



METRO

Agenda

MEETING: METRO COUNCIL
DATE: August 13, 2009
DAY: Thursday
TIME: 2:00 p.m.
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSTRUCTION EXCISE TAX (CET) ADMINISTRATIVE RULES: Shaw BRIEFING AND OPPORTUNITY FOR PUBLIC COMMENT

4. DRAFT REGIONAL FREIGHT AND GOODS MOVEMENT Wiegart/Redman PLAN: BRIEFING AND DISCUSSION

5. CONSENT AGENDA

5.1 Consideration of Minutes for the August 6, 2009 Metro Council Regular Meeting.

6. RESOLUTIONS

6.1 **Resolution No. 09-4050**, For the Purpose of Approving Second Round Liberty
Funding for Nature in Neighborhoods Capital Grants.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 09-1221B**, For the Purpose of Amending Metro Code Park
Chapter 6.01 Regarding the MERC General Manager and Declaring an
Emergency

8. CHIEF OPERATING OFFICER COMMUNICATION

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for August 13, 2009 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 – Community Access Network www.tvctv.org – (503) 629-8534 2 p.m. Thursday, August 13 (Live)	Portland Channel 30 (CityNet 30) – Portland Community Media www.pcmtv.org – (503) 288-1515 8:30 p.m. Sunday, August 16 2 p.m. Monday, August 17
Gresham Channel 30 – MCTV www.mctv.org – (503) 491-7636 2 p.m. Monday, August 17	Washington County Channel 30 – TVC-TV www.tvctv.org – (503) 629-8534 11 p.m. Saturday, August 15 11 p.m. Sunday, August 16 6 a.m. Tuesday, August 18 4 p.m. Wednesday, August 19
Oregon City, Gladstone Channel 28 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.

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

Agenda items may not be considered in the exact order 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. 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

**CONSTRUCTION EXCISE TAX (CET) ADMINISTRATIVE RULES:
BRIEFING AND OPPORTUNITY FOR PUBLIC COMMENT**

PRESENTED BY ANDY SHAW

Metro Council Meeting
Thursday, August 13, 2009
Metro Council Chamber



Metro | Memo

Date: Wednesday, August 5, 2009
To: Metro Council
From: Andy Shaw
Subject: Second Draft of CET Administrative Rules

Councilors,

On June 11, 2009 the Metro Council considered and passed Ordinance 09-1220, which continued the construction excise tax (CET) for the purpose of funding regional planning, according to the recommendation of the 2009 CET advisory group. This ordinance directed the Metro COO to return to MPAC and to the Metro Council for consultation prior to adopting the Administrative Rules. The COO is responsible for issuing administrative rules that establish the procedures governing the CET grant program.

The existing CET administrative rules were expanded to develop the first draft of rules that included the recommendations of the advisory group. The first draft was actively shared with MTAC, MPAC, individual jurisdictions, the 2009 CET advisory group members, and the Metro Council over the last three weeks to solicit comments and feedback. Attached is second draft of the administrative rules that incorporates comments and suggested clarifications.

Attached is a matrix entitled *CET Administrative Rules Comments* which includes a list of the comments we received on the first draft and indicates whether comments were incorporated into the revised draft. The last column, Reference Section, indicates where in the body of rules the comment was addressed. The vast majority of the revisions to existing rules are located between pages 8 through 12. This hearing was scheduled for the purpose of hearing additional testimony and receiving feedback from the Council regarding the second draft of the administrative rules.

Administrative rules for CET are scheduled for adoption by the COO in September 2009.

ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04

Effective July 1, 2006, and extended through September 30, 2014, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax ("CET"). These Administrative Rules establish the procedures for administering this tax as mandated in Metro Code Section 7.04.050 and Metro Code Section 7.04.060. For ease of reference a copy of Metro Code Chapter 7.04 is attached to these administrative rules.

I. Metro Administrative Matters.

- A. Definitions. These administrative rules incorporate the definitions as set forth in Metro Code Section 7.04.030 of Chapter 7.04, Construction Excise Tax, and Chapter 3.07, the Urban Growth Management Functional Plan.
- B. Designated Representatives (Metro Code Section 7.04.060). The Metro Chief Operating Officer ("COO") is responsible for the administration and enforcement of the Metro Code Chapter 7.04 and these administrative rules.
 - 1. The COO may delegate his authority in administration and enforcement of the Code chapter and these administrative rules as he determines and as set forth herein.
 - 2. The COO shall appoint a Hearings Officer(s), which appointment shall be confirmed by the Metro Council. The Hearings Officer(s) shall have the authority to order refunds or rebates of the Construction Excise Tax or waive penalties as a result of the hearings process. Upon appointing a Hearings Officer, the Chief Operating Officer shall delegate authority to the Hearings Officer to administer oaths, certify to all official acts, to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations, to require production of relevant documents at public hearings, to swear witnesses, to take testimony of any Person by deposition, and perform all other acts necessary to adjudicate appeals of Construction Excise Tax matters.
- C. Internal Flow of Funds. Funds will be accounted for in a Construction Excise Tax account that will be created by the effective date of Metro Code Chapter 7.04.
- D. Rate Stabilization Reserves. Metro Code Chapter 7.04.200 states that the Council will, each year, as part of the Budget process, create reserves from revenues generated by the CET. These reserves are to even out collections thereby stabilizing the funds needed to support the applicable programs despite industry building activity fluctuation. These reserves can only be drawn on to support the specific budgeted activities as discussed in Section I.E. of these administrative rules. Due to their restricted nature, these reserves shall be reported as designations of fund balance in Metro's General Fund.
- E. Dedication of Revenues. Revenues derived from the imposition of this tax, netted after deduction of authorized local jurisdiction costs of collection and administration, will be solely dedicated to grant funding of the regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.
- F. Rule Amendment. The Chief Operating Officer retains the authority to amend these administrative rules as necessary for the administration of the Construction Excise Tax.

II. Construction Excise Tax Administration.

A. Imposition of Tax (Metro Code Section 7.04.070).

1. The CET is imposed on every Person who engages in Construction within the Metro jurisdiction, unless an Exemption applies as set forth herein.
2. The tax shall be due and payable at the time of the issuance of any building permit, or installation permit in the case of a manufactured dwelling, by any building authority, unless an Exemption applies as set forth herein.
3. The CET shall be calculated and assessed as of the application date for the building permit. Persons obtaining building permits based on applications that were submitted prior to July 1, 2006 shall not be required to pay the CET, unless the building permit issuer normally imposes fees based on the date the building permit is issued.
4. If no permit is issued, then the CET is due at the time the first activity occurs that would require issuance of a building permit under the State of Oregon Building Code.

B. Calculation of Tax (Metro Code Section 7.04.080). The CET is calculated by multiplying the Value of New Construction by the tax rate of 0.12%

(0.0012 x Value of New Construction)

- a. In the case of a Manufactured Dwelling for which no Exemption is applicable, and for which there is no building code determination of valuation of the Manufactured Dwelling, the applicant's good faith estimate of the Value of New Construction for the Manufactured Dwelling shall be used.

C. Exemptions (Metro Code Section 7.04.040).

1. Eligibility for Exemption. No obligation to pay the CET is imposed upon any Person who establishes, as set forth below, that one or more of the following Exemptions apply:
 - a. The Value of New Construction is less than or equal to One Hundred Thousand Dollars (\$100,000); or
 - b. The Person who would be liable for the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes AND the property is restricted to being occupied by Persons with incomes less than 50 percent (50%) of the median income for a period of 30 years or longer; or
 - c. The Person who would be liable for the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) AND the Construction is dedicated for use for the purpose of providing charitable services to Persons with income less than 50 percent (50%) of the median income.
2. Procedures for Establishing and Obtaining an Exemption; Exemption Certificates:

- a. For exemption (a) above, the exemption will be established at the building permit counter where the Value of New Construction as determined in the building permit is less than or equal to One Hundred Thousand Dollars (\$100,000).
- b. For exemptions (b) and (c) above, prior to applying for a building permit a Person claiming an exemption may apply to Metro for a Metro CET Exemption Certificate, by presenting the appropriate documentation for the exemption as set forth herein, and upon receiving a Metro CET Exemption Certificate the Person may present the certificate to the building permit issuer to receive an exemption from paying the CET; or
- c. For exemptions (b) and (c) above, instead of going to Metro to obtain a Metro CET Exemption Certificate, a Person claiming an exemption from the CET when applying for a building permit may submit to the building permit issuer Metro's CET Exemption Certificate application form. Upon receiving a Person's Metro CET Exemption Certificate application, the building permit issuer shall preliminarily authorize the exemption and shall not collect the CET. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the exemption;
- d. To receive a Metro CET Exemption Certificate from Metro, or to substantiate to Metro the validity of an exemption received from a local building permit issuer, an applicant must provide the following:
 - i. IRS tax status determination letter evidencing that the Person seeking the building permit is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3); and
 - ii. In the case of residential property, proof that the property is to be restricted to low income persons, as defined, for at least 30 years. Proof can be in the form of loan covenants; rental agreements or grant restrictions; a certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
 - iii. In the case of a qualified tax-exempt entity providing services to Persons with incomes less than 50 percent of the median income, the applicant must provide information that will allow such tax exempt status to be verified, and proof that the property will be restricted to such uses. Proof can be in the form of loan covenants; rental agreements or grant restrictions; certification from the entity's corporate officer attesting that the exemption is applicable; or any other information that may allow the exemption determination to be made; and
 - iv. In the case of a limited partnership with a tax-exempt sole general partner corporation, verification from the partnership's attorney of that status is required; and

v. Authorization to audit the records to verify the legal status and compliance with Metro qualifications of all entities claiming exempt status.

- e. Partial Applicability of Exemption. If an exemption is applicable to only part of the Construction, then only that portion shall be exempt from the CET, and CET shall be payable for the remainder of the Construction that is not eligible for an exemption, on a pro-rata basis. It shall be the responsibility of the Person seeking the partial exemption to fill out a Metro CET Exemption Certificate application for the partial exemption, declaring on that application the proportion of the Construction qualifies for the exemption. Upon receiving a Person's Metro CET Exemption Certificate application claiming a partial exemption, the building permit issuer shall preliminarily authorize the partial exemption and shall only collect the pro-rata CET as declared by the applicant. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the partial exemption and to institute collection procedures to obtain payment of the remainder of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the partial exemption.

D. Ceiling (Metro Code Section 7.04.045).

1. If the CET imposed would be greater than \$12,000.00 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the CET imposed for that Construction is capped at a Ceiling of \$12,000.00 (Twelve Thousand Dollars).
2. The Ceiling applies on a single structure basis, and not necessarily on a single building permit basis. For example:
 - a. If a single building permit is issued where the Value of New Construction is greater than or equal to Ten Million Dollars (\$10,000,000), then the CET for that building permit is capped at Twelve Thousand Dollars (\$12,000.00).
 - b. If Construction in a single structure will require multiple building permits during the pendency of the CET program, and the total CET that would be imposed for those building permits would add up to more than Twelve Thousand Dollars (\$12,000.00), then the total CET for those building permits within the same structure during the pendency of the CET program is capped at Twelve Thousand Dollars (\$12,000.00). Once a total of \$12,000.00 has been paid in CET for a particular structure, then no additional CET will be collected for that structure during the pendency of the CET program.

E. Rebates (Metro Code Section 7.04.120). If a CET has been collected and a CET Exemption or the CET Ceiling was applicable, a rebate for the CET may be obtained from Metro.

1. Procedures for obtaining rebate are:
 - a. Within thirty (30) days of paying the CET, the Person who believes that the CET was not applicable due to a CET exemption or CET Ceiling, shall apply for a rebate in writing to Metro and provide verification that the exemption eligibility provisions of Metro Code Section 7.04.040, or that the CET Ceiling provisions of Metro Code

Section 7.04.045, have been met. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to seek a rebate.

- b. Applicant shall provide proof that the CET was paid, in the form of a paid receipt from the building permit issuer showing the tax was paid. All supporting documentation for the exemption or ceiling shall be submitted at the time of the rebate claim. The rebate will only be made to the name that is listed on the receipt unless the applicant has a written assignment of rebate.
- c. A rebate or a letter of denial shall be issued by Metro within thirty (30) days of receipt of a written request for rebate provided that the request includes all required information. The rebate will be calculated based upon the paid receipt, less the 5% administrative fee already retained by the building permit issuer and the 2.5% Metro administration fee.

F. Refunds (Metro Code Section 7.04.150). If a CET has been collected and the Construction was not commenced and the building permit was cancelled, a refund for the CET may be obtained from Metro.

- 1. Eligibility is determined by the absence of Construction and cancellation of the building permit.
- 2. Procedures for obtaining refund:
 - a. Apply in writing to Metro within thirty (30) days of permit cancellation.
 - b. Provide copy of canceled permit.
 - c. Provide proof of payment of the tax in the form of the paid receipt.
 - d. A refund or a letter of denial shall be issued by Metro within thirty (30) days of receipt of the written request for refund provided that the request includes all required information. The refund will be calculated based upon the paid receipt, less the 5% administrative fee already retained by the building permit issuer and the 2.5% Metro administration fee.
 - e. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to receive a refund.

G. Appeals. The Hearings Officer shall conduct hearings related to enforcement or appeals of the CET. The appeal to the Hearings Officer must be:

- 1. In writing;
- 2. Made within ten (10) calendar days of denial of a refund, rebate, or exemption request. Notice of denial to the party denied, is deemed to have occurred three days after the mailing of the certified denial letter from Metro;
- 3. Tax must be paid prior to appeal;

4. Directed to the Office of Metro Attorney, who will contact the Hearings Officer to schedule a hearing upon receipt of a written appeal. The Hearings Officer will at that time provide further information as to what documentation to bring to the hearing.
- H. Review. Review of any action of the Chief Operating Officer or Hearings Officer, taken pursuant to the Construction Excise Tax Ordinance, or the rules and regulations adopted by the Chief Operating Officer, shall be taken solely and exclusively by writ of review in the manner set forth in ORS 34.010 through 34.100, provided, however, that any aggrieved Person may demand such relief by writ of review.
- I. CET Sunset (Metro Code Section 7.04.230).
1. 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 September 30, 2014.
 2. Local governments collecting CETs shall remit the CETs to Metro on a quarterly or monthly basis, based on the jurisdiction's CET Collection IGAs with Metro. Each quarter, within thirty days of receiving CET remittances from all collecting local jurisdictions, Metro will issue a written statement of the total CET that Metro has received that quarter and cumulatively.
 3. CET remittance to Metro shall be net of the local government's administrative expenses in collecting the CET, up to 5% of the CET collected by the local government as set forth in the Metro CET Collection IGA. This net amount of CET remitted to Metro shall be the basis for Metro's calculations of CET cumulative totals and for the calculation of when the \$6.3 million CET has been reached.
 4. The CET shall cease to be imposed by local governments on September 30, 2014, and shall be remitted by the local governments to Metro as soon thereafter as possible.

III. CET Collection Procedures.

- A. Local Government CET Collection and Remittance Via Intergovernmental Agreements (Metro Code Section 7.04.110). For those local governments collecting the CET pursuant to Intergovernmental Agreements with Metro, the following procedures shall apply:
1. CET Report: Information Required. Each quarter (unless a local government prefers to report monthly), along with its CET remittance to Metro, the local government shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by the local government pursuant to this CET Collection IGA.
 2. CET Remittance to Metro. Local governments collecting CET via IGAs with Metro shall remit the collected CET to Metro. Remittance shall be quarterly, unless a jurisdiction prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year.

CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.

3. Remuneration to Local Government for Collecting CET. As consideration for collecting the CET, each local government collecting the CET shall retain no more than five percent (5%) of the tax collected by that local government. This payment is intended to be a reimbursement of costs incurred. Prior to submitting the CET to Metro, the local government shall deduct the remuneration agreed upon directly from the collected tax, and the amounts deducted and retained shall be identified on the report submitted to Metro.
 4. Metro Administrative Fee. To partially reimburse Metro for its costs in implementing and administering the CET program, Metro will retain 2.5% of the net CET funds remitted by local governments to Metro.
 5. Audit and Control Features. Each local government shall allow the Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, to examine the books, papers, building permits, and accounting records relating to any collection and payment of the tax, during normal business hours, and may investigate the accuracy of reporting to ascertain and determine the amount of CET required to be paid.
 6. Failure to Pay. Upon a Person's refusal to or failure to pay the CET when due, the local government administering that Person's building permit shall notify Metro in writing within five (5) business days of such failure, with information adequate for Metro to begin collection procedures against that Person, including the Person's name, address, phone numbers, Value of New Construction, Construction Project, and building permit number. Upon a Person's refusal or failure to pay the CET, it shall be Metro's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy Metro may have under law.
- B. Metro Collection Procedures in Event of Non-payment. The CET is due and payable upon issuance of a building permit. It is unlawful for any Person to whom the CET is applicable to fail to pay all or any portion of the CET. If the tax is not paid when due, Metro will send a letter notifying the non-payer of his obligation to pay the CET along with the following information:
1. Penalty. In addition to any other fine or penalty provided by Chapter 7.04 of the Metro Code, penalty for non- payment will be added to the original tax outstanding. That penalty is equal to \$50.00 or the amount of the tax owed, whichever is greater.
 2. Misdemeanor. In addition to any other civil enforcement, non- payment of the CET is a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00). This fine shall be charged to any officer, director, partner or other Person having direction or control over any Person not paying the tax as due.
 3. Enforcement by Civil Action. If the tax is not paid, Metro will proceed with collection procedures allowable by law to collect the unpaid tax, penalties assessed and fines due, including attorney fees.

IV. Revenue Distribution (Metro Code Section 7.04.220).

A. Grant Cycles. ~~CET funds collected pursuant to the 2009 extension of the CET shall be allocated in two new application assessment cycles. After allocation of the initial \$6.3 million, additional CET funds shall be allocated as grants in two new application assessment cycles, for funds anticipated to be received by the CET through September 2014:~~

1. ~~The first new grant allocation cycle shall take place in FY 2009-2010, which shall allocate up to \$3.5 million in CET Grants. Grant Requests in this cycle may be made for planning in all areas that are in the Urban Growth Boundary as of December 2009.~~

2. ~~The second new grant allocation cycle shall take place in FY 2011-2012, and shall allocate the remainder of the expected CET collections for this cycle. Grant Requests in this cycle may be made for planning in all areas that are in the Urban Growth Boundary as of December 2009, plus New Urban Areas and Urban Reserves. The second allocation cycle shall earmark 50% of projected second-cycle CET revenues for New Urban Areas and Urban Reserves, contingent upon receipt of qualified Grant Requests for New Urban Areas and Urban Reserves, based upon Grant Evaluation Criteria set forth below, that equal or exceed those projected revenues.~~

~~The first shall be an allocation cycle in FY 2009-2010, which shall allocate up to \$3.5 million in grants2. - The second new allocation cycle shall begin in approximately December 2011, which shall allocate the remainder of the CET collections expected to be collected by September 30, 2014.~~

2. ~~The second allocation cycle shall earmark 50% of projected second-cycle CET revenues for New Urban Areas and Urban Reserves, contingent upon receipt of Grant Requests for New Urban Areas and Urban Reserves that equal or exceed the earmarked funds. If Grant Requests are not submitted for New Urban Areas and Urban Reserves that equal or exceed the earmarked funds, the excess earmarked funds shall be used for other CET Grant Requests.~~

3. ~~These cycles may be delayed or amounts reduced if the actual CET receipts remitted by the local governments are not as high as projected, or if CET revenue projections are modified due to market conditions.~~

~~Metro may delay these cycles if the actual CET receipts remitted by the local governments are not as high as projected, or if CET revenue projections are modified due to market conditions.~~

4. ~~Metro may conduct a third allocation cycle if, after December 2011, the Metro Chief Operating Officer finds that CET receipts are projected to exceed the grant amounts awarded in the first two cycles.~~

B. CET Grant Screening Committee ("Committee").

1. Role. A CET Grant Screening Committee ("the Committee") shall be created, which Committee shall review Grant Requests submitted by local governments. The Committee shall advise and recommend to the Metro Chief Operating Officer ("COO") the ranking and recommended grant amounts, and whether to grant full, partial, or no awards, in accordance with the CET Grant Evaluation Criteria set forth below. The COO shall review the Committee's recommendations and shall forward his own grant recommendations, along with the recommendations of the

CET Grant Screening Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing.

