 **Metro** | *Agenda*

MEETING: METRO COUNCIL
DATE: August 12, 2010
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of Minutes for the August 5, 2010 Metro Council Regular Meeting.

3.2 **Resolution No. 10-4180**, Authorizing the Chief Operating Officer to Acquire a Conservation Easement on Certain Property in the Lower Tualatin Headwaters Target Area Under the 2006 Natural Areas Bond Measure

3.3 **Resolution No. 10-4181**, For the Purpose of Declaring a Grave Plot in Lone Fir Cemetery Abandoned by its Owners and a Common Nuisance, and Directing the Chief Operating Officer to File an ORS 97.890 Complaint in Multnomah County Circuit Court

4. ORDINANCES - SECOND READING

4.1 **Ordinance No. 10-1245**, Amending the FY 2010-11 Budget and Appropriations Schedule to Add 1.0 FTE for a Records and Information Analyst to Support the Oregon Zoo's Veterinary Unit and Satisfy the AZA Accreditation Requirements, and Declaring an Emergency Liberty

5. RESOLUTIONS

5.1 **Resolution No. 10-4171**, For the Purpose of Authorizing the Chief Operating Officer to Dispose of Real Property in the Johnson Creek Target Area and Purchase Real Property in the Johnson Creek Target Area Park

5.2 **Resolution No. 10-4174**, For the Purpose of Endorsing a Consortium Grant Application to the US Department of Housing and Urban Development for a Sustainable Communities Regional Planning Grant Program Liberty

5.3 **Resolution No. 10-4177**, For the Purpose of Amending the January 2008 MTIP (FY 2008-2011) to Modify Funding Allocations for Southwest Corridor and East Metro Corridor Refinement Plans Collette

- 5.4 **Resolution No. 10-4178**, For the Purpose of Submitting to the Metro Council a Proposal for the Investment of \$475,000 from the Metro Tourism Opportunity and Competitiveness Account (MTOCA) for Three Capital Projects at the Oregon Convention Center Park
- 5.5 **Resolution No. 10-4179**, For the Purpose of Amending the FY 2010 Unified Planning Work Program (UPWP) to Modify Funding Allocations for Southwest Corridor and East Metro Corridor Refinement Plans Collette
6. **CHIEF OPERATING OFFICER COMMUNICATION**
7. **COUNCILOR COMMUNICATION**

ADJOURN

Television schedule for August 12, 2010 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 – Community Access Network www.tvctv.org – (503) 629-8534 2 p.m. Thursday, August 12 (Live)</p>	<p>Portland Channel 30 (CityNet 30) – Portland Community Media www.pcmtv.org – (503) 288-1515 8:30 p.m. Sunday, August 15 2 p.m. Monday, August 16</p>
<p>Gresham Channel 30 – MCTV www.mctv.org – (503) 491-7636 2 p.m. Monday, August 16</p>	<p>Washington County Channel 30 – TVC-TV www.tvctv.org – (503) 629-8534 11 p.m. Saturday, August 14 11 p.m. Sunday, August 15 6 a.m. Tuesday, August 17 4 p.m. Wednesday, August 18</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>

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

Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office @ (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 Clerk of the Council to be included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 3.1

Consideration of Minutes for the August 5, 2010 Metro Council Regular Meeting.

Consent Agenda

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

Agenda Item Number 3.2

Resolution No. 10-4180, Authorizing the Chief Operating Officer to Acquire a Conservation Easement on Certain Property in the Lower Tualatin Headwaters Target Area Under the 2006 Natural Areas Bond Measure

Consent Agenda

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING) RESOLUTION NO. 10-4180
OFFICER TO ACQUIRE A CONSERVATION)
EASEMENT ON CERTAIN PROPERTY IN) Introduced by Chief Operating Officer
THE LOWER TUALATIN RIVER) Michael Jordan with the concurrence of
HEADWATERS TARGET AREA UNDER) Council President David Bragdon
THE 2006 NATURAL AREAS BOND)
MEASURE)

WHEREAS, at the general election held on November 7, 2006, the voters of the Metro region approved the 2006 Natural Areas Bond Measure, authorizing Metro to sell \$227.4 million in general obligation bonds to fund natural area acquisition and water quality protection;

