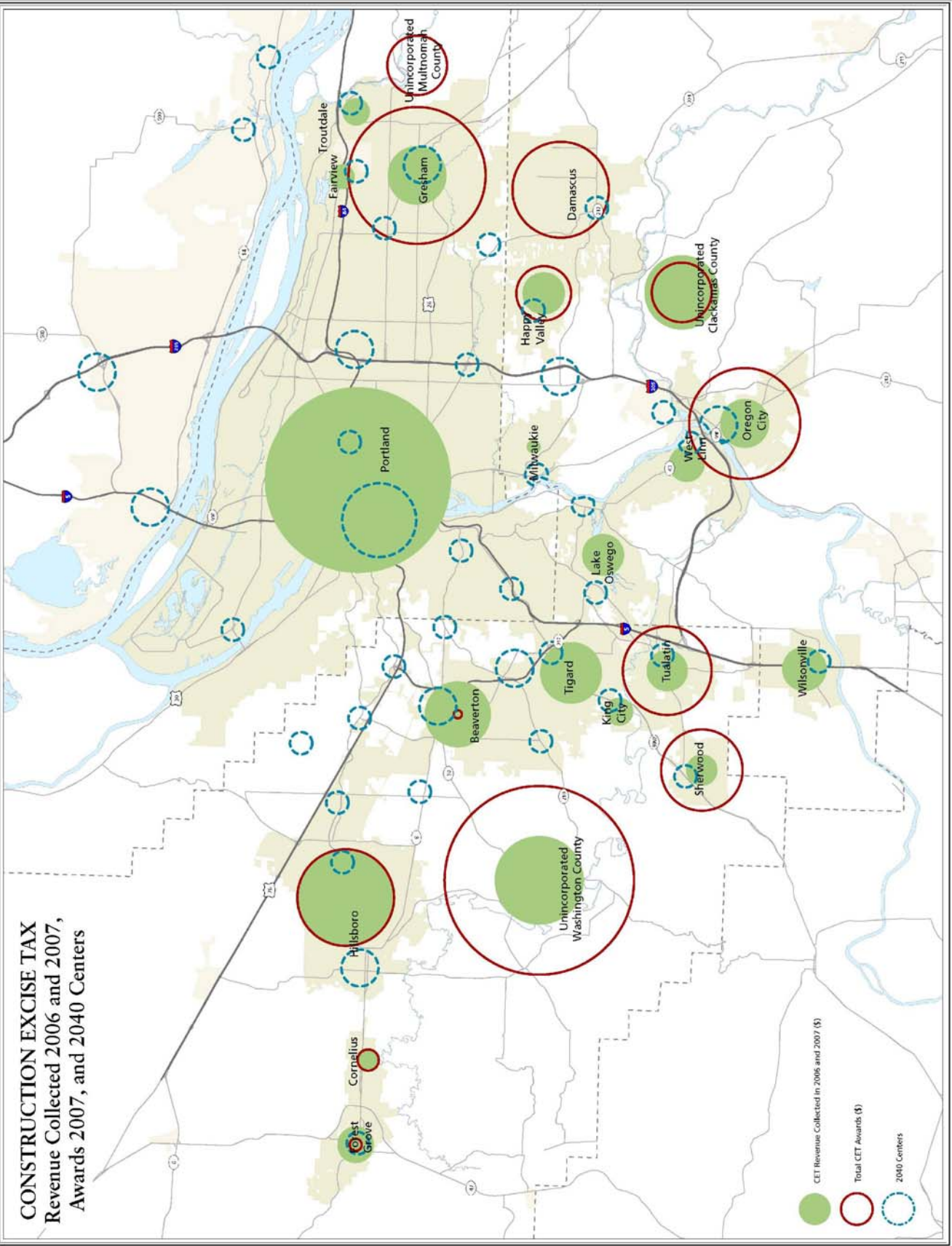


# Appendix C



# Appendix D

**CONSTRUCTION EXCISE TAX**  
 Revenue Collected 2006 and 2007,  
 Awards 2007, and 2040 Centers





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<sup>i</sup> Disclaimer for Appendices A,-D: The information used to create these appendices was gathered from Construction Monitor and processed by Metro staff. Because this is third party data, not produced by Metro, it should only be used for general approximations. Metro staff cannot guarantee full accuracy of Construction Monitor data. The data reflect the total values of permits issued within the Metro service district for July 2006 through 2008 which were subject to CET. In addition, it should be noted that those permits which received exemptions for affordable housing and 501c(3) status have NOT been excluded from this analysis.