2. CET Grant Screening Committee Members. The Committee, including the Committee Chair, will be selected by the Metro COO. The Committee will be comprised of nine individuals representing a variety of expertise from public and private interests, plus one non-voting Metro Councilor to serve as a Metro Council liaison. In appointing Committee members, the Metro COO shall make every effort so that no one jurisdiction or geographic location is disproportionately represented on the Committee. A committee member may have more than one expertise. The Committee shall be comprised of:

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

C. Grant Screening Committee Review of Grant Requests.

1. Metro staff shall forward the Grant Request to the members of the Grant Screening Committee, and will provide staff assistance and a staff recommendation to the Committee.
2. The CET Grant Screening Committee shall then review the Grant Requests and evaluate them based on the CET Grant Evaluation Criteria set forth above. The Committee may consult with the proponent of the Grant Request or any others in reviewing the request.
3. After analyzing the Grant Requests, the Committee shall forward to the Metro COO the Committee's recommended ranking and grant amounts for each of the Grant Requests.
4. The Metro COO shall review the Committee's recommendations and shall forward his own grant recommendations, along with the recommendations of the CET Grant Screening Committee, to the Metro Council. The Metro Council shall decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.

DC. Metro Council Grant Approval. The Metro Chief Operating Officer ("Metro COO") shall review the Committee's recommendations and shall forward his own grant recommendations, along with the recommendations of the CET Grant Screening Committee, to the Metro Council. The Metro Council shall make final grant decisions in a public hearing.

E-D. Procedures for Distribution.

1. Step One: Pre-Grant-Letter of Intent. Prior to making a written request to Metro for CET grant funds, each ~~Grant Applicant~~~~local government~~ that anticipates requesting CET grant funds in the initial cycle shall submit a Letter of Intent to Metro.

a. Grant Applicant. CET Grant applicants shall be cities or counties within the Metro boundary. Other local governments, as defined in ORS 174.116, may apply for a CET Grant only in partnership with a city or county within the Metro boundary.

b. Letter of Intent Submission Date. For Grant Requests in the first allocation cycle, Letters of Intent shall be submitted to Metro within three (3) months of the effective date of the extension to the CET program, i.e., by December 9th, 2009, unless a different date is mutually agreed upon by Metro and the local government. For Grant Requests in the second allocation cycle, Letters of Intent shall be submitted to Metro by December 9th, 2011, unless a different date is mutually agreed upon by Metro and the local government.

c. Letter of Intent Content. The Letter of Intent shall set forth the local government's proposed planning project, the requested grant amount, how the project will address the CET Grant Evaluation Criteria, and proposed milestones for grant payments. Grant requests to reimburse local governments for planning work already completed shall not be considered. Metro staff shall review the Letter of Intent and work with the proposer, if necessary, to revise the proposal if additional information is needed for the Grant Request.

2. Step Two: Grant Request. After submitting the Letter of Intent, and after working with Metro staff, if necessary, to revise the proposal, ~~local government~~~~Grant Applicants~~ seeking distribution of CET expected revenues shall submit a written Grant Request to the Metro Chief Operating Officer, with a copy for each member of the CET Grant Screening Committee.

A. Grant Evaluation Criteria. For Grant Requests in the first allocation cycle, ~~t~~The Grant Request shall specifically address how the proposed grant ~~achieves, does not achieve, or is not relevant to, satisfies~~ the following criteria ("CET Grant Evaluation Criteria"), ~~which are proxies for compliance with~~~~drawn from~~ the Urban Growth Management Functional Plan. Prior to the second grant allocation cycle, the Metro COO shall issue supplemental criteria to evaluate New Urban Areas and Urban Reserves.

1) Expected Development Outcomes: Explain how the proposed planning grant will increase ability to achieve on-the-ground development/redevelopment outcomes. Address:

a. ~~and state~~ the expected probability that due to this planning grant, development permits will be able to be pulled within two years;

b. the expected probability that due to this planning grant, development permits will be able to be pulled within five years;

4) c. the level of community readiness and local commitment to the predicted development outcomes; and within five years. ~~C~~considerations include:

- ~~a)~~(1) Development sites of adequate scale to generate critical mass of activity;
- ~~b)~~(2) Existing and proposed ~~transportation~~ infrastructure to support future development;
- ~~c)~~(3) Existing urban form provides strong redevelopment opportunities;
- ~~d)~~(4) Sound relationship to adjacent residential and employment areas;
- ~~e)~~(5) Compelling vision and long-term prospects;

~~f) Community readiness and local commitment.~~

2) Regionally Significant: Clearly identify how the proposed planning grant will benefit the region in achieving established regional development goals and outcomes, expressed in the 2040 Growth Concept and the six Desired Outcomes adopted by the region to guide future planning, which include:

- a) People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.
- b) Current and future 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.

3) Location: Discuss whether and how the proposed planning grant facilitates ~~planning for~~ development or redevelopment of:

- a) Centers;
- b) Corridors/Main Streets;
- c) Station Centers; and/or
- d) Employment & Industrial Areas.

~~d) —~~

~~e) 4)~~ Best Practices Model. Consideration will also be given to applications that can be easily replicated in other locations and demonstrate best practices.

~~4) 5)~~ Leverage/Matching Potential: Discuss whether and how the proposed planning grant will leverage outcomes across jurisdictions and service providers, ~~and that have or create~~ opportunities for additional private/public investment. Investments can take the form of public or private in-kind or cash contributions to the overall planning activity.

~~5) 6)~~ Equity: Discuss whether and how the proposed planning grant will further the equitable distribution of funds, based on collections of revenues, past funding, and planning resource needs.

B. Proposed Scope of Work, Milestones, and Budget. The Grant Request shall include a proposed scope of work and budget, setting forth the expected completion dates and costs for achieving the Urban Growth Management Functional Plan milestones proposed in the Grant Request. Milestones and grant payment allocations should follow the following general guidelines:

1) Execution of the CET Grant IGA;

2) ~~Local government~~ Grant Applicant staff's draft or proposed plan, report, code change, zoning change, redevelopment plan, Urban Growth Diagram, Concept Plan, urban services delivery plan, or other plan or agreement consistent with the CET Grant;

3) ~~Local government~~ Grant Applicant staff's final recommended plan, report, code change, redevelopment plan, zoning change, Comprehensive Plan or Comprehensive Plan amendment, urban services delivery plan, or other plan or agreement consistent with the CET Grant, addressing compliance with the Urban Growth Management Functional Plan, the applicable conditions of the CET Grant, and applicable state laws and regulations; and

4) ~~Local government~~ Grant Applicant's adoption of final plan, report, code change, redevelopment plan, zoning change, Comprehensive Plan or Comprehensive Plan amendment, urban services delivery plan, or other plan or agreement consistent with the CET Grant, consistent with the Functional Plan, the applicable conditions of the CET Grant, and applicable state law.

C. Grant Screening Committee Review of Grant Request . The Grant Screening Committee shall review and advise the COO as to the Committee's grant recommendations as set forth in Section IV C above.~~C. Grant Screening Committee Review of Grant Request.~~

- ~~1) Metro staff shall forward the Grant Request to the members of the Grant Screening Committee, and will provide staff assistance and a staff recommendation to the Committee.~~
- ~~2) The CET Grant Screening Committee shall then review the Grant Requests and evaluate them based on the CET Grant Evaluation Criteria set forth above. The Committee may consult with the proponent of the Grant Request or any others in reviewing the request.~~
- ~~3) After analyzing the Grant Requests, the Committee shall forward to the Metro COO the Committee's recommended ranking and grant amounts for each of the Grant Requests.~~
- ~~4) The Metro COO shall review the Committee's recommendations and shall forward his own grant recommendations, along with the recommendations of the CET Grant Screening Committee, to the Metro Council. The Metro Council shall decide, in a public hearing, whether or not to approve funding of any grants, and the amount of each grant.~~

3. Step Three: Grant Agreement ("Grant IGA"). Metro and the ~~local government~~Grant Applicant shall enter into a Grant Agreement ("Grant IGA") or, at the ~~local government~~Grant Applicant's request, the Metro Chief Operating Officer shall issue a Grant Letter, for the grant amount determined by the Metro Council. The IGA shall set forth an agreed-upon scope of work and budget, expected milestone completion dates, and Grant payment dates. The COO shall retain the right to terminate a CET Grant if the milestones set forth in the Grant IGA are not met within the timeframes set forth in the Grant IGA.

A. Grant Payment Dates. Grant payments shall be made upon the completion of those milestones set forth in the Grant Agreements, as determined by Metro in accordance with the requirements of the Metro Code and the Grant Agreement. In general, a portion of the Grant funds shall be distributed upon execution of a Grant Agreement with Metro, with the remainder of the Grant being paid out as progress payments upon completion of the milestones set forth above and in the Grant Agreement.

B. Eligible Expenses.

1. The following expenses shall be considered Eligible Expenses for CET Grant consideration:

- a. Materials directly related to project;
- b. Consultants' work on project;
- c. ~~Local government~~Grant Applicant staff support directly related to project; and
- d. Overhead directly attributable to project;

2. If the total Grant Requests from participating ~~local government~~Grant Applicants exceed the total CET actual revenues, Metro shall first consider awarding funds for eligible direct costs, which will have priority for funding over indirect costs.

CET Administrative Rules Comments

Comment	Reference Section
Grant Cycle	
Make explicit the section that discusses ear marked funding for expansion/reserve area planning in the second grant cycle. Specifically, state that if not enough applications are received for expansion/reserve areas in second cycle, surplus funds will be redirected to fund other planning proposals.	p. 8, Sec. IV.A(2)
The 1998, 2002, and 2005 expansion areas should be eligible to apply for grants in the first allocation cycle.	p. 8, Sec. IV.A(1)
Clarify what happens to surplus funds, if any, which have not been allocated at the end of the second grant cycle.	p. 8, Sec. IV.A(4)
Change language under Revenue Distribution to include “qualifying applications” in referencing applications for New Urban Areas and Urban Reserve projects.	p. 8, Sec. IV.A(2)
The 50% earmark for new urban and urban reserve areas in the second cycle should be a floor and held aside until such time as Metro receives and approves applications for these areas.	
Screening Committee	
Make sure that Screening Committee members are not concentrated from one specific geographic area.	p. 9, Sec. IV.B(2)
Review the issue of ‘experts’ v. ‘advocates’ in the Screening Committee. We should be appointing experts and not advocates.	p. 9, Sec. IV.B(2)
The Screening Committee should include a member with infrastructure finance expertise and a one with residential development expertise.	p. 9, Sec. IV.B(2)
The Screening Committee should include a transportation planning expert.	
Application	
Make the language on who is eligible to apply clearer. This language should not be open to interpretation.	p. 10, Sec. IV.E(1)(a)
In cross-jurisdictional projects, who becomes the responsible party for the planning? Who will receive the funds and enter into an IGA with Metro?	p. 10, Sec. IV.E(1)(a)
Clarify the language in the section discussing the probability of pulling permits in 2yrs/5yrs.	p. 10, Sec. IV.E(2)(A)(1))
Make the probability of pulling permits in 2yrs/5yrs to a measure/consideration of Expected Development Outcomes (make it into a bullet).	p. 10, Sec. IV.E(2)(A)(1) and 2))
Applicants for projects that have been previous planned should provide a history of that work.	CET Grant Application Handbook
Include timeline for second grant cycle.	p. 8, Sec. IV.A(2)
Include language for a possible third cycle of funding.	p. 8, Sec. IV.A(4)
Clarify the difference between an IGA and a Grant Letter.	p 12, Sec. IV.E(3)

CET Administrative Rules Comments

Comment	Reference Section
Criteria	
Take out the word “transportation” under Expected Development Outcomes so that it refers only to general infrastructure (i.e. – don’t discount other forms of infrastructure by calling out only one form).	p. 10, Sec. IV.E(2)(A)(1)((2))
Include evaluation criteria for expansion/reserve area projects.	p. 10, Sec. IV.E(2)(A)
Include criteria for judging between new urban areas and urban reserves applications.	p. 10, Sec. IV.E(2)(A)
Criteria should be weighted so the Screening Committee knows where to place emphasis during application evaluation.	
Clarify and state what qualifies as “planning”.	p 1, Sec. I.A
Grant applications should require applicants to outline how their proposed project can address each of the Regionally Significant evaluation criteria.	p. 10, Sec. IV.E(2)(A)
Milestones	
Include language that gives Metro the option to reassess funding for applications that are not meeting goal/milestones or do not show signs of achieving outcomes stated in the application.	p. 12, Sec. IV.E(3)

Agenda Item Number 4.0

**DRAFT REGIONAL FREIGHT AND GOODS MOVEMENT PLAN:
BRIEFING AND DISCUSSION**

PRESENTED BY BRIDGET WEIGHART AND DEBORAH REDMAN

Metro Council Meeting
Thursday, August 13, 2009
Metro Council Chamber



Date: August 4, 2009
To: Metro Councilors, Council President Bragdon
From: Bridget Wieghart, Corridor and Freight Planning Manager
Deborah Redman, Principal Planner
Re: Regional Freight and Goods Movement Action Plan update

The Metro Council established the Regional Freight and Goods Movement (RFGM) Task Force in 2006 to help guide the development of a regional freight plan. Metro staff has brought the goals, outcomes and findings of the Task Force, staff and the consultant team to Transportation Policy Alternatives Committee (TPAC), Joint Policy Advisory Committee on Transportation (JPACT), Metro Policy Advisory Committee (MPAC) and the Metro Council several times during that period. In 2007, the freight policies were adopted as part of the Federal Regional Transportation Plan.

Attached please find the current version of the draft *Regional Freight Plan* that will be subject to public comment this Fall and finalized by the end of the year. On August 6, 2009, the Regional Freight and Goods Movement Task Force will meet to refine near-term action steps in Section 10 of the document and finalize the draft plan. At the August 13, 2009 Council meeting, staff and task force members will provide background information on the plan and seek Council input. During this time staff will also be presenting the plan to JPACT and MPAC.

A final draft will be included as an element of the 2035 Regional Transportation Plan document which is planned for release for public comment on September 15, 2009. During the Fall Metro staff and the RFGM Task Force will consider comments on the RFGM Action Plan and make required changes. In addition, a more detailed work program will be developed for the approved near-term action items included in Section 10 of the final freight plan.

cc: Eileen Schill
Kathryn Sofich
Ina Zucker
Veronica Valenzuela
Tony Anderson

WORKING DRAFT

REGIONAL FREIGHT PLAN

Note:

This July 2009 working draft does not incorporate post July 6 RFGM Task Force suggestions or recent factual updates. A new section 10.0 will be inserted, which will include near-term action items. Substantial new, updated or reorganized material will be added to the Executive Summary, Introduction and Section 11.0, and brought to the Task Force in August 2009.

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EXECUTIVE SUMMARY

The Portland region hosts Oregon's economic crossroads. While this permits the region to have a vibrant, diverse and flourishing economy, it also carries certain responsibilities. This Regional Freight Plan identifies mode-specific issues, policies, strategies and investments designed to support a truly multimodal, sustainable freight network within the Portland metropolitan region. The recommended actions will necessarily require collaboration between public and private sectors; the coordination of freight modes that are often competitors; and the reconciliation of institutional, jurisdictional and political perspectives. Yet stakeholders have evidenced a strong interest in and commitment to improving freight mobility and access, and reducing freight's impacts on the communities it serves. In a volatile economy that demands a thoughtful and dynamic response, that level of engagement will be needed to move strategic projects along the path to implementation.¹

The Portland-Vancouver area is a globally competitive international gateway and domestic hub for commerce. The multimodal freight transportation system is a foundation for economic activities and we must strategically maintain, operate, and expand it in a timely manner to ensure a vital and healthy economy. A systems approach to plan and manage our multimodal freight transportation infrastructure must recognize and coordinate both regional and local transportation and land use decisions to maintain seamless freight and goods flow and access that benefit us all.

Portland as a global gateway

The ports of Portland and Vancouver processed over 20 million U.S. tons of cargo in 2007. Another 8 to 10 million tons of inland barge cargo also moves through these facilities. In addition to being the leading grain and mineral bulk harbor on the West Coast, the ports processed nearly 500,000 automobiles in 2007. In total, \$12 billion in foreign trade moved through Portland Harbor in 2007. Most of this cargo is transported beyond the Portland metro region, generally by truck and rail. There is also a huge support industry located in Portland associated with moving this freight.

The Port of Portland also operates the largest international airport in Oregon. Portland International Airport acts as the air freight hub for much of Oregon and Southwest Washington. Approximately 288,000 tons of domestic and international air freight shipped through Portland International during 2005.

The 2002 Commodity Flow Survey projects an overall doubling of freight tonnage moved in the region by 2030. Currently 1 in 10 jobs in Oregon are transportation related.

¹ Freight volumes are down—temporarily, but substantially, since the draft Regional Freight Plan was completed in the early fall of 2008. Although most observers expect a turnaround to result in an increase in those volumes, the timeline and robustness of the recovery is not known. The downturn does offer the region an opportunity to plan and implement vital freight projects in time for the eventual transition to a healthier economy over the long term.

Mounting congestion and capacity issues on several freight modes could impede the region's ability to compete globally. Regional congestion and capacity issues already impact several national goods movement corridors traversing the region, including freight rail and trucking corridors.

If the region is to maintain its status as an international freight gateway, immediate steps must be taken to ensure that a flexible, adaptable, efficient and reliable goods movement system is in place.

Made in Oregon

The Portland metro region is home to several traded sector industries that help drive the regional economy, including Nike, Adidas, Columbia, Intel, Lattice Semiconductor, FLIR, Genentech, Precision Cast Parts, Boeing, Oregon Steel Mills and Boise Cascade.

The 2005 Cost of Congestion to the Economy of the Portland Region Study reported that the region has a higher than average dependency on traded sector industries, particularly computer and electronic products; wholesale distribution services; metals; forestry, wood and paper products; and publishing. These business sectors serve broader regional, national and international markets and bring dollars from outside the local economy into the region.

Traded sector industries require well-integrated and highly efficient international and domestic transportation connections to stay competitive in the global economy. These firms have historically located in the region to take advantage of the pipeline, rail, marine, aviation and highway connections it offers.

Increased roadway congestion and decreased system reliability have adversely impacted the productivity of traded sector firms throughout the region. This has led to decreases in equipment productivity, increased labor costs and inefficient use of fuel, leading to increased pollution for combined air cargo, trucking, pipeline, marine and rail carriers. Each of these modes relies on the regional road system for some portion of their operations, and all are impacted by congestion.

Manufacturers, shippers and distributors in the region operate in a time sensitive production environment, with each operating under a unique set of parameters. Missing critical connections due to transportation system failure costs these firms significant sums of money and can also result in a loss of customers over time. This can drive companies to consider relocating outside the region, or prevent companies starting up operations in our region.

Preserving essential industrial lands in the Portland metro region has proven difficult over time. The region's industrial areas are also experiencing diminished access to rail infrastructure and deteriorating performance on freight route connections. Road and rail freight corridors, and the industrial lands they serve, need buffers from residential land uses surrounding them. Further, the types of industries being accommodated in industrial areas are changing. Many new industries are better characterized as light industrial or distribution operations, with very different operational requirements than their heavy

industrial predecessors. Redevelopment of existing industrial lands for modern industrial uses should be studied and supported.

Daily necessities

Modern urban life would be impossible without local goods movement. Nearly all the foodstuffs, clothing, housing materials, medical supplies, etc. that we rely on daily come from outside the region.

The region is forecast to have an additional 1 million residents and 600,000 jobs by 2030, which should drive a proportional increase in local freight volumes.

Local suppliers and retailers require good connections to regional, national and international goods movement systems. They also need reasonably sized lane widths, curve and curb radii, and loading zones.

Roadway congestion and deteriorated system reliability within the region heavily impact the productivity of local parcel, store and fuel delivery firms. This leads to decreases in equipment productivity, inefficient use of fuel, increased pollution and higher operating costs.

Shippers and distributors also operate in a more time sensitive production environment, with each operating under a unique set of parameters. System failure costs these firms significant sums of money, and can also result in a loss of customers over time. This can drive these firms to reevaluate their choice of location.

The current situation

Public sector funding for transportation infrastructure, particularly targeting freight movement, has diminished over time. If nothing changes, competition for available funds will increase, and most (road) funds are likely to be funneled into critical safety projects. The region's funding dilemma is real: the state of Oregon hasn't had a gas tax increase since 1993, and the federal Highway Trust Fund is teetering on insolvency. For most of the first decade of this century, the cost of construction materials has risen significantly on the global market, greatly increasing the cost to construct infrastructure improvements. Simply put, costs to construct improvements have been trending upward rapidly, while available revenues to pay for them are declining.

The private sector portion of the goods movement community has been making great strides in adopting sustainable technologies and wringing efficiencies out of their respective portions of the goods movement system. The public sector must also effectively weigh policies, programs and investments to achieve the maximum benefit for the goods movement system, particularly during a time of uncertain funding for transportation.

This means coordination at all levels of government must occur with the business community to address the immediate and long term freight transportation funding needs.