WHEREAS, the Lower Tualatin River Headwaters Target Area was identified in the 2006 Natural Areas Bond Measure as one of 27 regional target areas for land acquisition;

WHEREAS, on September 13, 2007, the Metro Council adopted Resolution No. 07-3848 "Approving The Natural Areas Acquisition Refinement Plan For The Lower Tualatin River Headwaters Target Area" authorizing the Chief Operating Officer to acquire properties in the Lower Tualatin River Headwaters Target Area consistent with the Council-approved Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan;

WHEREAS, James and April Massoni own approximately 18 acres of real property located within the Lower Tualatin River Headwaters Target Area, which is further described on the attached Exhibit A (the "Massoni Property");

WHEREAS, the Massonis have proposed to sell to Metro a conservation easement (the "Conservation Easement") that would encumber approximately 10 acres of the Massoni Property (the "Protected Property"). A depiction of the Protected Property is attached hereto as Exhibit B;

WHEREAS, the Conservation Easement would restrict uses of the Protected Property such that the natural condition of the Protected Property would be permanently protected and preserved in accordance with the terms and conditions of the easement attached hereto as Exhibit C;

WHEREAS, the Massonis have also agreed to grant to Metro, along with the Conservation Easement, a 20-year option to purchase fee title to Protected Property in the event Metro is successful in achieving a land division necessary to cause the Protected Property to become a legal lot, separate from the remainder of the Massoni Property;

WHEREAS, acquisition of the Conservation Easement would enable Metro to accomplish its Tier 1 objectives in the Lower Tualatin River Headwaters Target Area by protecting lands along Baker Creek, particularly forested uplands and other intact habitat areas important to wildlife and used by sensitive species; and

WHEREAS, Metro has met the public notice requirements for conservation easements as set forth in Metro Code Section 10.03.06; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to acquire a conservation easement over a portion of the Massoni Property in the Lower Tualatin River Headwaters Target Area in substantially the form attached hereto as Exhibit C, provided such acquisition is otherwise in accordance with all the Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Plan.

ADOPTED by the Metro Council this _____ day of August, 2010.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Property Legal Description

Beginning at a point on the South line of Section 22, Township 2 South, Range 2 West, of the Willamette Meridian, County of Washington, State of Oregon, which bears South 89' 24' East 1431.80 feet from the Southwest corner of said section; thence North 0' 44' 50" East parallel with the West line of said section 659.26 feet to the North line of the South one-half of the South one-half of the Southwest one-quarter of said section; thence South 89' 25' 35" East along said North line 1186.92 feet to the Northeast corner of said South one-half of the South one-half of the Southwest one-quarter; thence South 0' 19' West 659.81 feet to the one-quarter section corner on the South line of said section; thence North 89' 24' West 1191.86 feet to the place of beginning.

Together with a non-exclusive easement for roadway and utility purposes as established by instrument recorded August 24, 1984 as Recorder's Fee No. 84033813, and as modified by Agreement recorded September 24, 2001 as Recorder's Fee No. 2001-096459, over, across and under the South 50 feet of the West 1431.80 feet of the South one-half of the South one-half of the Southwest one-quarter of Section 22, Township 2 South, Range 2 West of the Willamette Meridian, in the County of Washington and State of Oregon.