Agenda Item Number 7.2

**Ordinance No. 09-1215A**, Adopting the Annual Budget for Fiscal Year 2009-10, Making Appropriations, Levying Ad Valorem Taxes, and Declaring an Emergency.

PUBLIC HEARING

Metro Council Meeting  
Thursday, June 11, 2009  
Metro Council Chamber

BEFORE THE METRO COUNCIL

ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 2009-10, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND DECLARING AN EMERGENCY	) ) ) ) )	ORDINANCE NO. 09-1215A  Introduced by Michael Jordan, Chief Operating Officer, with the concurrence of Council President David Bragdon
--	-----------------------	--

WHEREAS, the Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual Metro budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010; and

WHEREAS, recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by Metro (attached as Exhibit A and made a part of the Ordinance) and considered; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The "Fiscal Year 2009-10 Metro Budget," in the total amount of FOUR HUNDRED SIXTY ONE MILLION SEVEN HUNDRED TWENTY NINE THOUSAND TWO HUNDRED THIRTY DOLLARS (\$461,729,230), attached hereto as Exhibit B, and the Schedule of Appropriations, attached hereto as Exhibit C, are hereby adopted.

2. The Metro Council does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Ordinance, at the rate of \$0.0966 per ONE THOUSAND DOLLARS (\$1,000) of assessed value for operations and in the amount of FORTY ONE MILLION FOUR HUNDRED SEVENTY FOUR THOUSAND THREE HUNDRED NINE DOLLARS (\$41,474,309) for general obligation bond debt, said taxes to be levied upon taxable properties within the Metro District for the fiscal year 2009-10. The following allocation and categorization subject to the limits of Section 11b, Article XI of the Oregon Constitution constitute the above aggregate levy.

SUMMARY OF AD VALOREM TAX LEVY

	Subject to the General Government <u>Limitation</u>	Excluded from <u>the Limitation</u>
Operating Tax Rate Levy	\$0.0966/\$1,000	
General Obligation Bond Levy		\$41,474,309

3. In accordance with Section 2.02.040 of the Metro Code, the Metro Council hereby authorizes positions and expenditures in accordance with the Annual Budget adopted by Section 1 of this Ordinance, and hereby appropriates funds for the fiscal year beginning July 1, 2009, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit C.



4. The Smith and Bybee Lakes Fund is hereby renamed the Smith and Bybee Wetlands Fund. The purpose of the fund remains the same.

5. The Chief Operating Officer shall make the filings as required by ORS 294.555 and ORS 310.060, or as requested by the Assessor's Office of Clackamas, Multnomah, and Washington Counties.

6. This Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that the new fiscal year begins July 1, 2009, and Oregon Budget Law requires the adoption of a budget prior to the beginning of the fiscal year, an emergency is declared to exist and the Ordinance takes effect upon passage.

ADOPTED by the Metro Council on this 25<sup>th</sup> day of June 2009.

\_\_\_\_\_  
David Bragdon, Council President

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Anthony Andersen, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

BEFORE THE METRO COUNCIL

ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 2009-10, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND DECLARING AN EMERGENCY	) ) ) ) )	ORDINANCE NO. 09-1215A  Introduced by Michael Jordan, Chief Operating Officer, with the concurrence of Council President David Bragdon
--	-----------------------	--

WHEREAS, the Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual Metro budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010; and

WHEREAS, recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by Metro (attached as Exhibit A and made a part of the Ordinance) and considered; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The "Fiscal Year 2009-10 Metro Budget," in the total amount of FOUR HUNDRED ~~FIFTY SEVEN~~SIXTY ONE MILLION ~~SIX SEVEN HUNDRED TWENTY NINE~~ THOUSAND ~~THREE TWO~~FIFTY TWO~~THIRTY~~ DOLLARS (~~\$457,006,352~~461,729,230), attached hereto as Exhibit B, and the Schedule of Appropriations, attached hereto as Exhibit C, are hereby adopted.