Key Task Force goals and issues for the regional freight transportation system

A systems approach must be taken in order to address the Regional Freight and Goods Movement Task Force goals of reducing delay, increasing reliability, improving safety and providing more choices to help area businesses remain competitive. Such an approach must target the following issues identified by the Task Force:

Congestion and hotspots – chronic road and rail network bottlenecks impede regional freight/goods movement

Reliability – unpredictable travel time due to crashes, construction, special events, and weather

Capacity constraints – due to physical and operational issues as well as lack of capacity in critical corridors

Network barriers – safety concerns and out of direction travel resulting from weight-limited bridges, low bridge clearances, steep grades, at grade rail crossings and poorly designed turns or intersections

Land use – system capacity and land for industrial uses is being lost to other activities

Impacts – managing adverse impacts including diesel emissions, water quality, noise and land use conflicts

Investing in our regional freight system

The many advantages offered by the Portland metro region's unique location and transportation infrastructure need to be fully realized and capitalized upon if the region is to maximize its economic opportunities during the coming century. This will require strategic investment in the multimodal regional freight and goods movement system. Freight-oriented preservation, management and investment priorities should focus on:

- Core throughway system bottlenecks to improve truck mobility in and through the region – hotspots of note include the Columbia River Crossing influence area, the I-5/I-405 loop and the I-5 corridor south of I-205.
- Improving and protecting the throughway interchanges that provide access to major industrial areas, particularly: I-5/Marine Drive and I-5/Columbia Blvd serving the Columbia Corridor and Rivergate industrial areas; I-205/Hwy 212 serving the Clackamas and Milwaukie industrial areas; and I-205/Airport Way serving Portland International Airport and east Columbia Corridor industrial areas.
- Improving arterial connections to current and emerging industrial areas (e.g., Sunrise Corridor phased improvements recommended by the Sunrise Project Policy Committee and *last mile* local industry connectors, e.g., Columbia/Cascade River District Projects)
- Looking beyond the roadway network to address critical marine and freight rail transportation needs such as completing the Columbia River channel deepening and upgrading main line and rail yard infrastructure.

1.0 Introduction

The Portland metropolitan region has a vibrant and flourishing economy that is more diversified than ever before. Industry has historically located in the region to take advantage of regional and global connections via pipeline, rail, marine, aviation and highway infrastructure. Today, the region is both an international gateway for trade and a hub for distribution and warehousing activities.

The 2005 Cost of Congestion to the Economy of the Portland Region Study reported that the region has a higher than average dependency on traded sector industries, particularly computer and electronic products; wholesale distribution services; metals; forestry, wood and paper products; and publishing. These business sectors serve broader regional, national and international markets and bring outside dollars into the region's economy. These industries depend on a well-integrated and well-functioning international and domestic transportation system to stay competitive in a global economy.

As an international gateway and domestic freight hub, the region is particularly influenced by the dynamic trends affecting distribution and logistics. The 2002 Commodity Flow Survey projected an overall doubling of freight tonnage moved in the region by 2030. The region's forecasted population and job growth, estimated at an additional 1 million residents and 600,000 jobs by 2030, and the associated boost in the consumption of goods and services are significant drivers of projected increases in local freight volume. Much of the projected doubling of freight tonnage passing through the Portland metropolitan region doesn't terminate here, but instead moves well beyond the region's boundaries to the rest of the country.

Complications rising from congestion and capacity issues on several of the region's freight modes impede the region's ability to compete nationally and globally. Congestion has led to reduced productivity, wasted fuel and increased operating costs for businesses. For local shippers and carriers, traffic congestion has led to an erosion of system reliability. Shippers in the region who miss critical connections due to system failure incur costs in a time sensitive production environment and can also lose customers as a result.

Maintaining essential industrial and commercial lands in the Portland metropolitan region has also become more difficult as pressure builds from competing land development, adjacent residential districts, and diminished access to rail and roadway infrastructure.

The private sector portion of the goods movement community has been making great strides in adopting sustainable technologies and wringing efficiencies out of their portions of the goods movement system. The public sector must also effectively weigh channel policies, programs and investment to achieve the maximum benefit for the goods movement system, particularly during a time of uncertain funding for transportation.

The region's goods movement system must improve and adapt if the region is to maintain its economic competitiveness in the global economy and its status as an international freight gateway. Immediate action is required to meet the economic opportunities of the 21st century.

The Regional Freight and Goods Movement Action Plan highlights the key issues for the regional freight transportation system and suggests policies and investments to address them.

Freight trends

The global economy is in the midst of a profound change. Twenty-first century innovations in trade policy, communications and transportation have altered the sourcing, production and marketing of products on a global scale.

Due to open trade policies, more freight than ever before is moving across international boundaries.

The rise of worldwide communications networks allow for the inexpensive and instantaneous transfer of information around the globe. These networks have allowed businesses to expand operations and markets, and given rise to new business models like e-commerce, leading to a higher volume of smaller, demand-responsive shipments.

Access to good transportation services has allowed businesses to develop increasingly complex supply chains that are longer and far more specialized, yet increasingly fragile.

As a result of these global trends, U.S. international and domestic trade volumes are expected to grow at an accelerated rate. Trade volumes in Portland are expected to double by 2035, to 600 million tons annually.² This is expected to have a profound effect on shippers and the infrastructure they depend upon.

West Coast ports are struggling to keep pace with the increasing volumes of marine and air cargo coming from Pacific Rim trading partners like Japan, China, South Korea and Taiwan. While 2007 and 2008 witnessed a temporary slowing of this trend nationally, Portland Harbor will likely return to the longer-term growth in freight volumes as the economic recovery proceeds. In addition, the ports of Portland and Vancouver are not as constrained by dockside capacity as a number of other West Coast ports.

In total, Pacific Rim trade amounted to \$359.2 billion in 2002. Much of the Pacific Rim freight processed by West Coast ports is destined for the rest of the country. However, the financial burden of maintaining and expanding the publicly owned transportation system serving this national need falls to local West Coast trade gateway jurisdictions.

² METRO, ODOT, PDC, Port of Portland, Port of Vancouver, Portland and Vancouver International and Domestic Trade Capacity Analysis, 2006.

The North America Free Trade Agreement has also generated large volumes of trade between the U.S., Canada and Mexico on the West Coast, amounting to \$73.4 billion in 2002 and growing annually. Trade between major West Coast cities within the U.S. amounted to \$182 billion in 2002, for a total of approximately \$255 billion in north-south coastal trade. This number has continued to expand rapidly since 2002.

The goods movement industry has responded to this capacity crunch by employing larger trucks, rail cars, ships and planes. This trend places new demands on the goods movement infrastructure and reinforces the need to reconsider our approach to providing goods movement infrastructure. Government and industry must also work together to address increasingly stringent safety and security requirements being placed on the goods movement system.

Against this backdrop of sustained expansion in global trade the region must prepare to compete globally. The viability of the regional and state economy, and the ability to attract and sustain business investment in both, depend on it. Industry needs tangible and continuous improvements in the operating efficiency, capacity, modal redundancy and reliability of the regional goods movement system to remain competitive globally. Government must do its best to work with private sector stakeholders to accomplish this in a sustainable, environmentally sensitive and cost effective manner. Recent fluctuations in fuel prices have merely underscored the importance to industry of having an efficient, reliable and redundant regional goods movement system.

The regional goods movement system is failing certain large shippers: several traded sector firms in the region must truck loads to San Francisco or Seattle/Tacoma to achieve satisfactory international aviation or marine connections. Other resource based industries in, or served by, the Portland metropolitan region's goods movement system are very sensitive to transportation costs and can easily lose global market share with shipping cost increases measured in pennies per pound. Still other area manufacturers have had to repeatedly adjust production schedules to compensate for congestion on the region's runways, roads and rail lines, leading to increased production costs and reduced productivity.

As shippers' supply chain logistics evolve, the definition of "state of the art" warehousing and distribution centers continues to change dramatically. Larger, increasingly truck-biased cross dock facilities are becoming the new standard. Higher fuel costs could lead to decentralization of regional distribution centers nationally, in an effort to reduce the distance trucks need to move to their final destinations. The Portland metro region is well positioned to take advantage of this opportunity.

The local component of the goods movement system is also critically important to the economy and daily life. The local movement of goods and services is focused primarily on trucks. The ability to maneuver on local streets and to park to unload freight is vital for those trying to deliver goods and services to local communities.

With so many new residents expected in the Portland metro region by 2030, family wage job creation is going to be of paramount importance

The region's goods movement infrastructure and unique geographic location are competitive advantages that have created transportation sector jobs for more than a century. These jobs, in turn, serve the industrial and local freight needs of the Portland metro region, the state, the Pacific Northwest, the West Coast and the nation.

DRAFT

Engaging stakeholder to develop a regional freight plan

The center point for the engagement of stakeholders was the Metro Council appointed Regional Freight and Goods Movement Task Force. The 33-member task force included representatives from the multimodal freight industry, community and government agencies. The group was charged with guiding the formation of policy and strategy recommendations for the region's multimodal freight transportation system. Metro Councilor Rod Park served as chairperson for the Task Force. The list of members included:

Steve Akre OIA Global Logistics	Tom Dechenne Norris, Beggs & Simpson	Susie Lahsene Port of Portland	Paul Smith City of Portland
Grant Armbruster Columbia Sportswear	John Drew Far West Fibers	Brian McMullen WSDOT	John Speight Portland & Western RR
Steve Bates Redmond Heavy Haul	Ann Gardner Schnitzer Steel Industries	Jeanne Morgan Xerox	Paul Thalhofer City of Troutdale
Scott Bricker Bicycle Transportation Alliance	Pete George PW George Consulting	James Nave Union Pacific RR	Jason Tell ODOT
Katy Brooks Port of Vancouver	Cam Gilmour Clackamas County	Rod Park Metro	Elizabeth Wainwright Merchants Exchange
Gary Cardwell NW Container Service	Van Hooper Sysco Foods	Michael Powell Powell's Books	Tracy Ann Whalen ESCO Corporation
Terry Cleaver Columbia Grain	Tom Hughes City of Hillsboro	Warren Rosenfeld Calbag Metals	Rick Williams Lloyd District TMA
Lynda David Southwest Washington RTC	Monica Isbell Starboard Alliance	Robert Russell Oregon Trucking Association	

The RFGM Task Force met 11 times between July 2006 and October 2007. Additionally, the task force worked in ad hoc subcommittees to tackle specific issues, such as a regional vision for freight, freight-related RTP goals and objectives, and project prioritization criteria, and brought back recommendations to the full task force. Task Force members also participated in a combined Metropolitan Policy Advisory Committee and Joint Policy Advisory Committee on Transportation meeting held in October 2007.

The long-standing Metro committee on regional freight coordination, the Regional Freight Advisory Committee, served as the technical advisory committee on this plan, providing data, input on analysis, and review of memorandums and reports. The committee is loosely comprised of transportation agencies in the region with an interest in freight issues. Active participants include:

Oregon Department of Transportation	Washington County
Washington Department of Transportation	Multnomah County
Metro	City of Gresham
Southwest Washington Regional Transportation Council	City of Milwaukie
Port of Portland	City of Portland
Port of Vancouver	City of Tualatin
FHWA	City of Wilsonville
Clackamas County	

The Regional Freight Advisory Committee met monthly during the course of the planning effort. Some members participated in RFGM Task Force subcommittee meetings.

Targeted stakeholder workshops and presentations were conducted within the 2035 Regional Transportation Plan outreach process. A series of targeted workshops were held in Fall 2006 with various stakeholder groups, including one specifically targeted to the business community, to gather needs and issues. The role of freight in the transportation system was address in each of these targeted workshops. Additionally, several Metro Councilors and key Metro staff were enlisted to talk with business groups in the region about the role of transportation in Portland's economy. Metro spoke with 29 business and advisory groups over the course of the project.

Collectively, these outreach efforts and strategies have educated stakeholders and informed the technical and policy development work on community values, desired outcomes and transportation needs, investment priorities and implementation strategies.

2.0 Goal statement and policy

Goal statement

The RGFM Task Force developed the following goal statement after considerable deliberation:

The Portland-Vancouver region is a globally competitive international gateway and domestic hub for commerce. The multimodal freight transportation system is a foundation for economic activities and we must strategically maintain, operate, and expand it in a timely manner to ensure a vital and healthy economy.

- We must use a systems approach to plan and manage our multimodal freight transportation infrastructure, recognizing and coordinating both regional and local decisions to maintain seamless flow and access for freight movement that benefits all of us.
- We must adequately fund and sustain investment in our multimodal freight transportation system to ensure that the region and its businesses stay economically competitive.
- We must create first-rate multimodal freight networks that reduce delay, increase reliability, improve safety, and provide choices.
- We must integrate freight mobility and access needs in land use decisions to ensure the efficient use of prime industrial lands, protection of critical freight corridors, and access for commercial delivery activities.
- We must ensure that our multimodal freight transportation system supports the health of the economy and the environment.
- We must enlighten our region's citizens and decision makers about the importance of freight movement on our daily lives and economic well-being.

Integration with the Metro planning process

The Regional Freight and Goods Movement Action Plan is being developed along with broader Metro initiatives evaluating implementation of the regional growth concept (a set of activities under the umbrella of "Making the Greatest Place" or MGP, was developed earlier under the name "New Look") and the update of the region's overall transportation system plan (2035 RTP Update). This project has coordinated both its technical analysis and public participation elements with these other efforts to ensure a consistent and integrated planning approach.

The work program included a New Look (MGP)/RTP coordinated public involvement process that established desired outcomes specific to the regional freight transportation system. It has provided a common base of knowledge about the different elements of the system and has identified issues, needs, and deficiencies within the system. The project has also refined existing regional freight policies and updated the multimodal freight network map. Infrastructure improvements for freight have been called out and

prioritized. Implementation strategies for addressing environmental and community impacts, system management, economic development and financing have been reviewed and recommended. The project will also put forth recommendations for incorporating truck movement into the Creating Livable Streets Design Guide.

2035 Regional Transportation Plan

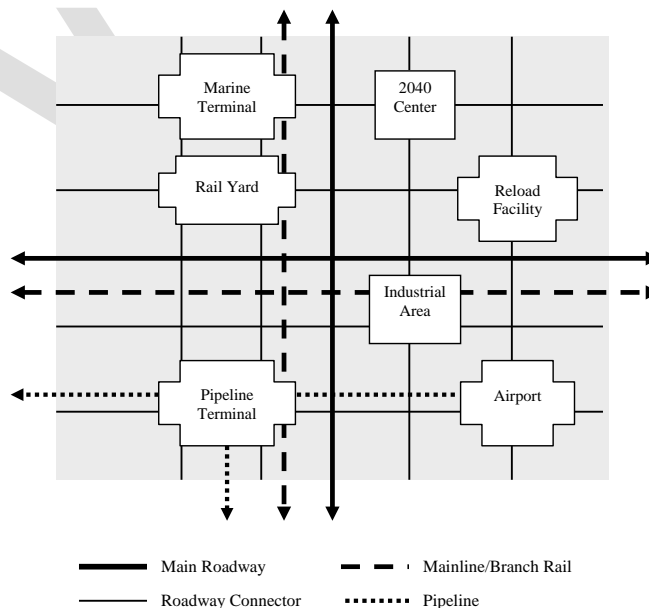
Metro periodically reviews and updates the Regional Transportation Plan (RTP) to keep it current with transportation challenges facing the region, and to incorporate new information, technologies and strategies. The updated plan provides a blueprint for building a sustainable transportation future that allows the region to compete in the global economy and preserve the unique qualities and natural beauty that define our region. An overarching aim of the RTP is to move the region closer to the vision of the region's long-range strategy for managing growth, the 2040 Growth Concept. Fundamentally, the RTP defines a framework for making choices about the future of the region – choices about where to allocate limited transportation resources and choices about the future we wish to see for our region and, by extension, the State of Oregon. The Regional Freight and Goods Movement Action Plan for the Portland metro region is an element of the RTP. While the plan targets needs and issues specific to the freight transportation system, key policies and actions are incorporated into the comprehensive RTP.

RTP freight transportation system

The transport and distribution of freight occurs via the regional freight system, a combination of interconnected publicly and privately owned networks and terminal facilities. The concept in Figure 1 shows the components of the regional freight system and their relationships.

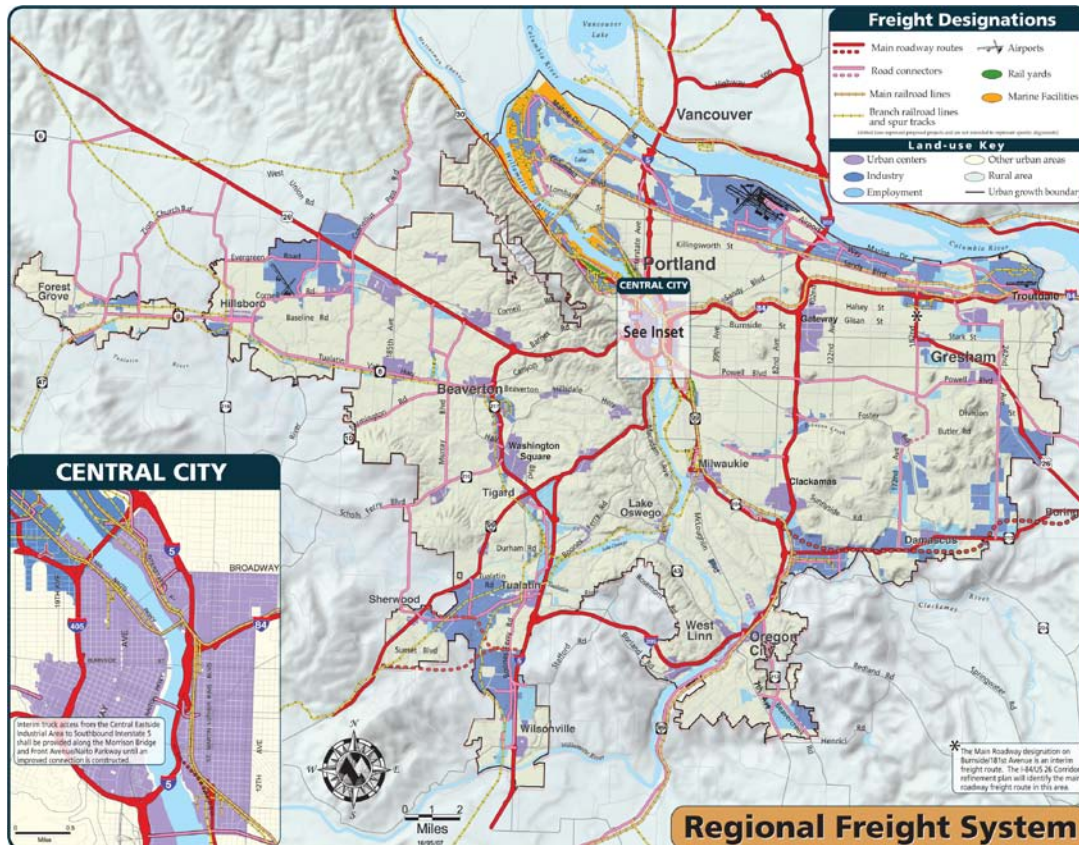
Rivers, mainline rail, pipeline, air routes, and arterial streets and throughways connect the region to international and domestic markets and suppliers beyond local boundaries. Inside the region, throughways and arterial streets distribute freight moved by truck to air, marine and pipeline terminal facilities, rail yards, industrial areas and commercial centers. Rail branch lines connect industrial areas, marine terminals and pipeline terminals to rail yards. Pipelines transport petroleum products to and from terminal facilities.

Figure 1. Regional freight concept



The Regional Freight System Map, shown in Figure 2, applies the regional freight concept on the ground to identify the transportation networks and facilities that serve the region and state's freight mobility needs

Figure 2. Regional freight system



3.0 Key issues on the regional freight transportation system

Between April 2006 and February 2007, Metro staff interviewed nearly two dozen individuals and facilitated discussions at more than 35 meetings with regional stakeholders and analysts.³ The result was more than 225 discrete comments reflecting desires and concerns regarding the state of the region's freight transportation system. With input for the Regional Freight and Goods Movement Task Force, the collection of comments was refined into a list of key issues that the plan should begin to address. Table 1 provides a summarized list of the key issues and needs.

Table 1. Priority issues for freight
Appendix A contains the actual comments as transcribed by the interviewers.