Exhibit B
Depiction of Easement Area

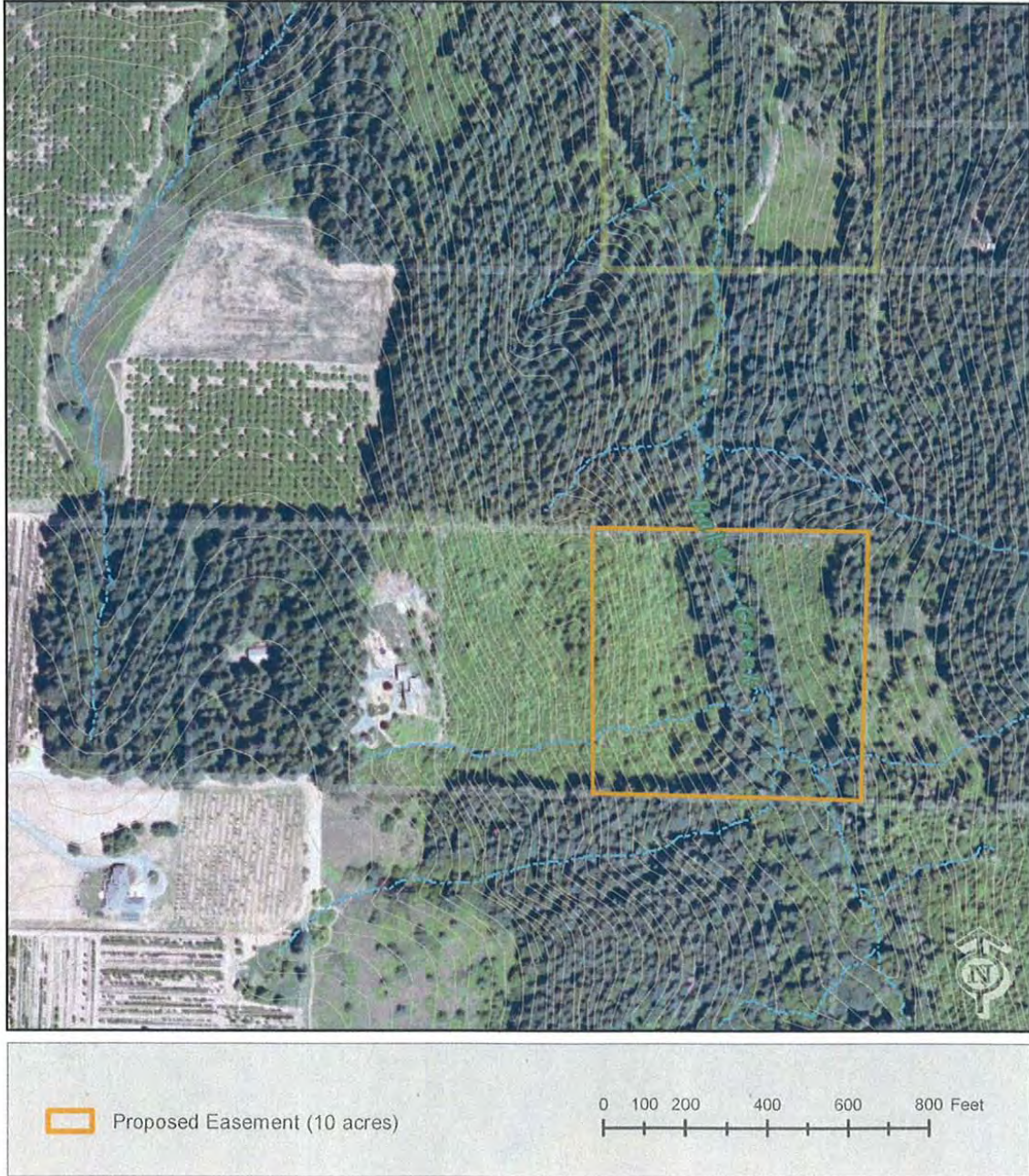


Exhibit C
Form of Conservation Easement

After recording return to:

Office of Metro Attorney
600 NE Grand Avenue
Portland, OR 97232-2736

Tax Statements:
No change requested

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT (this “Easement”) is entered into this _____ day of _____, 2010, by and between James R. Massoni and April S. Massoni, “Grantor”) and Metro, an Oregon municipal corporation (“Metro”).

RECITALS

A. Grantor is the fee simple owner of that certain real property approximately 18 acres in size located in the County of Washington, State of Oregon, commonly known as 19990 SW Seiffert Road, Sherwood, and more particularly described on the attached Exhibit A (the “Property”).

B. On November 7, 2006, the voters approved Ballot Measure 26-80 (the “2006 Natural Areas Bond Measure”), which provided Metro with funds for the acquisition of natural areas from willing sellers. The 2006 Natural Areas Bond Measure was designed to provide Metro with the ability to protect the region’s significant natural areas, fish and wildlife habitat, greenways, water quality, and lands near rivers and streams.

C. The Property is located within the Lower Tualatin Headwaters Target Area, a target area specifically identified in the 2006 Natural Areas Bond Measure, which area is regionally significant due to its wildlife habitat values and its contribution to water quality in the Tualatin River Basin.