2. The Metro Council does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Ordinance, at the rate of \$0.0966 per ONE THOUSAND DOLLARS (\$1,000) of assessed value for operations and in the amount of FORTY ONE MILLION ~~TWO FOUR~~ HUNDRED ~~EIGHTY SIX~~SEVENTY FOUR THOUSAND ~~ELEVEN THREE HUNDRED NINE~~ DOLLARS (~~\$41,286,011~~41,474,309) for general obligation bond debt, said taxes to be levied upon taxable properties within the Metro District for the fiscal year 2009-10. The following allocation and categorization subject to the limits of Section 11b, Article XI of the Oregon Constitution constitute the above aggregate levy.

SUMMARY OF AD VALOREM TAX LEVY

	Subject to the General Government <u>Limitation</u>	Excluded from the <u>Limitation</u>
Operating Tax Rate Levy	\$0.0966/\$1,000	
General Obligation Bond Levy		\$ <u>41,286,011</u> <u>41,474,309</u>

3. In accordance with Section 2.02.040 of the Metro Code, the Metro Council hereby authorizes positions and expenditures in accordance with the Annual Budget adopted by Section 1

of this Ordinance, and hereby appropriates funds for the fiscal year beginning July 1, 2009, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit C.

4. The Smith and Bybee Lakes Fund is hereby renamed the Smith and Bybee Wetlands Fund. The purpose of the fund remains the same.

5. The Chief Operating Officer shall make the filings as required by ORS 294.555 and ORS 310.060, or as requested by the Assessor's Office of Clackamas, Multnomah, and Washington Counties.

6. This Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that the new fiscal year begins July 1, 2009, and Oregon Budget Law requires the adoption of a budget prior to the beginning of the fiscal year, an emergency is declared to exist and the Ordinance takes effect upon passage.

ADOPTED by the Metro Council on this ~~18<sup>th</sup>~~ 25<sup>th</sup> day of June 2009.

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David Bragdon, Council President

ATTEST:

Approved as to Form:

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Anthony Andersen, Recording Secretary

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Daniel B. Cooper, Metro Attorney

## STAFF REPORT

### CONSIDERATION OF ORDINANCE NO. 09-1215 ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 2009-10, MAKING APPROPRIATIONS AND LEVYING AD VALOREM TAXES, AND DECLARING AN EMERGENCY

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Date: April 2, 2009

Presented by: Michael Jordan  
Chief Operating Officer

## BACKGROUND

I am forwarding to the Metro Council for consideration and approval my proposed budget for fiscal year 2009-10.

Metro Council action, through Ordinance No. 09-1215 is the final step in the process for the adoption of Metro's operating financial plan for the forthcoming fiscal year. Final action by the Metro Council to adopt this plan must be completed by June 30, 2009.

Once the budget plan for fiscal year 2009-10 is approved by the Metro Council, the number of funds and their total dollar amount and the maximum tax levy cannot be amended without review and certification by the Tax Supervising and Conservation Commission. Adjustments, if any, by the Metro Council to increase the level of expenditures in a fund are limited to no more than 10 percent of the total value of any fund's expenditures in the period between Metro Council approval in early May 2009 and adoption in June 2009.

Exhibit A to this Ordinance will be available subsequent to the Tax Supervising and Conservation Commission hearing June 4, 2009. Exhibits B and C of the Ordinance will be available at the public hearing on April 2, 2009.

## ANALYSIS/INFORMATION

1. **Known Opposition** – Metro Council hearings will be held on the Proposed Budget during the month of April 2009. Opportunities for public comments will be provided. Opposition to any portion of the budget will be identified during that time.
2. **Legal Antecedents** – The preparation, review and adoption of Metro's annual budget is subject to the requirements of Oregon Budget Law, ORS Chapter 294. Oregon Revised Statutes 294.635 requires that Metro prepare and submit its approved budget to the Tax Supervising and Conservation Commission by May 15, 2009. The Commission will conduct a hearing on June 4, 2009 for the purpose of receiving information from the public regarding the Metro Council's approved budget. Following the hearing, the Commission will certify the budget to the Metro Council for adoption and may provide recommendations to the Metro Council regarding any aspect of the budget.
3. **Anticipated Effects** – Adoption of this ordinance will put into effect the annual FY 2009-10 budget, effective July 1, 2009.
4. **Budget Impacts** – The total amount of the proposed FY 2009-10 annual budget is \$457,006,352 and 757.13 FTE.

**RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of Ordinance No. 19-1215

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