Issue category	Key issues
Mobility and accessibility	<ul style="list-style-type: none">• Road congestion on regional truck routes• Travel time reliability on regional truck routes• Accessibility between intermodal terminals, industrial areas, centers and interstate system• Class 1/short line rail – throughput and velocity, capacity constraints in rail yards, sidings• Improved rail access and service for regional shippers• Barriers: weight/vertical clearance issues on bridges; gaps in connectivity (new roads/bridges)• Safe barge navigation in I-5/BNSF bridges area• At-grade rail crossings – grade separation• River channel deepening
System management	<ul style="list-style-type: none">• Preservation and efficient use of existing capacity• Intelligent Transportation System tools (signal timing, cameras)• Access management• Increase in truck crash rate• Faster response to roadway incidents (crashes)• Truck parking: hours of service limitations• Efficient loading/unloading operations in commercial centers• Advances in traveler information (road conditions, directional signage)• Workforce access to industrial and employment areas• Maintenance dredging and lock repair• Rail system management (directional running, grade crossing info)• Modal redundancy

³ Ibid.

Issue category	Key issues
Land use	<ul style="list-style-type: none"> • General population growth and impacts to transportation system • Competition between industrial and other uses for interchange capacity • Adequate supply of industrial land served by transportation system (i.e., marine accessible) • Incompatible land uses along rail lines and major truck corridors • Accommodation of truck delivery in pedestrian-friendly areas and corridors (street design trade-offs)
Environment	<ul style="list-style-type: none"> • Air quality impacts from diesel engine emissions • Residential noise impacts from truck, rail and air cargo operations • Water quality
Investment strategies	<ul style="list-style-type: none"> • Link transportation investment decisions to regional, state, and national economy. • Expand types and amounts of funding for infrastructure and programs (i.e., gas tax indexing, user pays cost responsibility). • Use public-private partnerships to fund improvements. • Create a role for the public sector in funding private operations. • Use a building block approach to fix corridors (i.e., ITS first, then graduate to other solutions). • Incorporate lifecycle cost (maintenance) into project.
Coordination	<ul style="list-style-type: none"> • Create better coordination between freight system stakeholders in the region. • Educate decision makers and public about importance of region's freight transportation system. • Consider rail service needs for regional shippers. • Consider freight/goods movement needs in project development.
Research and data	<ul style="list-style-type: none"> • Freight system performance over time • Ongoing truck count program • Economic impact assessments of investments

4.0 Freight generation in the region

Manufacturing, warehousing and distribution

The Portland metro region is home to a number of traded sector firms engaged in a broad array of activities. These firms bring wealth from outside the local economy into the region, helping communities to prosper. All of these enterprises have unique goods movement needs, some local, others national or international.

Unlike many areas of the country which have witnessed a substantial decline in manufacturing/industrial employment, the region has experienced growth in the manufacturing sector of the economy during the last two decades. This has created a need to efficiently deliver the materials needed for production (domestically and internationally) and to cost effectively ship finished products. Manufacturers in the region assemble products from components delivered from around the globe and ship components for assembly internationally. The mobility needed to support commerce in the region is as diverse as the commerce itself.

Manufacturers and shippers from throughout Oregon and Southwest Washington depend on the Portland metro region's warehousing, distribution, logistics, customs and multimodal goods movement infrastructure to move raw materials, semi-finished and finished products. These activities create substantial quantities of jobs within the region. Warehousing and distribution services, and related activities, are a major employer within the Portland metro region, with at least 46,000 local jobs attributed to this sector.

These activities are spread throughout the region, with concentrations in the Rivergate, Columbia Corridor, Sunset Corridor, Swan Island, Clackamas-Milwaukee, Springwater-Damascus, inner Eastside, North Wilsonville-Tualatin-Sherwood, Beaverton-Tigard, Beavercreek and Northwest Portland industrial areas.

Port activities

The ports of Portland and Vancouver host more than 1,000 ocean going ships each year. These vessels transport 18 to 20 million short tons of cargo annually to and from public and private facilities located in the Portland-Vancouver Harbor. Another 8 to 10 million tons of inland barge cargo also moves through these facilities. In total, \$12 billion in foreign trade moved through Portland Harbor in 2007. Much of this cargo is transported beyond the Portland metropolitan area, through key truck and rail corridors.

In addition, the Port of Portland operates the largest international airport in Oregon. It is the hub for the vast majority of air freight activity in the Portland metro region, western Oregon, and Southwest Washington. Approximately 288,000 tons of domestic and international air freight shipped through Portland International during 2005.

5.0 Regional goods movement

Highway

Trucks will remain the predominant mode of freight transport for the foreseeable future, due to their flexibility, speed, adaptability and availability. West Coast truck traffic is expected to increase 200 percent by 2035*, placing increasing pressure on the interstate highway system and local freight corridors. As much as 52 percent of the total truck traffic in the region is through traffic.⁴ This reflects the importance of our stewardship role for maintaining the through-put efficiency of the interstate freeway system for national freight movement.

Maintaining access to, and adequate capacity on, designated freight corridors, the National Network, and the National Highway System within the region will remain critical to efficient goods movement. Performance of NN and NHS roads within the region varies, but there are locations with regularly recurring chokepoints. It is not unusual for these chokepoint locations to experience frequent failures, particularly during peak weekday travel times, greatly reducing overall system efficiency and reliability.

Recurring highway system chokepoint locations within the region identified by the RFGM Task Force as having broad impacts to goods movement included:

- I-5/CRC (Columbia River Crossing) and Delta Park: North Marine Drive to Columbia Boulevard operates near or over capacity during all peaks.
- I-5/I-84 Interchange: Operates at or over capacity during the a.m., p.m. and mid-day peaks.
- I-5/I-405 Loop: Is congested through the central city area.
- I-5 Corridor, south of I-205 interchange: the South Metro I-5 Corridor and Boone Bridge is reaching capacity, and carries a larger percentage of trucks than the CRC.
- I-205/OR 224 Interchange: Operates near capacity during the mid-day and p.m. peak hour.
- I-205: I-84 to Northeast Marine Drive: Several interchanges connecting to and sections of I-84 and I-205 within these limits operate near or over capacity during the p.m. peak hour.
- I-205: OR 212 to I-5: I-205, particularly south of the Oregon City I-205 bridge has long had capacity issues; enhanced merge lanes to I-205 are also needed.

⁴ *Portland and Vancouver International and Domestic Trade Capacity Analysis, 2006: WCCC Trade and Transportation Study, Cambridge Systematics, 2008*

- OR 217: Inadequate interchange spacing leads to merge/weave congestion chokepoints in the area of the Southwest Beaverton-Hillsdale Highway, Allen Boulevard and Hall Boulevard interchanges.
- I-205/Airport Way: Eastbound to northbound on-ramp is a bottleneck to providing access to and from Portland International Airport
- Non-continuous or challenging parallel arterials and connections: Improving arterial connections to current and emerging industrial areas (e.g., Sunrise Corridor phased connectors) are needed.
- Last-mile chokepoints: Various locations experience congested last-mile local industry connectors (e.g., Columbia/Cascade River District Projects)

Several of these highway segments and interchanges have also been identified as projects of statewide significance due, in part, to their negative impact on the statewide or national goods movement systems.

Rail

Class 1 rail lines⁵ operating in the Portland metropolitan area (BNSF Railway and Union Pacific Railroad) have been capacity-constrained due to several long-standing and well documented historical factors. These constraints will worsen as freight volumes at the region's ports and intermodal facilities increase. Capacity chokepoints for the Class 1 railroads in the Portland metropolitan area have primarily centered on the Portland Triangle, located in the industrial/port areas of North Portland and Southwest Vancouver.

Issues in the Portland Triangle area include inadequate siding lengths (Class 1 railroads are now fielding up to 8,000 foot long unit trains), rail bridges with inadequate capacity and lowered sufficiency ratings, at-grade rail crossings, sidings and mainline track sections that are over capacity. Other Class 1 capacity constraints within the region include switch control at the Steel Bridge, and inadequate rail and intermodal yard capacity for current and future needs. Outside the region, railcar clearances and increasing weights will need to be addressed, as the Class 1 railroads look to longer trains and heavier carloads to increase their operating efficiency and revenues.

Short line rail operators have taken over many of the local and regional rail functions formerly performed by the Class 1 railroads. Rail car weights are a critical issue for short line railroads. The Class 1 railroads are now considering rail car weights above 286,000 pounds, which will exceed the carrying capacity of many short line tracks in the region.

⁵ Railroads are classified according to their revenue; following decades of decline and mergers, there are now seven Class 1 railroads—constituting largest companies—currently operating in the United States. Class II railroads are also known as regional railroads; Class III includes the short line railroads.

Assisting regional short line railroads with track upgrades could reduce the risk of derailments, a potential public safety issue and certainly a productivity issue for the railroads. It also keeps trucks off the road. The short lines are also having to make-up more trains in their yards, which have limited capacity, before delivering them to the Class 1 rail yards. Assisting short line railroads requires government to show a clear public benefit, since these facilities are privately owned and operated.

Government and the railroads have historically cooperated to implement rail crossing safety improvements. The Class 1 and short line railroads have multiple at-grade crossings of their lines in the region, limiting train speeds and increasing the risk of conflicts between trains, vehicles, pedestrians and bicycles. Improving, eliminating, or grade separating at grade crossings improves safety as the number and size of trains increase. Crossing improvements increase rail and road system productivity by helping longer trains clear crossings more quickly. Crossing improvements are the first step in applying for “quiet zone” status with the Federal Railroad Administration.

Aviation

Combined air cargo providers generally operate on a hub-and-spoke system, where freight is picked up at airports throughout the country in the early evening, flown back to a central destination to be sorted, and then reloaded and flown to its final destination in the early hours of the morning for next day delivery. In order for this system to work, schedules must be maintained. This generally places air freight carriers’ trucks on the road during p.m. peak hour traffic.

While traffic flows on the roadways immediately adjacent to Portland International have improved within the last decade, trucks carrying air freight to the airport during the p.m. peak hour face increasing congestion on several area highways leading to the airport. I-205, I-84, I-5, I-405 and US26 all serve locations feeding generating air freight, but have failing p.m. peak hour level of service.

Several traded sector manufacturers within the region are heavy users of air freight. Frequent roadway congestion forces many of these users to move shipping deadlines up, causing firms to lose valuable production time and increasing their production costs. Many shippers in the region were disappointed when direct air freight connections to Asia were lost. They now have to truck their shipments to Sea-Tac or San Francisco International airports to make their desired connections.

Portland International began (May 2009) to implement a project to extend its north runway, as well as a complete overhaul of its south runway. With these improvements runway and taxiway capacity at the airport should be adequate to meet the needs of air freight carriers through the next decade, based on recent statements by the Port of Portland.

Marine

Modern commercial navigation of the Columbia River began in 1877, when Congress approved dredging a navigation channel between the Portland-Vancouver area and the mouth of the river in Astoria. Currently, more than 1,000 ocean-going vessels call on the Portland-Vancouver Harbor each year. Navigation channel depth on the Columbia River continues to be the limiting factor on the size, and therefore the number, of ships that call on the Portland-Vancouver Harbor. Channel deepening has been pursued for several decades, balanced by the need to protect various fish stocks migrating on the river.

The ports of Portland and Vancouver, as well as the other ports located along the lower Columbia River, lead the nation in the shipment of grain. They also ship large quantities of other bulk agricultural commodities from Oregon, Idaho and Washington to the rest of the world. The region's ports will still manage to grow by moving a wide range of marine cargoes, such as energy and transportation project related materials, manufactured goods, automobiles, agricultural and mining related products, and fuel. The ability of the ports of Portland and Vancouver to serve as major ports will be hampered by the size of ships that can traverse the Columbia River channel, since ocean carriers try to reduce per slot vessel (docking) cost by using larger ships.

The ports generate significant volumes of truck and rail traffic in the West Vancouver and Rivergate areas. Congestion during peak commute hours adversely impacts these truck movements. Intermittent congestion also impacts the Class 1 and shortline railroads serving the area.

Barge operators on the Columbia/Snake River system use equipment specifically constructed to operate in the locks on those rivers, adding significantly to their capital costs. In 2004, these barge operators moved 16,262 TEU's⁶ and 9,779,000 tons of containers, bulk (wet and dry) and break bulk cargoes on the Columbia/Snake River system. Barges are also used to transport grain, fuel, steel and aggregate related products on the lower Willamette River. It should be noted, however, that most import and export shippers prefer to use truck and rail for any higher value products moving through the ports.

The primary limiting factors to barge movement in the region are the BNSF rail and I-5 bridges crossing the Columbia River and the maintenance of navigable locks on the Columbia and Snake rivers.

⁶ Standard container measurements, known as twenty-foot equivalent units.

Pipelines

The Olympic Petroleum pipeline transports 65 percent of the petroleum products that Oregon uses. The pipeline delivers the equivalent of 750 tanker trucks of fuel between the Puget Sound and the Portland tank farm located in the Northwest Portland industrial area every day. The product in the petroleum pipeline generally moves at approximately 4 to 5 miles per hour. The pipeline is privately owned and is regulated by the federal government.⁷

Regional distribution occurs from the tank farm through a Chevron owned pipeline to Portland International Airport and through the Kinder-Morgan pipelines to users and distributors throughout the region. Maintaining good quality access to the tank farm facility is critical, particularly in light of a recent at-grade rail crossing closure on an access road to the tank farm.

The Williams Northwest Pipeline transports natural gas products to northwestern Oregon and Southwest Washington. Northwest Natural Gas operates a private natural gas network that connects to the Williams Northwest Pipeline and radiates through and beyond the Portland metro region. This pipeline network delivers gas directly to end users within and beyond the Portland metropolitan area.

⁷ <http://www.phmsa.dot.gov/index.html>

6.0 Goods movement and land use concerns

While the success of the region's economy is directly tied to its ability to efficiently move freight, it is important to recognize that freight movement and operations can potentially produce adverse impacts on local communities in the form of:

- Increased emissions, noise and vibration, lighting and safety concerns
- Impacts to land uses, community access, and bicycle and pedestrian movements
- Competition for highway and parking capacity
- A perceived (though not often real) reduction in land values
- Impediments to visual quality and redevelopment efforts

These concerns are likely to increase over time as freight volumes increase. Freight carriers and shippers can be impacted when communities seek to restrict access by trucks on certain streets, limit night-time operations, reduce the number of truck loading zones, increase water recreation activities and public access within working waterfront areas, or when communities seek to use a freight railroad's track for passenger rail service. These impacts are not the exclusive domain of freight operations – highways, transit and other transportation systems and services can engender comparable concerns over impacts.

As shippers' supply chain logistics continue to evolve, the definition of "state of the art" warehousing and distribution centers changes as well. Larger, increasingly truck-biased facilities are becoming the new standard. In addition, higher fuel costs could lead to decentralization of regional distribution centers nationally, with the Portland metro region well positioned to take advantage of this opportunity.⁸

Certain key regional intermodal rail to truck transfer facilities are quickly reaching their capacity and are constrained by the physical dimensions of their facilities. A regional discussion regarding retaining or restoring rail access into industrial areas should occur between the warehousing, manufacturing and distribution sectors, and the short line rail operators.

There has been a demand, at times, for conversion of industrial property to mixed-use residential. This is often incompatible with surrounding industrial operations and freight movement. New residential development along truck and rail corridors, and adjacent to industrial sanctuary areas should be discouraged, with land uses that provide a buffer for freight related uses being preferred in these areas. From the viewpoint of freight carriers and shippers, allowing new, incompatible land uses into industrial areas impedes business operations and access, resulting in higher operating costs, reduced safety and efficiency.

⁸ *CSCMP Explores, Vol. 5, Spring 2008

Protecting and redeveloping industrial areas for industrial uses is in keeping with the goal of creating and preserving industrial sanctuaries in the Region 2040 plan, but managing and balancing competing land uses will continue to be difficult as the region grows. Maintaining reliable multi-modal transport options to our industrial areas is critical, particularly truck and rail connections. Providing rail service is becoming particularly difficult as rail operating practices continue to change rapidly.

DRAFT

7.0 Technology and planning in sustainable freight transport

Going green

There are two variables that every commercial carrier must come to grips with: fuel cost and fuel use. The former frequently dictates the lengths to which a carrier will go to conserve fuel, while the latter directly impacts the production of greenhouse gases and PM 2.5⁹ emissions.

The goods movement industry is responding to the prospect of sustained higher fuel costs and tightening emissions standards. Tools being used to improve powertrain operating efficiency and reduce stationary idling of truck diesel engines include:

- Clean diesel technologies, more efficient powertrains and improved aerodynamics
- Low sulfur and bio-diesel fuels
- On board auxiliary power units
- Parking area power and HVAC hook-ups for trucks
- Ongoing and innovative operational changes that reduce the carbon footprint of freight.

Every operator of commercial vehicles, be they aircraft, marine, rail or truck, has grown increasingly sophisticated at load, route, operator and vehicle optimization in an effort to minimize equipment downtime and maximize profit. Recent increases in the cost of fuel have only intensified efforts to increase operational efficiencies. Still, there is little evidence of a shift to alternative modes due to fuel costs.

The public sector needs to compliment these efforts by optimizing their own facilities and strategies to gain maximum through-put capacity and efficiency where it matters most. This effort needs to include multi-jurisdictional coordination and ongoing participation from the private sector goods movement community. The challenge of increasing the capacity of the goods movement system while remaining environmentally sustainable will require close coordination and cooperation between the private and public sectors.

Transportation system management

Several tools are available for transportation system management on the corridor level. These tools include variable message signs, traveler information systems, incident management and response, traffic signal progression, ramp metering and demand (traffic volume) responsive signal timing. Truck signal priority might also be considered in certain situations.

⁹ Particulate matter smaller than 2.5 microns have been shown to affect human health.

The public sector needs to manage its roadway infrastructure with the same degree of efficiency that the private sector manages their assets. Managing roadway performance through congestion pricing means charging road users on a sliding scale, based on the actual demand for roadway capacity throughout the day, with higher prices occurring during periods of peak travel demand.

Weigh-in-motion scales have been in use for several years, allowing trucks to bypass conventional truck scales, saving time, fuel and wear. Weigh-in-motion systems could be improved through the use of a single, common transponder system for commercial vehicles operating throughout several western states.

Some industrial areas within the Portland metro region have freed up roadway capacity by forming transportation management associations. These associations can facilitate and promote enhanced pedestrian, transit, carpooling and bicycle alternatives to the daily commute. These associations also work with employees to tailor transit services to their work shifts and with employers to facilitate staggered shifts, compressed work weeks and work-from-home programs. These efforts can reduce single occupant vehicle travel within industrial areas during critical peak travel times.

Freight data collection and analysis

Portland State University's Intelligent Transportation Systems lab has begun a project to produce truck travel time estimates using the transponder information from ODOT's Green Light weigh-in motion-system. The system can supplement Tripcheck's traveler information system as well as help calculate key freight measurements by linking the other data collected by the weigh stations to the travel time estimates. The ITS lab at PSU houses and maintains the Portland Oregon Regional Transportation Archive Listing. PORTAL collects data from all of the in-bed loop detection sensors in the Portland area as well as free floating dynamic sensors that can be placed in TriMet buses or other vehicles. The archive also collects weather and incident reports, all of which can be accessed in a variety of methods to help monitor and evaluate traffic improvements and patterns.

Planning, coordination, and education

The RFGM Task Force requested that freight coordination continue at the regional level. Metro staff would like to honor this request through coordination with jurisdictions and organizations having an interest in commerce and freight, and by holding bi-annual meetings of the RFGM Task Force. Ongoing coordination, planning and data collection efforts would allow Metro to be more responsive to requests from the goods movement community.

The RFGM Task Force also recommended that efforts to educate the public on the importance of goods movement, and the critical role it plays in the economy, continue on an ongoing basis.

8.0 Freight plan findings

The following findings were developed or compiled by Metro staff, but are based on RFGM Task Force input, as well as data collected as part of this project.

Trade and the Portland economy

- Trade volumes in the Portland/Vancouver region will double by 2035.
- Continued trade growth will create economic opportunities for the region and state that are dependent on adequate transportation infrastructure.
- The goods movement needs of the Portland-Vancouver region, and the markets it serves, require access to a broad range of modal options and service providers.
- The ability to transport goods into, out of, through and within the region in an efficient, timely and reliable manner is critically important to the economic health of the region and the state as well as West Coast trade.
- Maintaining an efficient, accessible, multimodal goods movement system is essential to attracting and retaining traded sector companies. These firms require access to the global marketplace comparable or superior to any firm they might compete against.

Industrial land supply

- There will be an increased need for industrial waterfront lands to support growth in maritime trade. Industrial land uses are frequently incompatible with, and pressured by, residential development. Extra care must also be taken when placing industrial land uses in close proximity to recreational or environmental resources.
- Industrial sanctuaries should continue to be considered a unique and protected land use. Preserving the region's existing industrial sanctuaries is essential to maintaining economic growth. As industrial land in the region becomes increasingly scarce, active protection of the region's industrial sanctuaries will become critical.
- Protection of industrial sanctuaries should include modernization of existing sites as needed, as long as the industrial nature of the land use is maintained.
- Industrial land users consider residential development incompatible with their operations, while residential property owners take issue with aspects of industrial development. Similarly, locating housing adjacent to primary truck routes or rail lines is also viewed as undesirable by carriers and residential property owners alike.
- Maintaining and improving multimodal freight access to the 2040 industrial sanctuaries is critically important to ensuring long-term viability of industry in the region.

Freight rail

- Rail service characteristics are changing. Class 1 railroads, and even certain short line railroads, are moving towards a “hook (up) and haul” business model, where the railroad focuses on pulling assembled trains long distances between cities.
- Class 1 railroads are currently struggling to meet existing freight demand. They are facing shortages in rolling stock, siding and yard capacity, and track capacity. They are attempting to address these deficiencies in a timely manner, but are struggling to do so.
- In response to projected increases in rail freight volumes, Class 1 railroads intend to haul heavier per car loads and employ longer trains. The former will require upgrading tracks throughout their systems, and the latter will likely increase the need to grade separate more intersections over time.
- The current Class 1 railroad business model focuses on delivering service to railheads with intermodal yards or directly to port facilities. The Class 1 railroad intermodal yards in the region are operating near capacity now, and they will need to be expanded. These intermodal yards are predominantly dependent on trucks to move freight to and from their facilities. This may require use of scarce lands within certain Industrial Sanctuaries.
- Short line railroads have generally taken over the role of distributing rail cars throughout the region on their rail networks to end users requiring direct local rail service. Lack of space in Class 1 rail yards means short line railroads need additional marshalling yards on their own properties to make up trains. Identifying locations for these yards is challenging, as it often requires the acquisition of scarce lands within certain industrial sanctuaries.
- Short line railroads and certain private operators are also operating intermodal facilities, frequently offering additional logistics services to shippers. Maintaining and improving both truck and rail access to these satellite intermodal locations is critical.

Trucking

- Trucks will continue to be the dominant mode of transport in the freight transportation system, with West Coast truck volumes expected to increase over 250 percent by 2035. Even though the use of other modes will expand, trucks will maintain their preeminent status as the first and last links in delivering goods to the end user due to their flexibility.
- A trend toward lighter weight, higher value, increasingly time sensitive, producer to retailer shipments is expected to continue, again reinforcing the role of trucking in the freight transportation system hierarchy.
- Truck access between port facilities, industrial sanctuaries and the National Highway System is critically important to shippers, carriers and distributors of freight. These connections are commonly referred to as “first mile/last mile” connections.

- Motor carriers identified correcting regional bottlenecks on the principal NHS roads as their first priority. Motor carriers are also supportive of active Transportation System Management, to include incident management.
- Transportation service providers identified the Columbia River Crossing, I-5 through Delta Park, the I-84/I-5 interchange area, I-205 from OR 224 to I-5, and the Sunrise Corridor projects, as well as improved access to the North Wilsonville-Tualatin-Sherwood and Clackamas industrial areas as their highest regional road improvement priorities.

Air Cargo

Air cargo continues to require efficient access. Area industries producing goods shipped via air freight have had to adjust their production schedules repeatedly due to roadway congestion in order to meet air freight departure deadlines. This has led, in turn, to higher production costs and reduced productivity.

General concerns and observations

- The rail, truck, marine, pipeline and air cargo carriers all invest in their own equipment and infrastructure and are privately owned for-profit businesses. This complicates public sector investment in safety, access, reliability or capacity improvements for these modes.
- Every privately owned carrier, of whatever mode, relies on publicly owned infrastructure for at least a portion of their activities.
- Firms relying on the goods movement system monitor the efficiency, reliability and speed of the existing transportation system and use these measures to evaluate system performance. The vast majority of this information is considered proprietary and is used by shippers to gain an advantage over competitors. Much of this data is also derived from proprietary systems that generate unique data outputs focused on parameters specific to that firm. This can make even anonymous data sharing very difficult.
- The goods movement industry provides over 46,000 family wage jobs within the region.
- Maintaining the Portland metro region's historic preeminence as a goods movement and industrial hub should remain a regional priority.
- Long-term under investment in transportation infrastructure within the region, for both maintenance and capacity improvements, has led to congestion, weight limits and frequent system breakdown.
- Transportation revenues to fund maintenance and capacity enhancements are at an historical low on the federal, state and local levels.

- An ongoing regional freight data collection effort needs to be undertaken and sustained over time. One of the better efforts to date is PORTAL, operated by PSU, but several other efforts under development also show promise.
- A component of regional freight data collection efforts needs to include interviewing shippers directly on ongoing basis, to capture current supply chain dynamics.
- The importance of freight transportation to the regional economy needs to be reinforced through an ongoing public education effort.

Funding background

Funding for transportation projects has historically come from several federal, state, regional and local funding sources, as reflected in the following lists. There are several programs funded under the current federal transportation act, the Safe, Accountable, Flexible, Transportation Equity Act: A Legacy for Users (SAFETEA-LU), that can be directed towards freight. The next federal transportation act is expected to specifically address freight movement. Similarly, funding for transportation is expected to be taken up by the Oregon Legislature during their upcoming session.

Change is needed: federal and state fuel tax revenues have been in decline for several years. Oregon has not had a gas tax rate increase since 1993, but the Weight-Mile Tax levied on trucks over 26,000 pounds (GCW) has increased since that date. Nationally, funding for transportation projects has become scarce. The need to replace aging transportation infrastructure and expand facilities in areas of the country experiencing growth has exploded. This need comes at a time when infrastructure project costs have increased significantly during the last several years.

The following funding sources are currently available to the region.

Federal funding sources or programs (FHWA programs, unless otherwise noted):

- Modernization (freight chokepoints, capacity enhancements, dimensional issues on NN/NHS freight routes)
- Preservation (road and bridge maintenance)
- Surface Transportation Program
- National Corridor Infrastructure Improvement Program
- Congestion Management and Air Quality Improvement Program
- Transportation Infrastructure Finance and Innovation Act of 1998 – allowed the creation of state infrastructure banks through a federal credit, generally fund state infrastructure banks (Funds are expected to be repaid.)
- Truck Parking Facilities
- Freight Intermodal Distribution Pilot Grant Program

- Transportation, Community, and System Preservation Program
- Elimination of Hazards and Installation of Protective Devices at Rail-Highway Crossing
- High Risk Rural Roads (e.g., Cornelius Pass)
- Intelligent Transportation Systems Research
- FTA dollars for TDM measures on truck corridors and in industrial areas
- MARAD: provides funding for harbor and channel maintenance
- FAA: various programs for providing airside, landside and runway protection zone funding

State funding sources (generally administered through ODOT):

- Oregon Gas Tax: Oregon's fuel tax on gasoline has not been increased since 1993.
- Existing and Proposed Vehicle Registration Fees: Oregon's next legislative session is expected to revisit vehicle registration fees as a potential source of revenue.
- Oregon Weight Mile Tax: Charged to trucks weighing over 26,000 pounds, the tax is the primary source of tax revenue raised by trucks in the state. Weight Mile Tax receipts are primarily directed at roadway maintenance and system preservation efforts throughout Oregon, with a smaller amount allocated to administering the program.
- Oregon Energy Income Tax Credit: The Oregon Department of Energy offers a tax credit for businesses that invest in reducing energy consumption. Under this program transportation projects that reduce the number of single-occupancy vehicle trips are eligible for the credit. The credit covers up to 35 percent of eligible project costs.
- Connect Oregon I & II: Funded through lottery proceeds, this effort has focused on projects that enhance intermodal connections and improve freight mobility for several modes, to include aviation, marine, and freight rail. It was allocated a total of \$200 million for both phases.
- OTIA: The various OTIA funding programs relied on bond proceeds to raise funding for critical statewide infrastructure needs. While this program was a success, these bonds now need to be paid off.

The Connect Oregon and OTIA programs have shown that government and the private sector can collaborate successfully. These programs have delivered tangible benefits to freight movement within the Portland metro region and the state. The Connect Oregon program should be continued. The program has proven particularly useful in funding much needed projects for off-highway modes. Dedicating the loan revenues from the Connect Oregon program into a revolving fund could help the program be more self sustaining.

Regional funding sources:

- Congestion pricing/use-based toll: Set up a regional congestion pricing program, starting with CRC (both bridges). Enforce through WMT transponders or cell phones. Dedicate revenues generated by trucks to truck oriented projects.
- Vehicle registration fee: Apply a uniform vehicle registration fee to all vehicles.
- Regional funding initiative: Regional transportation improvement districts have experienced success in the Northwest. These packages use increments of vehicle registration fees, fuel taxes, and/or property taxes to fund a specific list of infrastructure improvements. A regional transportation improvement fee is under development for consideration.
- Value capture: Certain transportation projects generate greater tax revenues for a community during their construction and throughout their active lifespan. Projecting this value and using it to help bond the project is another way to help fund certain capital projects, such as shortline railroad intermodal facilities.
- Freight innovation initiative: A fund for innovative, freight-oriented technological and operational efforts using commercial vehicle congestion pricing tolls. Revenues could fund freight-oriented TSM, ITS, fuel consumption reduction or alternative fuel efforts, and technology proof of concepts/trials/ demonstration projects. A small percentage of these funds could also support a regional freight database and associated freight movement research.

Local transportation funding efforts in other regions and states have illustrated that the public is willing to pay for infrastructure under certain conditions. The public needs to see a demonstrable need for the project and how the proposed project will meet that need; it has to feel confident in the cost estimate and projected schedule and also in the constructing agency's ability to deliver a project within that cost and schedule.

9.0 Developing a freight strategy tool kit

Linking Freight Plan goals and issues to targeted solutions

The RFGM Task Force identified specific issues associated with the RTP goals for freight movement. These issues, summarized in the table below, require an ongoing, creative and collaborative approach to problems that are sometimes systemic, sometimes localized, and usually complex. The Task Force recognized that freight problems occur on a multimodal system, and that even when problems appear to be localized bottlenecks or network barriers, there are often multiple underlying causes that extend far beyond the apparent “problem”. The interdependent nature of our transportation system, economy and environment all demand that a rigorous analysis of potential solutions be performed, in order to avoid downstream impacts or unintended consequences.

The tables are structured around the Freight Plan goals developed by the Task Force and found in section 2.0 of this document. These goals have been combined under one of the following categories:

System planning for efficient freight mobility and access

This category of issues and solutions speaks to Metro’s mission as the Metropolitan Planning Organization for the Portland metro area. It seeks to provide better freight and goods movement data, to analyze that data with freight considerations in mind, and to implement a multimodal plan that facilitates freight movements required for a vibrant regional and state economy.

System management to increase network efficiency

This category comprises the “first step” to improved freight and goods movement operations on the existing system, and includes preservation, maintenance and operations-focused projects and associated planning and coordinating activities.

Public understanding of freight issues

To gain public support for projects and funding of freight initiatives, and to help the public and elected officials make wiser land use decisions, a program of public education is required.

Sustainable freight transportation system

This category of issues and solutions deals with traditional nuisance and hot spot issues associated with “smokestack and tailpipe” problems, but it also recognizes the many current contributions and new opportunities for the evolving green freight community to be part of the larger environmental and economic solution set required in these times, including greenhouse gas curtailments.

Freight-sensitive land use planning

This category targets land use planning and design issues that can affect the ability of freight, goods movement and industrial uses to live harmoniously with their neighbors.

Freight-sensitive land use planning includes everything from long-range aspirations for freight and industrial lands to short-term and smaller scale design and access issues.

Strategic transportation investments

This category of solutions focuses on planning and building capital projects and developing the funding sources, partnerships, and coordination to implement them. It includes the list of regional freight project priorities attached as Appendix B to this report, identifying a wide range of projects from preservation and maintenance to major facility construction.

Freight-oriented preservation, management and investment priorities should focus on:

- Core throughway system bottlenecks to improve truck mobility in and through the region – hotspots of note include the Columbia River Crossing influence area, the I-5/I-405 loop and the I-5 corridor south of I-205.
- Improving and protecting the throughway interchanges that provide access to major industrial areas, particularly: I-5/Marine Drive and I-5/Columbia Blvd serving the Columbia Corridor and Rivergate industrial areas; I-205/Hwy 212 serving the Clackamas and Milwaukie industrial areas; and I-205/Airport Way serving Portland International Airport and east Columbia Corridor industrial areas.
- Improving arterial connections to current and emerging industrial areas (e.g., Sunrise Corridor phased improvements recommended by the Sunrise Project Policy Committee and *last mile* local industry connectors, e.g., Columbia/Cascade River District Projects)
- Looking beyond the roadway network to address critical marine and freight rail transportation needs such as completing the Columbia River channel deepening and upgrading main line and rail yard infrastructure.

Several issues raised by the stakeholders are difficult to resolve, primarily because the improvements suggested involve infrastructure that is under private ownership. In these instances, identified public benefits must be rigorously quantified to demonstrate net benefits associated with public investment. In addition, qualitative benefits must be logically articulated and assessed.

Freight plan goal	Key issues identified by stakeholders	Potential solutions/strategies
<p>System planning for efficient freight mobility and access;</p> <p><i>We must use a systems approach to plan and manage our multimodal freight transportation infrastructure, recognizing and coordinating both regional and local decisions to maintain seamless flow and access for freight movement that benefits all of us.</i></p>	<ul style="list-style-type: none"> • Inability to track freight system performance over time • Inability to measure economic impact of investments • Accessibility between intermodal terminals, industrial areas, commercial centers and the interstate system • Improved rail access and service for regional shippers • Consideration of freight and goods movement needs in project development • Protection of modal redundancy 	<p>Data, Research, Modeling and Analysis</p> <ul style="list-style-type: none"> • Improve Metro’s truck module within the regional travel forecast model • Investigate predictive risk analysis, economic models and/or manual estimates of monetary benefits based on predicted travel time savings, incident clearance, enforcement, etc. • Submit proposals for relevant regional, state and national freight-related research or pilot project opportunities (e.g., Transportation Research Board projects) • Continue and expand work with Portland State University faculty and research staff to improve tools for freight analysis (e.g., truck counts) <p>Planning and Coordination</p> <ul style="list-style-type: none"> • Maintain Regional Freight Technical Advisory Committee meetings (monthly) and hold twice-yearly Task Force meetings (or as needed to provide timely input) • Periodic development, and ongoing advocacy for RTP freight projects list • Coordinate with and through ODOT, Oregon Freight Advisory Committee (OFAC) on statewide freight, port and rail planning to ensure regional issues are addressed • Monitor freight innovations across the country and globally to mine for Portland metro application • Ensure that freight needs are included in all Metro planning efforts, such as corridor refinement plans

Freight plan goal	Key issues identified by stakeholders	Potential solutions/strategies
<p>System management to increase network efficiency</p> <p><i>We must use a systems approach to plan and manage our multimodal freight transportation infrastructure, recognizing and coordinating both regional and local decisions to maintain seamless flow and access for freight movement that benefits all of us.</i></p>	<ul style="list-style-type: none"> • Travel time reliability on regional truck routes • Efficient use of existing capacity • Increasing truck crash rate • Need for faster response to roadway incidents • Improved traveler information – road conditions, directional signage • Maintenance dredging and lock repair 	<p>Data Collection, Analysis and Planning</p> <ul style="list-style-type: none"> • Regional Transportation System Management Plan • Periodic development and refinement of RTP freight projects list • Monitor/comment on ODOT statewide freight planning studies (Statewide Freight Plan, related studies for ports and rail at the state level) • Continued support for use and expansion of tools such as the PORTAL program of real-time traffic delay, etc. • Periodic surveys/interviews with shippers about the services provided by the region's carriers in the multimodal system <p>Projects (Operations, Build Options)</p> <ul style="list-style-type: none"> • Access management • Improved incident management • VMS/GPS active (in cab) truck route management • Truck-only lanes, ramp meter bypass lanes, next generation ITS infrastructure for commercial vehicles • Road pricing, congestion pricing, managed lanes studies, pilots or deployment if appropriate • Rail track/yard improvements to eliminate rail/highway conflicts and increase rail functional capacity • Facilitate multiple shippers' combined shipments to meet railroad's operating plans • Increase enforcement of traffic/carrier regulations • Expand rest areas/better utilization of rest areas for extended truck rest areas, including smart truck parking • Continued support for Regional Transportation Options program, Transportation Management Associations, expanded transit service/vanpools, bicycle and pedestrian facility improvements in industrial areas (for workforce access to jobs)

Freight plan goal	Key issues identified by stakeholders	Potential solutions/strategies
<p>Better public understanding of freight issues</p> <p><i>We must enlighten our region's citizens and decision-makers about the importance of freight movement on our daily lives and economic well-being.</i></p>	<ul style="list-style-type: none"> • Better coordination between freight system stakeholders in region • Education of decision makers and public about importance of region's freight transportation system 	<p>Education and Coordination</p> <ul style="list-style-type: none"> • Improve information exchange between public and private stakeholders via existing state, regional and local freight advisory groups • Improve analysis and communication of freight impacts on regional economy • Quarterly regional freight transportation system stakeholder roundtable • Annual state of regional freight report
<p>Sustainable freight transportation system</p> <p><i>We must ensure that our multimodal freight transportation system supports the health of the economy and the environment.</i></p>	<ul style="list-style-type: none"> • Regional air quality impacts from diesel emissions, which, if not addressed, will grow as freight volumes increase • Marine freight movement impact on water quality and habitat (e.g., invasive species introduced through ballast water) 	<p>Air Quality</p> <ul style="list-style-type: none"> • Promotion of existing programs such as diesel retrofit technologies, idle reduction regulations, transportation system management tools <p>Water Quality</p> <ul style="list-style-type: none"> • Support of regulations that address environmental quality in riparian areas <p>Other Environmental</p> <ul style="list-style-type: none"> • Aggressively implement clean, green and smart best practices, as appropriate • Legislation to regulate and enforce ballast water release • Reduction of light sources and/or filtering or redirecting lighting • Proactive public outreach strategies • Performance monitoring and review following public and regulatory processes such as environmental justice mitigation, where appropriate

Freight plan goal	Key issues identified by stakeholders	Potential solutions/strategies
<p>Freight-sensitive land use planning</p> <p><i>We must integrate freight mobility and access needs in land use decisions to ensure the efficient use of prime industrial lands, protection of critical freight corridors, and access for commercial delivery activities.</i></p>	<ul style="list-style-type: none"> • Inadequate supply of industrial land well served by transportation infrastructure • Incompatible land uses along rail lines and major truck corridors • Incompatible land uses often adjacent to one another resulting in complaints about, and adverse impacts to, freight movement • Inadequate areas for trucks to conduct off and on-street loading and unloading • Competition between industrial and other uses for system capacity • Truck deliveries to local commercial and neighborhood districts that are difficult due to narrow lanes/turning radii • Growing noise impacts from truck, rail and air cargo operations in residential areas • Limited truck parking to meet needs of drivers (hours of service limitations) • Workforce access to industrial areas 	<p>Planning and Coordination</p> <ul style="list-style-type: none"> • Coordinate with land use planning efforts to ensure that current and future freight/industrial needs are addressed • Expand regional Brownfields programs to allow return of industrial land to industrial uses • Take advantage of Regional Freight Task Force experts to inform Metro planning activities, e.g., in creating better linkages between commodity flow data and employment projections in determining long-term land use and freight routes • Consider revising “regionally significant industrial land” designation to protect high value industrial areas • Use interchange management plans to protect capacity at key industrial areas • Support affordable housing with access to employment/industrial centers • Advocate for full disclosure to property buyers adjacent to freight/industrial uses • Explore strategies where businesses co-locate in order to share resources (e.g. the local “resourceful use pilot”) to conserve resources and use transportation system efficiently <p>Design and Projects</p> <ul style="list-style-type: none"> • Prioritize infrastructure investment to support existing industrial areas • Develop good neighborhood agreements between facilities and residential neighborhoods • Create “Quiet Zones” for rail corridors. • Updating livable streets design guide to better incorporate truck movement and operations. • New strategies to buffer residential and commercial land uses near industrial areas and along major truck, rail, airport and pipeline corridors

Freight plan goal	Key issues identified by stakeholders	Potential solutions/strategies
<p>Strategic transportation investments</p> <p><i>We must create first-rate multimodal freight networks that reduce delay, increase reliability, improve safety, and provide choices.</i></p> <p><i>We must adequately fund and sustain investment in our multimodal freight transportation system to ensure that the region and its businesses stay economically competitive.</i></p>	<ul style="list-style-type: none"> • Network barrier deficiencies such as weight and vertical clearance issues on bridges, at-grade rail crossings • Existing capacity constraints in rail yards and sidings • Road congestion on regional truck routes • Main line rail congestion • Expand types and amounts of funding for freight transportation infrastructure and programs • Role of public sector in funding private operations • Need for public-private partnerships to fund improvements • Transportation investment decisions linked to economy • Concerns about safe barge navigation in I-5/BNSF bridge area 	<p>Project Development and Implementation (not all-inclusive)</p> <ul style="list-style-type: none"> • Implement RTP freight projects with focus on identified Task Force priorities, (see Appendix B). • Fill in gaps in truck route alternatives to interstate (e.g., parallel arterials for emergency detours) <p>Funding Policy and Partnering</p> <ul style="list-style-type: none"> • Expanded use of public-private partnerships to fund transportation system expansion • Expanded ability to invest public dollars in private facilities when improvements in those facilities result in public benefits • When funds aren't available for major system improvements, make incremental improvements to those facilities through Intelligent Transportation System and traffic demand strategies, access management and less-costly strategies • Common ground and linkages in the needs of different funding sources, and the opportunities presented by them • Expanded types of programs and amounts of funding for freight transportation infrastructure (gas tax indexing, user pay cost responsibility) • Appropriate coordination with planning, political and advocacy groups, including Oregon delegation, OFAC, West Coast Corridor Coalition, etc., to ensure adequate funding for freight priorities • Regional Freight TAC/RFGM Task Force participation in any regional road pricing pilots or planning studies • Support regional ConnectOregon freight and goods movement projects

10.0 Going forward—from goals to projects on the ground

Section 9 constituted a “tool kit” of freight strategies that responded to a broad range of needs. Section 10 constitutes the Action Plan. Its elements are pulled from the tool kit and elaborated. This section identifies who does what, and includes a timeframe for implementation.

In 2008, the RFGM Task Force a long list of prioritized freight projects submitted for consideration as part of the July/August 2009 RTP project solicitation process. These are included in an appendix to this plan. In addition, a handful of important, achievable near-term items are included and recommended for implementation within this RTP cycle of 2009-2013, to support the approved regional freight and goods movement goals. Although circumstances and regional priorities may shift, the Task Force believes that a four year period is short enough to be relevant to the freight community, yet long enough for activities to be programmed, refined and deployed, as described in this section.

The action items described below are the result of review with the Regional Freight and Goods Movement Task Force, the Regional Freight Technical Advisory Committee (TAC). Many of the actions described are foundational activities that constitute the glue holding the regional freight action plan together—planning, coordinating, research and policy-making that take place on both an ongoing and cyclic basis. Some of the action items below are quite well developed; others will require elaboration during Fall 2009, for inclusion in the Spring 2010 RTP adoption process. The list of efforts will need to find staff, time and funding resources, whether that includes Metro, members of the freight, goods movement and economic development community, or other agencies. Those actions that eventually are adopted by the Task Force and Metro Council, and which do fall within Metro’s purview will be incorporated, as appropriate, into Metro’s Unified Planning Work Program (UPWP) for FY 2010-2011.

[The Task Force will review the contents of this new section at its August meeting, and a preliminary list will be included in the final plan].

11.0 Summary

Why should we invest in freight now?

Portland and Vancouver were founded on vibrant and profitable statewide, regional and international trade. Access to the Pacific Ocean via the Columbia River from the inland empire to the east created the region's original economic engine. The Willamette River delivered the wealth of the various river valleys south and west of the Portland metro region in much the same way. It was through this trade that the Portland metro region established itself as a trade hub and prospered.

Today, the Portland-Vancouver region boasts a strong and diverse regional economy that supports an enviable quality of life. The local economy is still very dependent upon an efficient, reliable and safe freight transportation system that recognizes the region's role as an international gateway and key domestic freight hub.

One critical element of sustaining the region's high quality of life is ensuring that residents have access to high quality, family wage employment. As the region grows, the population will depend on decision makers that appreciate the interdependence of economic, transportation and land use goals.

Strong growth in international, national and regional trade will drive the need for a flexible, adaptable, high performance multimodal freight transportation system. Efforts must consider these new stresses on marine, air, road, rail and pipeline networks and facilities. The region's goods movement system will need to absorb a doubling of freight volumes by 2035, and a 200 percent growth in truck traffic during the same time period.

Many local manufacturing firms that trade internationally, and who could locate globally, have chosen to make the greater Portland-Vancouver region their home because of its connections as an international transportation hub. These firms require a smoothly functioning goods movement system to operate efficiently and maintain profitability. In the absence of such a system, they will consider relocating to an area that meets these requirements.

The logistics and (freight) transportation sectors provide 46,000 jobs to the region by facilitating the transport or trans-shipment of goods entering the region via various modes and routes to intermediate or end users. These firms also perform the vital task of distributing the myriad goods that Oregonians consider essential to the maintenance of our households, businesses and lifestyles. The region has a responsibility to provide a goods movement system that continues serving this requirement.

It is true that the world economy is currently strained, but current and future economic stimulus package components, including funds to reduce the backlog of long-deferred infrastructure maintenance are coming on line. The reauthorization of the surface transportation act is due next year, and early indications are that key freight corridors

and infrastructure will be targeted for special consideration. It is in this context that the region's freight plan will operate.

And as the global economy grows, the Portland metro region will be called upon to address vastly expanded regional, national and international shipping needs reliably, safely, efficiently and sustainably. We have a responsibility to the region, the state, and the nation to maintain an efficient and flexible goods movement system of sufficient capacity to meet future needs.

Boosting the triple bottom line

Policies and programs designed to take advantage of the opportunities hidden in the downturn should begin to be refined and implemented, to ensure that the Portland metro region is flexibly and securely positioned for the future of freight and goods movement. However, in addition to regional policy and program development and implementation, concrete freight-related projects must be built to ensure that the goals of the Regional Freight Plan are met. Maintaining the Portland region's historic preeminence as a goods movement and industrial hub must remain a regional priority; our economic future depends on it. Investment in smart, strategic and green freight system improvements now can help Portland secure not only its economic future by increasing its share of family-wage jobs, but also support development of a green economy that is the Portland area's trademark.

Agenda Item Number 5.1

Consideration of Minutes for the August 6, 2009 Metro Council Regular Meeting

Consent Agenda

Metro Council Meeting
Thursday, August 13, 2009
Metro Council Chamber

Agenda Item Number 6.1

Resolution No. 09-4050, For the Purpose of Approving Second Round
Funding for Nature in Neighborhoods Capital Grants.

COUNCILOR LIBERTY

Metro Council Meeting
Thursday, August 13, 2009
Metro Council Chamber

BEFORE THE METRO COUNCIL

APPROVING SECOND ROUND FUNDING FOR	)	RESOLUTION NO. 09-4050
NATURE IN NEIGHBORHOODS CAPITAL)	
GRANTS	)	Introduced by Councilor Robert Liberty, with
	)	the concurrence of Council President David
	)	Bragdon

WHEREAS, Metro Resolution No. 06-3672B, “For the Purpose of Submitting to the Voters of the Metro Area A General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection,” was approved by the Metro Council on March 9, 2006.

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

WHEREAS, the Measure provided for \$15 million to fund a Nature in Neighborhoods Capital Grants Program (the “Capital Grants Program”) to provide opportunities for the community to actively protect fish and wildlife habitat and water quality near where people live and work. The program can provide funds to purchase lands or easements that increase the presence of natural features and their ecological functions in neighborhoods throughout the region. The program can also provide funding for projects that recover or create additional plant and animal habitats to help ensure that every community enjoys clean water and embraces nature as a fundamental element of its character and livability; and

WHEREAS, the Measure provided for the creation of a grant review committee composed of no fewer than seven members to review grant applications and make grant award recommendations to the Metro Council; and

WHEREAS, on November 1, 2007, the Metro Council adopted Ordinance No. 07-1163, “Amending Metro Code Chapter 2.19 To Establish The Nature in Neighborhoods Capital Grants Review Committee, And Declaring An Emergency”; and

WHEREAS, on November 1, 2007, the Metro Council also adopted Resolution No. 07-3879, “Confirming the Appointment of Members to the Nature in Neighborhoods Capital Grants Review Committee;” and

WHEREAS, on February 19, 2009, the Metro Council adopted Resolution No. 09-4027, “Confirming the Reappointment of Members to the Nature in Neighborhoods Capital Grant Review Committee, Designating the Chair, and Appointing a New Metro Natural Resources Staff Representative;” and

WHEREAS, on June 25, 2009 the Grants Review Committee reviewed proposals for grants and is recommending 4 projects that best meet the criteria for the grant program to the Metro Council for funding; now therefore

BE IT RESOLVED that the Metro Council hereby:

1. Awards Nature in Neighborhoods Capital Grants to those recipients and projects, and for the funding amounts, listed in Exhibit A to this resolution,
2. Authorizes the Chief Operating Officer to enter into an intergovernmental agreement with each of the grant recipients that are governmental entities substantially in conformance with Exhibit B to this resolution to provide them with such grant funding conditioned on each entity consenting to take fee title to the property being acquired, in part, with grant funds subject to a restriction that ensures that the property will be used consistent with the purpose and goals of the grant program in perpetuity. The form of such restriction shall be approved by, and at the sole discretion of, the Metro Attorney.
3. Authorizes the Chief Operating Officer to enter into a grant agreement with the two grant recipients that are not governmental agencies substantially in conformance with Exhibit C to this resolution to provide them with such grant funding, and to enter into intergovernmental agreements with the government sponsors for such projects, substantially in conformance with Exhibit D to this resolution, to allow the projects to be completed on public property and to commit to treat such projects as capital assets.

ADOPTED by the Metro Council this 13th day of August, 2009.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 09-4050

Nature in Neighborhood Capital Grants Program Second Round Grant Awards Grant Review Committee Recommendations to the Metro Council

Project: Nadaka Nature Park Expansion
Recipient: City of Gresham
Applicant: East Wilkes Neighborhood Association
Grant Amount: \$220,000

This project entails acquisition of a 1.9 acre site that will improve public access to the existing 10-acre Nadaka Nature Park from NE Glisan. The nature park is a mostly forested site with a small meadow on the south side. It is the only natural area for the East Wilkes Neighborhood as well as for Rockwood Neighborhood, which is south of the acquired site.

This project addresses the goals and criteria of the grant program in the following ways:

Re-nature

The acquisition of the site itself will not enhance biological functions. However, as part of the match for this project the City of Gresham will complete a Management Plan for the entire 11.9 acre site. This plan will ensure that the natural resources on the site are functioning in a healthy ecological condition for the benefit of native species and water quality as well as the community.

Re-green

This project will help strengthen people's physical connection to the region's ecology by enhancing access to the site and making the site more visible.

Universal Access

The park's hard to find entrance and lack of access from the major arterial limits use of the natural area. Opening Nadaka to Glisan will increase visibility and use of the site.

The Grant Review Committee found this project compelling for the following reasons:

- It dramatically improves access to an existing publicly-owned natural area.
- It supports an active, grassroots community group that has been removing invasive plants, planting natives and increasing awareness of the site's assets. The neighborhood organization took the lead on scheduling site tours, engaging partners and raising the enthusiasm for this acquisition throughout Gresham.
- Partners such as Audubon, People for Parks, St. Aiden's Church, H.B. Lee School, the Rockwood Neighborhood, and the Columbia Slough Watershed Council have been actively engaged in the project and not just letter writers.
- The site is located in an area that is deficient of natural areas.
- This purchase allows a greater portion of the existing meadow to be used for restoration and environmental education.

Project: Greening the I-205 Corridor
Recipient: Friends of Trees
Grant Amount: \$415, 436

This project includes the planting of 1,300 native trees and 16,000 native shrubs in treated mulch beds in the I-205 right-of-way over the next three planting seasons using 2,400 volunteers giving 9,600 hours of time. Planting will begin in the fall of 2009 and conclude in spring 2011. Establishment, the watering and care of the plantings until they can survive without on-going attention, will occur each summer and run through 2012. Friends of Trees will continue establishment until the end of the summer 2015.

This project will demonstrate the value of volunteer tree planting and the use of native trees and shrubs along transportation corridors. Evaluation and documentation of this effort – from environmental benefits to maintenance costs – will be used by Oregon Department of Transportation (ODOT) Region 1 to frame a statewide discussion regarding policies associated with the agency's landscaping standards.

This project addresses the goals and criteria of the grant program in the following ways:

Re-nature

Trees have well documented biological functions that address this criterion that include water and air quality. The use of natives and the clustering of the plantings will improve potential habitat benefits for wildlife.

Re-green

FOT's model of engaging neighbors and community groups in the tree planting will enrich people's experience of nature. In addition, enhancing the native plantings along this highway corridor will also improve the user experience along the multi-use path for commuters as well as for recreational users. It will also make a better connection for access to natural areas along the trail corridor such as the Columbia Slough, Mount Talbert, and the Springwater Corridor.

Multiple benefits

The partnership with Verde to help create minority green jobs in the nursery industry and will expand environmental education to underserved communities of color by the use of bi-lingual outreach and education materials. This project will be used by ODOT Region1 to reconsider its policies regarding tree planting and maintenance.

Cost effective

Trees are cost-effective multi-taskers addressing many environmental and health impacts in urban settings including air and water quality, stormwater run-off, carbon dioxide emissions, soil erosion, and habitat.

Fish & Wildlife Habitat

These trees will not provide much habitat value beyond providing a potential corridor for migratory song birds. It is worth pointing out that there are several significant natural areas along I-205 in which these trees will support. These include the Columbia Slough, Rocky Butte, Kelly Butte, Mt. Talbert, Johnson Creek and the Clackamas River.

The Grant Review Committee found this project compelling for the following reasons:

- It has the potential to change ODOT's policy on tree planting and vegetating highway corridors by documenting and evaluating the results of this project.
- The breadth of native tree planting that supports connectivity between existing natural areas such as Rocky Butte, Kelly Butte and Mt. Talbert.
- FOT's model of engaging volunteers
- Partnership with Verde
- Highly visible project
- Air quality benefits

Project: White Oak Savanna Acquisition
Recipient: City of West Linn
Grant Amount: \$334,000

This project entails a contribution of one-third of the purchase price to acquire approximately 14 acres of significant Oregon White Oak savanna in West Linn to protect, restore and manage as a natural area. This project will also initiate a restoration effort through invasive species removal. Access to the site will be enhanced through the creation of a soft surface trail.

This project addresses the goals and criteria of the grant program in the following ways:

Re-nature

The acquisition of the site itself will not enhance biological functions. However, the acquisition will preserve the ecological value of the oak habitat. In addition, the City of West Linn, along with community volunteers, will continue the removal of the invasive species such as blackberry.

Re-green

The ability of this site to link to other natural areas and trails within West Linn will eventually make this site easy to access so that people can enjoy this unique habitat as well as the views to regionally significant natural areas at Canemah and the Willamette Narrows.

Multiple Benefits

There is a large committed volunteer base in West Linn that work on restoration projects. Acquisition of this site will give the volunteers access to remove the invasives while also enjoying the beauty of the site.

Habitats of Concern

According to Oregon Dept of Fish & Wildlife's *Oregon Conservation Strategy*, the Willamette Valley contains only seven percent of the oak habitat in contained in 1850. The *Conservation Strategy* prioritizes the maintenance of all oaks greater than 22 inches dbh (diameter at breast height). Dozens of trees at this site meet this criterion.

The Grant Review Committee found this project compelling for the following reasons:

- Oak Savannas are considered a habitat of concern in the Oregon Conservation Strategy. While there are many invasive plants such as Himalayan blackberries, the oaks themselves are healthy and well spaced.
- This acquisition has been community-driven for over four years.
- The acquisition has the support of the City of West Linn.
- Funding is secured to begin restoration as well as create an access trail.
- The site is positioned to eventually be well connected to West Linn's existing and proposed trail system.

Project: Humboldt Learning Garden
Recipient: Lower Columbia River Estuary Partnership
Grant Amount: \$33,686

This project will transform a vacant lot adjacent to Humboldt School into a Learning Garden that will be used by both Humboldt students and residents of the Housing Authority of Portland's Humboldt Garden Housing Project. The project will collect and re-use stormwater from the school roof and incorporate native plant materials throughout the site.

Governor Kulongoski designated the Humboldt School Project as an Oregon Solutions Project in March 2008 as a result of Humboldt School's significant loss in enrollment. The capture rate at Humboldt (percentage of students living in the neighborhood who attend Humboldt rather than another District school) is 47% as opposed to Portland's average capture rate of 64%. The goal of the Oregon Solution Partnership was to ensure that efforts in housing, community development and education are coordinated, creative and positive for the neighborhood and the school. This partnership identified the Humboldt Learning Garden as the number one way to improve the relationship between the school and the neighborhood residents.

Housing Authority of Portland constructed Humboldt Gardens with 100 very affordable housing units, 30 moderately priced units and ground floor community and retail services. It opened in 2008.

This project addresses the goals and criteria of the grant program in the following ways:

Re-Nature – The site will improve the biological functions of the site through the use of native plants, a bioswale and a wildflower garden.

Re-Green – While only students and resident of Humboldt Gardens will have access to the site, this includes 285 students and their families as well as residents of 130 housing units. Interpretation and programming at the site will ensure that all users will have the opportunity to understand and connect with the natural elements of the site.

Multiple benefits – The neighborhood's improved impression of the school will hopefully increase school enrollment. The project has already attracted new partners such as the Lower Columbia River Estuary Partnership (LCREP), the Housing Authority of Portland, the neighborhood association, the business association, and Lewis & Clark.

Universal Access – Although the site will limit access to students and Humboldt Garden residents, it will meet ADA standards.

The Grant Review Committee found this project compelling for the following reasons:

- Serves a neighborhood with severely limited access to nature.
- Long term success of the gardens is likely due to strong public-private partnerships and existing commitments for at least five years of maintenance.
- Creates a model within the school district for directing roof run-off to gardens.
- Opportunity to serve a racially diverse, low-income student population as well as residents of Humboldt Gardens.

Project: Natural Areas Capital Grants Program

Contract No. _____

INTERGOVERNMENTAL AGREEMENT
Natural Areas Bond Measure
Capital Grant Award

This Intergovernmental Agreement (this “Agreement”), entered into under the provisions of ORS chapter 190 and effective on the date the Agreement is fully executed (the “Effective Date”), is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and the _____, located at _____ (“Grant Recipient”).

RECITALS

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

WHEREAS, the Measure allocated \$15 million from bond proceeds to the Nature in Neighborhoods Capital Grants Program to complement the regional and local share portions of the Measure by providing opportunities for the community to actively protect fish and wildlife habitat and water quality in areas where people live and work;

WHEREAS, Metro has determined to make a grant award to Grant Recipient to fund [SPECIFY PROJECT] (the “Project”) as more specifically identified within the Scope of Work attached hereto as Exhibit A (the “Work”);

WHEREAS, the Grant Recipient is the owner of certain property where the Project is to occur and be located, which is more specifically identified in Exhibit A;

WHEREAS, this Agreement between Metro and Grant Recipient is now needed to satisfy the terms and conditions of the Nature in Neighborhoods Capital Grants Program as provided for in the Measure; and

WHEREAS, except as specifically provided in this Agreement, including the scope of work attached hereto as Exhibit A, and otherwise notwithstanding any statements or inferences to the contrary, Metro neither intends nor accepts any (1) direct involvement in the Project (2) sponsorship benefits or supervisory responsibility with respect to the Project; or (3) ownership or responsibility for care and custody of the tangible products which result from the Project;

NOW THEREFORE, the parties agree as follows:

1. Purpose; Scope of Work; Limitations

The purpose of this Agreement is to implement the Measure and facilitate the funding of a Nature in Neighborhoods Capital Grants Program project. Grant Recipient shall perform all activities described in the Scope of Work attached hereto as Exhibit A (the “Work”). As a condition precedent to Metro’s agreement to fund the Project, Grant Recipient hereby approves the Project and agrees to comply with the terms and conditions of this Agreement and the applicable provisions of the Measure. At no time will Metro have any supervisory responsibility regarding any aspect of the Work. Any indirect or direct involvement by Metro in the Work shall not be construed or interpreted by Grant Recipient as Metro’s assumption of a supervisory role.

2. Declaration of Capital Project

In accordance with the Measure, Metro may only provide funds to Grant Recipient for the Project so long as such funds are exclusively used for capital expenses. Grant Recipient hereby confirms that the Project will result in the creation of a capital asset to be owned by Grant Recipient. Grant Recipient covenants that it will (a) own and hold all such capital improvements and real property interests acquired pursuant to this Agreement, and (b) record the asset created by the Project as a fixed, capital asset in Grant Recipient’s audited financial statement, consistent with Generally Accepted Accounting Principles (“GAAP”) and with Grant Recipient’s financial bookkeeping of other similar assets.

3. Contract Sum and Terms of Payment

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

4. Limitations on Use of the Capital Asset That Results from the Project

Throughout the term of this Agreement, Grant Recipient shall maintain and operate the capital asset that results from the Project in a manner consistent with one or more of the following intended and stated purposes of the Measure (the “Nature in Neighborhood Approved Purposes”):

- To safeguard water quality in local rivers and streams;
- To protect and enhance fish and wildlife habitats;
- To promote partnerships that protect and enhance nature in neighborhoods; and
- To increase the presence of ecological systems and plant and animal communities in nature deficient and other disadvantaged neighborhoods;

Grant Recipient may not sell, use, or authorize others to use such capital asset in a manner inconsistent with such purposes.

Notwithstanding the foregoing, secondary uses that arise as a result of such capital asset being used primarily in accordance with the Nature in Neighborhood Approved Purposes will be permitted, but only to the extent such secondary uses affect a *de minimis* portion of such capital asset or are necessary in order to facilitate the primary Nature in Neighborhood Approved Purposes. For example, if, as part of a land use review proceeding initiated to obtain the necessary approvals to operate such capital asset consistent with the Nature in Neighborhood Approved Purposes, a portion of such capital asset was required to be dedicated as a road, such road dedication would be a permitted secondary use.

5. Funding Recognition

Grant Recipient shall recognize in any publications, media presentations, or other presentations referencing the Project produced by or at the direction of Grant Recipient, including, without limitation, any on-site signage, that funding for the Project came from the Metro Natural Areas Bond Measure’s Nature in Neighborhoods Capital Grants Program. Such

recognition shall comply with the recognition guidelines detailed in the Measure. Grant Recipient shall place at or near the Project's location signage that communicates that funding for the Project came from the Metro Natural Areas Bond Measure's Nature in Neighborhoods Capital Grants Program.

6. Term

It is the intent of the parties for the Project to have been completed, and for all Metro funding to have been provided to Grant Recipient prior to [INSERT PROJECT DEADLINE]. Notwithstanding the forgoing, all provisions set forth in this Agreement, and the obligations of Grant Recipient hereunder, shall continue in effect after the completion of the Project until June 30, 2027.

7. Termination for Cause

A. Subject to the notice provisions set forth in Section 7.B below, Metro may terminate this Agreement, in full or in part, at any time during the term of the Agreement if Metro reasonably determines that Grant Recipient has failed to comply with any provision of this Agreement and is therefore in default.

B. Prior to terminating this Agreement in accordance with Section 7.A above, Metro shall provide Grant Recipient with written notice that describes the reason(s) that Metro has concluded that Grant Recipient is in default and includes a description of the steps that Grant Recipient shall take to cure the default. From the date that such notice of default is received by Grant Recipient, Grant Recipient shall have 30 days to cure the default. In the event Grant Recipient does not cure the default within the 30-day period, Metro may terminate all or any part of this Agreement, effective on any date that Metro chooses following the 30-day period. Metro shall notify Grant Recipient in writing of the effective date of the termination.

C. Grant Recipient shall be liable to Metro for all reasonable costs and damages incurred by Metro as a result of and in documentation of the default. Following such termination, should Metro later determine or a court find that Grant Recipient was not in default or that the default was excusable (e.g. due to a labor strike, fire, flood, or other event that was not the fault of, or was beyond the control of, Grant Recipient) this Agreement shall

be reinstated or the parties may agree to treat the termination as a joint termination for convenience whereby the rights of Grant Recipient shall be as set forth below in Section 8.

8. Joint Termination for Convenience

Metro and Grant Recipient may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective only upon the mutual, written termination agreement signed by both Metro and Grant Recipient.

9. Oregon Constitution and Tax Exempt Bond Covenants

Grant Recipient acknowledges that Metro's source of funds for the Nature in Neighborhoods Capital Grants Program is from the sale of voter-approved general obligation bonds that are to be repaid using ad valorem property taxes exempt from the limitations of Article XI, sections 11, 11b, 11c, 11d, and 11e of the Oregon Constitution, and that the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. Grant Recipient covenants that it will take no actions that would cause Metro not to be able to maintain the current status of the real property taxes imposed to repay these bonds as exempt from Oregon's constitutional property tax limitations or the income tax exempt status of the bond interest under IRS rules. In the event Grant Recipient breaches this covenant, Grant Recipient shall undertake whatever remedies are necessary to cure the default and to compensate Metro for any loss it may suffer as a result thereof, including, without limitation, reimbursing Metro for any Projects funded under this Agreement that resulted in Grant Recipient's breach of its covenant described in this Section.

10. Liability and Indemnification

As between Metro and Grant Recipient, Grant Recipient assumes full responsibility for the performance and content of the Work; provided, however, that this provision is not intended to, and does not, create any rights by third parties. Grant Recipient shall indemnify, defend, and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by Grant Recipient or Grant Recipient's officers, agents, or employees, subject to the limitations and conditions of the

Oregon Tort Claims Act, ORS chapter 30. Grant Recipient is solely responsible for paying Grant Recipient's contractors and subcontractors. Nothing in this Agreement shall create any contractual relationship between Metro and any such contractor or subcontractor.

11. Contractors' Insurance

A. Grant Recipient shall require all contractors performing any of the Work to purchase and maintain at each contractor's expense, the following types of insurance covering the contractor, its employees and agents:

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

2. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$1,000,000 per occurrence. Grant Recipient and Metro, and their elected officials, departments, employees, and agents, shall be named as additional insureds. Notice of any material change or policy cancellation shall be provided to Grant Recipient thirty (30) days prior to the change.

B. This insurance required by Grant Recipient, as well as all workers' compensation coverage for compliance with ORS 656.017, must cover all contractors' operations under this Agreement, whether such operations are by a contractor, by any subcontractor, or by anyone directly or indirectly employed by any contractor or subcontractor.

C. Grant Recipient shall require all contractors performing any of the Work to provide Grant Recipient with a certificate of insurance complying with this section and naming Grant Recipient and Metro as additional insureds within fifteen (15) days of execution of a contract between Grant Recipient and any contractor or twenty-four (24) hours before services such contract commence, whichever date is earlier.

D. In lieu of the insurance requirements in Sections 11.A through 11.D, above, Grant Recipient may accept evidence of a self-insurance program from any contractor. Such contractor shall name Grant Recipient and Metro as additional insureds within fifteen (15) days of

execution of a contract between Grant Recipient and any contractor or twenty-four (24) hours before services such contract commence, whichever date is earlier.

12. Safety

Grant Recipient shall take all necessary precautions for the safety of employees, volunteers and others in the vicinity of the Work and the Project, and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

13. Metro's Right to Withhold Payments

Metro shall have the right to withhold from payments due Grant Recipient such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from Grant Recipient's performance or failure to perform under this Agreement or the failure of Grant Recipient to make proper payment to any suppliers, contractors or subcontractors. All sums withheld by Metro under this Section shall become the property of Metro and Grant Recipient shall have no right to such sums to the extent that Grant Recipient has breached this Agreement.

14. Project Records, Audits, and Inspections

A. For the term of this Agreement, Grant Recipient shall maintain comprehensive records and documentation relating to the Project and Grant Recipient's performance of this Agreement (hereinafter "Project Records"). Project Records shall include all records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models, that are prepared or developed in connection with any Project.

B. In accordance with Section 2 above, Grant Recipient shall maintain all fiscal Project Records in accordance with GAAP. In addition, Grant Recipient shall maintain any other records necessary to clearly document:

(i) Grant Recipient's performance of its obligations under this Agreement, its compliance with fair contracting and employment programs, and its compliance with Oregon law on the payment of wages and accelerated payment provisions;

(ii) Any claims arising from or relating to (a) Grant Recipient's performance of this Agreement, or (b) any other contract entered into by Grant Recipient that relates to this Agreement or the Project;

(iii) Any cost and pricing data relating to this Agreement; and

(iv) Payments made to all suppliers, contractors, and subcontractors engaged in any work for Grant Recipient related to this Agreement or the Project.

C. Grant Recipient shall maintain Project Records for the longer period of either (a) six years from the date the Project is completed, or (b) until the conclusion of any audit, controversy, or litigation that arises out of or is related to this Agreement or the Project and that commences within six years from the date the Project is completed.

D. Grant Recipient shall make Project Records available to Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places, regardless of whether litigation has been filed on any claims. If the Project Records are not made available within the boundaries of Metro, Grant Recipient agrees to bear all of the costs incurred by Metro to send its employees, agents, or consultants outside the region to examine, audit, inspect, or copy such records, including, without limitation, the expense of travel, per diem sums, and salary. Such costs paid by Grant Recipient to Metro pursuant to this Section shall not be recoverable costs in any legal proceeding.

E. Grant Recipient authorizes and permits Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, to inspect, examine, copy, and audit the books and Project Records of Grant Recipient, including tax returns, financial statements, other financial documents relating to this Agreement or the Project. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provision of Section 12(F) below.

F. Grant Recipient agrees to disclose Project Records requested by Metro and agrees to the admission of such records as evidence in any proceeding between Metro and Grant Recipient, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

G. In the event the Project Records establish that Grant Recipient owes Metro any sum of money or that any portion of any claim made by Grant Recipient against Metro is not warranted, Grant Recipient shall pay all costs incurred by Metro in conducting the audit and inspection.

15. Public Records

All Project Records shall be public records subject to the Oregon Public Records Law, ORS 192.410 to 192.505. Nothing in this Section shall be construed as limiting Grant Recipient's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).

16. Law of Oregon; Public Contracting Provisions

The laws of the state of Oregon shall govern this Agreement and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement. Specifically, it is a condition of this Agreement that Grant Recipient and all employers working under this Agreement are subject to and will comply with ORS 656.017 and that, for public works subject to ORS 279C.800 to 279C.870 pertaining to the payment of prevailing wages as regulated by the Oregon Bureau of Labor and Industries, Grant Recipient and every contractor and subcontractor shall comply with all such provisions, including ORS 279C.836 by filing a public works bond with the Construction Contractors Board before starting work on the project, unless exempt under that statute.

17. Notices and Parties' Representatives

Any notices permitted or required by this Agreement shall be addressed to the other party's representative(s) as set forth below and shall be deemed received (a) on the date they are personally delivered, (b) on the date they are sent via facsimile, or (c) on the third day after they are deposited in the United States mail, postage fully prepaid, by certified mail return

receipt requested. Either party may change its representative(s) and the contact information for its representative(s) by providing notice in compliance with this Section of this Agreement.

Grant Recipient's Designated Representatives:

Fax _____

Metro's Designated Representatives:

Natural Areas Bond Program Manager
Metro Regional Center
600 N.E. Grand Ave.
Portland, OR 97223
Fax (503)-797-1849

with copy to:

Metro Attorney
600 N.E. Grand Ave.
Portland, OR 97223
Fax (503) 797-1792

18. Assignment

Grant Recipient may not assign any of its responsibilities under this Agreement without prior written consent from Metro, which consent shall not be unreasonably withheld.

19. Severability

If any term or provision in this Agreement shall be adjudged invalid or unenforceable, such adjudication shall not affect the validity or enforceability of the remainder of the Agreement, which remaining terms and provisions shall be valid and be enforced to the fullest extent permitted by law.

20. No Waiver of Claims; Modifications

Metro's failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision of this Agreement. This Agreement may be amended

only by written instrument signed by both Metro and Grant Recipient and no waiver, consent, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

21. Integration of Agreement Documents

All of the provisions of any proposal documents including, but not limited to, Requests for Proposals, Grant Proposals and Scopes of Work that were utilized in conjunction with the award of this Grant are hereby expressly incorporated herein by reference; provided, however, that the terms described in Sections 1 through 21 of this Agreement and in Exhibit A shall control in the event of any conflict between such terms and such other incorporated documents. Otherwise, this Agreement represents the entire and integrated agreement between Metro and Grant Recipient and supersedes all prior negotiations, representations or agreements, either written or oral. The law of the state of Oregon shall govern the construction and interpretation of this Agreement. The Parties, by the signatures below of their authorized representatives, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

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

[Name of City/County/District]

METRO

Signature

Michael Jordan
Metro Chief Operating Officer

Print Name: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM BY:

Signature

Paul A. Garrahan

Senior Assistant Metro Attorney

Print Name: _____

Title: _____

Date: _____

Date: _____

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Metro Contract No:

NATURE IN NEIGHBORHOODS CAPITAL GRANTS CONTRACT

THIS Contract is entered into between Metro, an Oregon municipal corporation, located at 600 Northeast Grand Avenue, Portland, Oregon 97232-2736, and NAME, located at ADDRESS, Portland, Oregon 972--, hereinafter referred to as the "Contractor."

Metro has established the Nature in Neighborhoods Capital Grants program with the purpose of funding capital projects throughout the metropolitan region. Except as specifically provided in this Contract, including the scope of work attached hereto as Attachment A, and otherwise notwithstanding any statements or inferences to the contrary, Metro neither intends nor accepts any (1) direct involvement in these projects (2) sponsorship benefits or supervisory responsibility with respect to the projects; or (3) ownership or responsibility for care and custody of the tangible products which result from the projects.

THE PARTIES AGREE AS FOLLOWS:

1. SCOPE OF WORK

Contractor shall perform all activities described in the Scope of Work attached hereto as Attachment "A" (the "Work"). Contractor shall not commence or undertake any of the Work unless and until Metro and the public entity that owns the real property where the Work will occur (the "Local Government Sponsor") have entered into a separate intergovernmental agreement in a form acceptable to Metro requiring, in part, that the Local Government Sponsor commit to treat the Work as a capital improvement.

2. TERM OF CONTRACT

The term of this Contract shall be for a period commencing upon contract execution through and including XXX-END DATE. Metro may, at its discretion, grant a single six month extension of the Contract term provided that Contractor provides to Metro a written extension request, submitted not later than 30 days prior to the expiration date of this Contract, demonstrating a compelling need for such extension.

3. CONTRACT SUM AND TERMS OF PAYMENT

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

4. LIABILITY AND INDEMNITY

Contractor is an independent contractor and assumes full responsibility for the performance of the Work and the content of its work and performance of Contractor's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract. Contractor shall indemnify and hold harmless Metro and Metro's agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorneys' fees, arising out of or in any way connected with Contractor's performance of this Contract. Contractor is solely responsible for paying Contractor's

subcontractors. Nothing in this Contract shall create any contractual relationship between any subcontractor and Metro.

5. TERMINATION

Metro may, in its discretion, terminate this Contract at any time upon giving Contractor seven (7) days written notice. Without limiting the foregoing, if Metro concludes, in its discretion, that Contractor has failed to make substantial progress toward completing the Work at any time after one year following the effective date of this Contract then Metro will terminate this Contract as provided in the preceding sentence. In the event of termination, Contractor shall be entitled to payment for work performed prior to the date of termination. Metro shall not be liable for indirect or consequential damages. Termination by Metro will not waive any claim or remedies that Metro may have against the Contractor.

6. INSURANCE

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

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

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

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

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

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

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

7. MAINTENANCE OF RECORDS

[IF GRANT AWARD IS FOR LESS THAN \$50,000 USE THE FOLLOWING TEXT]

Contractor and subcontractors shall maintain all records relating to the Work in accordance with generally accepted accounting principles and shall allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor and subcontractors for six years after Metro makes final payment and all other pending matters are closed.

[IF GRANT AWARD IS FOR \$50,000 OR MORE USE THE FOLLOWING TEXT]

Contractor and subcontractors shall:

- A. Maintain all records relating to the Work in accordance with generally accepted accounting principles.
- B. Maintain all records relating to the Work necessary to clearly document:
 - (1) The performance of the contractor, including but not limited to the contractor's compliance with contract plans and specifications, compliance with fair contracting and employment programs, compliance with Oregon law on the payment of wages and accelerated payment provisions; and compliance with any and all requirements imposed on the contractor or subcontractor under the terms of the contract or subcontract;
 - (2) Any claims arising from or relating to the performance of the contractor or subcontractor under a public contract;
 - (3) Any cost and pricing data relating to the contract; and
 - (4) Payments made to all suppliers and subcontractors.
- C. Maintain all records for the longer period of (a) six years from the date of final completion of the contract to which the records relate or (b) until the conclusion of any audit, controversy or litigation arising out of or related to the contract.
- D. Make all records relating to the Work available to Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places regardless of whether litigation has been filed on any claims. If the records are not made available within the boundaries of Metro, the Contractor or subcontractor agrees to bear all of the costs for Metro employees, and any necessary consultants hired by Metro, including but not limited to the costs of travel, per diem sums, salary, and any other expenses that Metro incurs, in sending its employees or consultants to examine, audit, inspect, and copy those records. If the Contractor elects to have such records outside these boundaries, the costs paid by the Contractor to Metro for inspection, auditing, examining and copying those records shall not be recoverable costs in any legal proceeding.
- E. Authorize and permit Metro and its authorized representatives, including but not limited to the staff of any Metro department and the staff of the Metro Auditor, to inspect, examine, copy and audit the books and records of Contractor or subcontractor, including tax returns, financial statements, other financial documents and any documents that may be placed in escrow according to any contract requirements. Metro shall keep any such

documents confidential to the extent permitted by Oregon law, subject to the provisions of subsection F of this section.

F. Disclose any records related to the Work as requested by Metro and agree to the admission of such records as evidence in any proceeding between Metro and the Contractor or subcontractor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

G. Pay all costs incurred by Metro in conducting any audit and inspection that reveals that records related to the Work disclose that Metro is owed any sum of money or establish that any portion of any claim made against Metro is not warranted. Metro may withhold such costs from any sum that is due or that becomes due from Metro.

8. PUBLIC CONTRACTS

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

In particular, for public works subject to ORS 279C.800 to 279C.870 pertaining to the payment of prevailing wages as regulated by the Oregon Bureau of Labor and Industries, Contractor and every subcontractor shall comply with all such provisions, including ORS 279C.836 by filing a public works bond with the Construction Contractors Board before starting work on the project, unless exempt under that statute.

9. ATTORNEY'S FEES

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

10. SUBCONTRACTORS

Contractor shall contact Metro prior to negotiating any subcontracts and Contractor shall obtain approval from Metro before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract. Metro reserves the right to reasonably reject any subcontractor or supplier and no increase in the Contractor's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this Contract. Contractor shall be fully responsible for all of its subcontractors as provided in Section 4.

11. RIGHT TO WITHHOLD PAYMENTS

Metro shall have the right to withhold from payments due Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage or claim which may result from Contractor's performance or failure to perform under this Contract or the failure of Contractor to make proper payment to any suppliers or subcontractors. If a liquidated damages provision is contained in the Scope of Work and if Contractor has, in Metro's opinion, violated that provision, Metro shall have the right to withhold from payments due Contractor such sums

as shall satisfy that provision. All sums withheld by Metro under this Section shall become the property of Metro and Contractor shall have no right to such sums to the extent that Contractor has breached this Contract.

12. SAFETY

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

13. INTEGRATION OF CONTRACT DOCUMENTS

All of the provisions of any proposal documents including, but not limited to, Requests for Proposals, Proposals and Scopes of Work that were utilized in conjunction with the award of this Contract are hereby expressly incorporated herein by reference; provided, however, that the terms described in sections 1 through 15 of this Contract and in Attachment "A" shall control in the event of any conflict between such terms and such other incorporated documents. Otherwise, this Contract represents the entire and integrated agreement between Metro and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both Metro and Contractor. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

14. NO WAIVER OF CLAIMS.

Metro's failure to enforce any provision of this Contract shall not constitute a waiver by Metro of that or any other provision of this Contract.

15. ASSIGNMENT

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

NAME

METRO

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

Project: Natural Areas Capital Grants Program

Contract No. _____

INTERGOVERNMENTAL AGREEMENT
Natural Areas Bond Measure
Capital Grants Component

This Intergovernmental Agreement (this “Agreement”), entered into under the provisions of ORS chapter 190 and effective on the date the Agreement is fully executed (the “Effective Date”), is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and the _____, located at _____ (the “Local Government Sponsor”).

RECITALS

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

WHEREAS, the Measure allocated \$15 million from bond proceeds to the Nature in Neighborhoods Capital Grants Program to complement the regional and local share portions of the Measure by providing opportunities for the community to actively protect fish and wildlife habitat and water quality in areas where people live and work;

WHEREAS, Metro has determined to make a grant award to [SPECIFY GRANT APPLICANT] (the “Grant Recipient”) to fund a [SPECIFY PROJECT] (the “Project”) in accordance with a grant contract between Metro and the Grant Recipient, the form of which contract is attached hereto as Exhibit A (the “Grant Contract”);

WHEREAS, the Local Government Sponsor, a local government jurisdiction, is the owner of certain property where the Project is to occur and be located, which property is more specifically identified in the Grant Contract (the “Property”); and

WHEREAS, the Local Government Sponsor has approved of the Project and an agreement between Metro and the Local Government Sponsor is now needed to satisfy the

terms and conditions of the Nature in Neighborhoods Capital Grants Program as provided for in the Measure.

NOW THEREFORE, the parties agree as follows:

1. Local Government Sponsor's Consent and Agreement

The Local Government Sponsor hereby approves the Project described in the Grant Contract and authorizes such project to take place on the Property. As a condition precedent to Metro's agreement to fund the Project, the Local Government Sponsor hereby agrees to comply with the terms and conditions of this Agreement, the applicable provisions of the Measure, and the attached Grant Contract.

2. Declaration of Capital Project

In accordance with the Measure, Metro may only provide funds to the Grant Recipient for the Project so long as such funds are exclusively used for capital expenses. The Local Government Sponsor hereby confirms that the Project will result in the creation of a capital asset to be owned by the Local Government Sponsor. The Local Government Sponsor covenants that it will (a) own and hold all such capital improvements and real property interests acquired pursuant to this Agreement, and (b) record the asset created by the Project as a fixed, capital asset in the Local Government Sponsor's audited financial statement, consistent with Generally Accepted Accounting Principles ("GAAP") and with the Local Government Sponsor's financial bookkeeping of other similar assets.

3. Funding

Metro has no financial obligation to the Local Government Sponsor under this Agreement. Metro's funding is being provided to the Grant Recipient pursuant to the Grant Contract between Metro and the Grant Recipient.

4. Purpose; Limitations

A. The purpose of this Agreement is to implement the Measure and facilitate the funding of a Nature in Neighborhoods Capital Grants Program project on the Property.

B. At no time will Metro have any supervisory responsibility regarding any aspect of the Project or the Property. Any indirect or direct involvement by Metro in the Project shall not

be construed or interpreted by the Local Government Sponsor as Metro's assumption of a supervisory role.

5. Term

It is the intent of the parties for the Project to have been completed, and for all Metro funding to have been provided to Grant Recipient prior to [INSERT PROJECT DEADLINE]. Notwithstanding the forgoing, all provisions set forth in this Agreement, and the obligations of the Local Government Sponsor hereunder, shall continue in effect after the completion of the Project until June 30, 2027.

6. Limitations on Use of Property

A. Real Property and Associated Buildings and Improvements

Throughout the term of this Agreement, the portion of the Property upon which the Project will be located (the "Project Area") shall be maintained and operated in a manner consistent with one or more of the following intended and stated purposes of the Measure (the "Nature in Neighborhood Approved Purposes"):

- To safeguard water quality in local rivers and streams;
- To protect and enhance fish and wildlife habitats;
- To promote partnerships that protect and enhance nature in neighborhoods; and
- To increase the presence of ecological systems and plant and animal communities in nature deficient and other disadvantaged neighborhoods;

Notwithstanding the forgoing, secondary uses that arise as a result of the Project Area being used primarily in accordance with the Nature in Neighborhood Approved Purposes will be permitted, but only to the extent such secondary uses affect a *de minimis* portion of the Project Area or are necessary in order to facilitate the primary Nature in Neighborhood Approved Purposes. For example, if, as part of a land use review proceeding initiated to obtain the necessary approvals to operate the Project Area consistent with the Nature in Neighborhood Approved Purposes, a portion of the Project Area was required to be dedicated as a road, such road dedication would be a permitted secondary use of the Project Area.

B. Construction of Buildings or Other Capital Improvements

All buildings and other capital improvements constructed on the Property using funds provided by Metro pursuant to the Grant Contract shall be maintained in accordance with the Nature in Neighborhood Approved Purposes. The Local Government Sponsor may not sell, use, or authorize others to use such buildings or improvements in a manner inconsistent with the intended and stated purposes of the Measure.

7. Oregon Constitution and Tax Exempt Bond Covenants

The Local Government Sponsor acknowledges that Metro's source of funds for the Nature in Neighborhoods Capital Grants Program is from the sale of voter-approved general obligation bonds that are to be repaid using ad valorem property taxes exempt from the limitations of Article XI, sections 11, 11b, 11c, 11d, and 11e of the Oregon Constitution, and that the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The Local Government Sponsor covenants that it will take no actions that would cause Metro not to be able to maintain the current status of the real property taxes imposed to repay these bonds as exempt from Oregon's constitutional property tax limitations or the income tax exempt status of the bond interest under IRS rules. In the event the Local Government Sponsor breaches this covenant, the Local Government Sponsor shall undertake whatever remedies are necessary to cure the default and to compensate Metro for any loss it may suffer as a result thereof, including, without limitation, reimbursing Metro for any Projects funded under this Agreement that resulted in the Local Government Sponsor's breach of its covenant described in this Section.

8. Funding Recognition

The Local Government Sponsor shall recognize in any publications, media presentations, or other presentations referencing the Project produced by or at the direction of the Local Government Sponsor, including, without limitation, any on-site signage, that funding for the Project came from the Metro Natural Areas Bond Measure's Nature in Neighborhoods Capital Grants Program. Such recognition shall comply with the recognition guidelines detailed in the Measure. The Local Government Sponsor shall also permit the Grant Recipient to place at or near the Project's location signage that communicates that funding for the Project came from the Metro Natural Areas Bond Measure's Nature in Neighborhoods Capital Grants Program.

9. Termination for Cause

A. Subject to the notice provisions set forth in Section 9B below, Metro may terminate this Agreement, in full or in part, at any time during the term of the Agreement if Metro reasonably determines that the Local Government Sponsor has failed to comply with any provision of this Agreement and is therefore in default.

B. Prior to terminating this Agreement in accordance with Section 9A above, Metro shall provide the Local Government Sponsor with written notice that describes the reason(s) that Metro has concluded that the Local Government Sponsor is in default and includes a description of the steps that the Local Government Sponsor shall take to cure the default. The Local Government Sponsor shall have 30 days from the date such notice is received of default to cure the default. In the event the Local Government Sponsor does not cure the default within the 30-day period, Metro may terminate all or any part of this Agreement. Following such termination, Metro shall notify the Local Government Sponsor in writing of effective date of the termination.

C. The Local Government Sponsor shall be liable to Metro for all reasonable costs and damages incurred by Metro as a result of and in documentation of the default. Following such termination, should Metro later determine or a court find that the Local Government Sponsor was not in default or that the default was excusable (e.g. due to a labor strike, fire, flood, or other event that was not the fault of, or was beyond the control of the Local Government Sponsor) this Agreement shall be reinstated or the parties may agree to treat the termination as a joint termination for convenience whereby the rights of the Local Government Sponsor shall be as set forth below in Section 10.

10. Joint Termination for Convenience

Metro and the Local Government Sponsor may jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective only upon the mutual, written, signed agreement of both Metro and the Local Government Sponsor.

11. Mutual Indemnification

The Local Government Sponsor shall indemnify, defend, and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by the Local Government Sponsor or the Local Government Sponsor's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30. Metro shall indemnify, defend, and hold the Local Government Sponsor and the Local Government Sponsor's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with the performance of this Agreement by Metro or Metro's officers, agents, or employees, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS chapter 30.

12. Project Records, Audits, and Inspections

A. For the term of this Agreement, the Local Government Sponsor shall maintain comprehensive records and documentation relating to the Project and the Local Government Sponsor's performance of this Agreement (hereinafter "Project Records"). Project Records shall include all records, reports, data, documents, systems, and concepts, whether in the form of writings, figures, graphs, or models, that are prepared or developed in connection with any Project.

B. In accordance with Section 2 above, the Local Government Sponsor shall maintain all fiscal Project Records in accordance with GAAP. In addition, the Local Government Sponsor shall maintain any other records necessary to clearly document:

(i) The Local Government Sponsor's performance of its obligations under this Agreement, its compliance with fair contracting and employment programs, and its compliance with Oregon law on the payment of wages and accelerated payment provisions;

(ii) Any claims arising from or relating to (a) the performance of the Local Government Sponsor under this Agreement, (b) Local Government Sponsor's relationship with the Grant Recipient, or (c) any other contract entered into by the Local Government Sponsor that relates to this Agreement or the Project;

(iii) Any cost and pricing data relating to this Agreement; and

(iv) Payments made to all suppliers and subcontractors engaged in any work for the Local Government Sponsor related to this Agreement or the Project.

C. The Local Government Sponsor shall maintain Project Records for the longer period of either (a) six years from the date the Project is completed, or (b) until the conclusion of any audit, controversy, or litigation that arises out of or is related to this Agreement or the Project and that commences within six years from the date the Project is completed.

D. The Local Government Sponsor shall make Project Records available to Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, within the boundaries of the Metro region, at reasonable times and places, regardless of whether litigation has been filed on any claims. If the Project Records are not made available within the boundaries of Metro, the Local Government Sponsor agrees to bear all of the costs incurred by Metro to send its employees, agents, or consultants outside the region to examine, audit, inspect, or copy such records, including, without limitation, the expense of travel, per diem sums, and salary. Such costs paid by the Local Government Sponsor to Metro pursuant to this Section shall not be recoverable costs in any legal proceeding.

E. The Local Government Sponsor authorizes and permits Metro and its authorized representatives, including, without limitation, the staff of any Metro department and the Metro Auditor, to inspect, examine, copy, and audit the books and Project Records of the Local Government Sponsor, including tax returns, financial statements, other financial documents relating to this Agreement or the Project. Metro shall keep any such documents confidential to the extent permitted by Oregon law, subject to the provision of Section 12(F) below.

F. The Local Government Sponsor agrees to disclose Project Records requested by Metro and agrees to the admission of such records as evidence in any proceeding between Metro and the Local Government Sponsor, including, but not limited to, a court proceeding, arbitration, mediation or other alternative dispute resolution process.

G. In the event the Project Records establish that the Local Government Sponsor owes Metro any sum of money or that any portion of any claim made by the Local Government

Sponsor against Metro is not warranted, the Local Government Sponsor shall pay all costs incurred by Metro in conducting the audit and inspection.

13. Public Records

All Project Records shall be public records subject to the Oregon Public Records Law, ORS 192.410 to 192.505. Nothing in this Section shall be construed as limiting the Local Government Sponsor's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).

14. Law of Oregon; Public Contracting Provisions

The laws of the state of Oregon shall govern this Agreement and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187, 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement. Specifically, it is a condition of this Agreement that the Local Government Sponsor and all employers working under this Agreement are subject to and will comply with ORS 656.017 and that, for public works subject to ORS 279C.800 to 279C.870 pertaining to the payment of prevailing wages as regulated by the Oregon Bureau of Labor and Industries, the Local Government Sponsor and every contractor and subcontractor shall comply with all such provisions, including ORS 279C.836 by filing a public works bond with the Construction Contractors Board before starting work on the project, unless exempt under that statute.

15. Notices and Parties' Representatives

Any notices permitted or required by this Agreement shall be addressed to the other party's representative(s) as set forth below and shall be deemed received (a) on the date they are personally delivered, (b) on the date they are sent via facsimile, or (c) on the third day after they are deposited in the United States mail, postage fully prepaid, by certified mail return receipt requested. Either party may change its representative(s) and the contact information for its representative(s) by providing notice in compliance with this Section of this Agreement.

Local Government Sponsor's Designated Representatives:

Fax _____

Metro's Designated Representatives:

Natural Areas Bond Program Manager
Metro Regional Center
600 N.E. Grand Ave.
Portland, OR 97223
Fax (503)-797-1849

with copy to:

Metro Attorney
600 N.E. Grand Ave.
Portland, OR 97223
Fax (503) 797-1792

16. Assignment

The Local Government Sponsor may not assign any of its responsibilities under this Agreement without prior written consent from Metro, which consent shall not be unreasonably withheld.

17. Severability

If any term or provision in this Agreement shall be adjudged invalid or unenforceable, such adjudication shall not affect the validity or enforceability of the remainder of the Agreement, which remaining terms and provisions shall be valid and be enforced to the fullest extent permitted by law.

18. Entire Agreement; Modifications

This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no

understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The Parties, by the signatures below of their authorized representatives, hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

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

[Name of City/County/District]

METRO

Signature

Michael Jordan
Metro Chief Operating Officer

Print Name: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM BY:

Signature

Paul A. Garrahan
Senior Assistant Metro Attorney

Print Name: _____

Title: _____

Date: _____

Date: _____

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 09-4050, APPROVING SECOND ROUND FUNDING FOR NATURE IN NEIGHBORHOODS CAPITAL GRANTS

Date: August 13, 2009

Prepared by: Kathleen Brennan-Hunter
503-797-1948
Mary Rose Navarro
503-797-1781

Background

The Nature in Neighborhoods capital grants program is funded by the 2006 natural areas bond measure, approved by voters to protect the region's water quality, fish and wildlife habitat and provide the public with greater access to nature. The Natural Areas program consists of three elements

1. Regional natural area and trail corridor acquisition in the amount of \$168.4 million.
2. Local share program providing \$44 million to cities, counties and park districts on a per capita basis to meet its own needs for acquiring natural areas, restoring habitat, enhancing public access to nature, and designing and constructing trails.
3. Nature in Neighborhoods capital grants program in the amount of \$15 million. Up to \$2.25 million is available annually through the life of the program.

The Nature in Neighborhoods capital grants program is intended to complement the regional and local share elements of the 2006 natural areas bond measure by funding projects that protect and enhance natural resources on public lands at a neighborhood level.

With a required match of at least \$2 for every \$1 in grant funding, the \$15 million available through this program is expected to provide at least \$45 million of investment in the region's nature-based infrastructure.

Eligibility Requirements

Proposed projects must fulfill the following minimum requirements to be considered:

- The total project cost must be at least \$50,000.
- The project must result in a publicly-owned capital asset within Metro's jurisdictional boundary or the region's urban growth boundary.
- The project must address at least three of the seven key criteria for the grant program.
- The project must demonstrate public and private partners who can and will leverage human and financial resources for the project.
- The project must commit to providing matching resources.

Evaluation Criteria

Project proposals are evaluated and competitively reviewed based on information provided in the application. Applicants must address how the project meets both the key and supplemental criteria as well as project feasibility factors such and the applicant's ability to implement the project. The key criteria are:

- "Re-nature" neighborhoods by increasing the presence and function of ecological processes.
- "Re-green" urban neighborhoods to enrich peoples' experience of nature and help strengthen a physical connection to the region's ecology.
- Demonstrate multiple benefits for people and natural systems.

- Demonstrate cost-efficient ecological design solutions.
- Increase the region's fish and wildlife inventory.
- Restore and/or improve habitats of concern.
- Provide universal access to the public.

Review Process

The nine-member Grant Review Committee, staffed by Metro, reviews all applications based on the above criteria. The Grant Review Committee engages in a thoughtful and extensive evaluation of each application that included staff assessments, site visits and two Grant Review Committee meetings to arrive at recommendations for funding. The Metro Council decides all final grant awards.

Program Funding to Date

The Capital Grants program was first announced in September of 2007. The Metro Council approved the first round of funding in August 2008 awarding three projects a total of \$389,500. As with any new grant program, early funding decisions set an important precedent. The first three projects funded actively engaged a wide variety of both public and private partners, had benefits that reached beyond the project itself, and are located in nature-deficient neighborhoods.

Since then sixteen letters of interest have been reviewed. Of these letters, six were invited to participate in the final grant application process and five submitted full applications. On June 25, 2009, the Grant Review Committee met to review the final slate of applications and to make a recommendation to the Metro Council.

The Recommendation

The Grant Review Committee recommends the following four projects for funding totaling \$1,003,000 from the Nature in Neighborhoods Capital Grants Program.

- A \$220,000 grant for the Nadaka Nature Park Expansion,
- A \$415,436 grant for Greening the I-205 Corridor,
- A \$334,000 grant for the White Oak Savanna Acquisition, and
- A \$33,686 grant for the Humboldt Learning Garden.

These projects address the goals of the Natural Areas Bond Measure and meet the intent of the Nature in Neighborhoods Capital Grant program because they:

- Increase the presence and function of ecological processes
- Enrich people's experience of nature and strengthen their physical connection to the region's ecology
- Demonstrate benefits beyond the project itself
- Have been initiated and driven by the community
- Engage a diverse array of partners.

These projects are described in detail in Exhibit A to the Resolution.

What the committee found most compelling about these projects is not readily apparent in the project descriptions.

- For the acquisition projects, it was not enough to simply acquire the site. The Grant Review Committee was concerned about the future use and management of the site and looked for assurances that the goals of the Natural Areas Bond Program would be carried out. The jurisdictions sponsoring the two acquisition projects (Gresham and West Linn) have both made a commitment to completing management plans and conducting restoration efforts, either through their own staff or by supporting local community groups.

- While planting trees and native shrubs along the I-205 corridor has ecological benefits, the Grant Review Committee was concerned about the precedent the decision to fund this project would set for other highway right-of-way projects. They did not feel that highway right-of-ways offered the best opportunity to protect and enhance natural resources on public lands at a neighborhood level. What they found most compelling about this project is that it presented an opportunity to document the multiple ways that planting native trees and shrubs can meet ODOT goals such as the reduction of diesel emissions and cost-effective maintenance. In addition, ODOT Region 1 will use Friends of Trees planting standards to improve out-of-date landscaping standards to improve health, survivability and cost effectiveness of all their landscaping projects.
- In regards to community gardens, the decisions illustrate that while the Capital Grants program will not fund project components directly related to community gardens; it is acceptable that community gardens are an incidental component of a project's scope.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

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

Ordinance No. 07-1163, "Amending Metro Code Chapter 2.19 to Establish the Nature in Neighborhoods Capital Grants Review Committee, and Declaring an Emergency" was adopted November 1, 2007

Metro Code Section 2.19.230, "Nature in Neighborhoods Capital Grants Review Committee," establishing the committee and prescribing its authority to review capital grants applications and make grant funding recommendations to the Metro Council.

Resolution No. 07-3874, "Confirming the Appointment of the Chair of the Nature in Neighborhoods Capital Grants Review Committee" was adopted December 6, 2007

Resolution No. 07-3879, "Confirming the Appointment of Members to the Nature in Neighborhoods Capital Grants Review Committee" was adopted November 1, 2007

Resolution No. 08-3965, "Approving First Round Funding for Nature in Neighborhoods Capital Grants" was adopted August 7, 2008

Resolution No. 09-4027, "Confirming the Reappointment of Members to the Nature in Neighborhoods Capital Grants Review Committee, Designating the Chair, and Appointing a New Metro Natural Resources Staff Representative" was adopted February 19, 2009.

3. Anticipated Effects

This Resolution awards Nature in Neighborhoods capital grants and begins the individual contract award process for the selected grant applicants. Projects are from one to three years in length.

4. Budget Impacts

The 2006 Natural Areas Bond authorized spending up to \$15 million toward this program, with no more than \$2.25 million spent in any given fiscal year. This is the second round of grants recommended for funding. The adopted FY 2009-10 budget includes the necessary appropriation authority for reimbursement of these grants.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 09-4050.

Agenda Item Number 7.1

Ordinance No. 09-1221B, For the Purpose of Amending Metro Code
Chapter 6.01 Regarding the MERC General Manager and Declaring an
Emergency

COUNCILOR PARK

Metro Council Meeting
Thursday, August 13, 2009
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE	)	Ordinance No. 09-1221B
CHAPTER 6.01 <u>REGARDING THE MERC GENERAL</u>)	
<u>MANAGER AND DECLARING AN EMERGENCY</u>	)	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 officer 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 Chief Operating Officer must approve of the General Manager's initial hiring and

any employment contract. Employment of the General Manager may be terminated by either the Commission or the Chief Operating Officer. Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates.

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 Chief Operating Officer~~ 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 July 2009.

David Bragdon, Council President

Attest:

Approved as to form:

Tony Andersen, Recording Secretary

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 Chief Operating Officer must approve of the General Manager's initial hiring and any employment contract. Employment of the General Manager may

be terminated by either the Commission or the Chief Operating Officer. Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates;

(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

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.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE	)	Ordinance No. 09-1221	C
CHAPTER 6.01 REGARDING THE MERC GENERAL)		
MANAGER AND DECLARING AN EMERGENCY	)	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 officer 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 Chief Operating Officer shall employ, manage, and terminate the General

Manager. Neither the Metro Council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates.

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 Chief Operating Officer~~ 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 August 2009.

David Bragdon, Council President

Attest:

Approved as to form:

Tony Andersen, Recording Secretary

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 Chief Operating Officer shall employ, manage, and terminate the General Manager.

Neither the Metro Council nor any of its members shall direct or

request the appointment of any person to, or removal from, office by the General Manager or any of the General Manager's subordinates;

(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.)

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(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.

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