D. In order to preserve the natural features of the Property that provide significant wildlife habitat values and contribute to water quality, Grantor desires to grant to Metro, and Metro desires to accept from Grantor, a conservation easement over a TEN (10) acre portion of the Property comprising the Easterly ten acres (the “Easement Area”). The Easement Area is more particularly described on the attached Exhibit B and depicted on the attached Exhibit C.

For valuable consideration, the receipt of which is hereby acknowledged by Grantor, and the mutual covenants, terms, conditions, and restrictions contained herein, the parties hereby agree as follows:

Exhibit C
Form of Conservation Easement

AGREEMENT

1. Grant of Conservation Easement. For and in consideration of the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000) and of the mutual promises, terms, conditions, restrictions and undertakings herein set forth, Grantor hereby voluntarily grants to Metro a perpetual conservation easement, in gross, on, over, under, and across the Easement Area. This Easement is being created and acquired in accordance with ORS 271.715 to 271.795, and the provisions herein shall be construed and applied accordingly.

2. Purpose.

(a) General Purposes. The general purpose of this Easement is to ensure that the Easement Area will be retained forever predominantly in its natural condition as “a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem” (as that phrase is used in 26 U.S.C. § 170(h)(4)(A)(ii), as amended) and to protect natural resources and maintain and enhance water quality as set forth in ORS 271.795(1). The more specific purpose of this Easement is to prevent any use of (or activity on) the Easement Area that will impair or interfere with the Conservation Values, as such term is defined below.

(b) Conservation Values. Grantor and Metro have identified that the Easement Area provides valuable natural riparian and upland wildlife habitat and water quality protection along approximately 650 feet, including both banks, of Baker Creek. These characteristics of the Easement Area (the “Conservation Values”) shall be preserved, protected, and enhanced under this Easement. The Conservation Values include:

[THIS SECTION TO BE EDITED FURTHER WITH MORE SPECIFICS ABOUT
THE PROPERTY COLLECTING DURING METRO’S DUE DILIGENCE
PERIOD, PRIOR TO EXECUTION AND RECORDATION.]

- A significant stretch of the unrestricted, natural course of Baker Creek, which flows through a relatively steep ravine protected by a mixed forest canopy. This natural environment for the Creek provides beneficial streamflow promoting clear and cold conditions, as well as serving a pollution control function.
- Benefiting from reforestation after a timber harvest in approximately 1999, the Easement Area appears to be fully stocked with Douglas-fir saplings on a 10x10’ spacing. Big leaf maple, red alder and willow are also present in the young “free to grow” stand. The protected riparian area is approximately 12-175 feet wide and Douglas fir, big leaf maple, and Western red cedar dominate in the overstory. The understory includes hazelnut, red huckleberry, Indian plum, sword fern, dwarf Oregon grape, trailing blackberry, and baldhip rose. There are 4 -5 large snags in and adjacent to the riparian area, providing habitat for a greater diversity of species than when snags are not present.
- The forested riparian areas allow for recruitment of large woody debris and other organic material into the creek, providing valuable wildlife and ecosystem benefits.

Exhibit C
Form of Conservation Easement

The forested riparian areas also maintain a riparian microclimate and provide streamside shade to cool stream water.

- Home to a variety of native wildlife species, including deer, red-tailed hawks, coyotes, beaver, and pileated woodpeckers, and the potential to provide aquatic, riparian, and upland habitat to an even wider variety of native wildlife species.

3. Metro's Uses.

(a) Permitted Activities, Uses, and Access Rights. Metro, its employees, staff, agents, and invitees, shall have the unlimited right to enter upon the Easement Area for any purpose whatsoever, including, but not limited to, the following: (i) to inspect and monitor Grantor's compliance with and otherwise enforce the terms of this Easement; (ii) to perform restoration, rehabilitation, or maintenance work on the Easement Area as deemed necessary by Metro to protect, restore, or enhance the Conservation Values of the Easement Area; (iii) for educational, scientific, or recreational purposes; and (iv) to exercise any other rights granted to Metro pursuant this Easement. Without limiting the generality of the foregoing, Metro shall have the right to engage in the activities and uses described on the attached Exhibit D.

(b) Signs; Survey Posts; Fences. Metro shall have the right to install one or more signs within the Easement Area identifying Metro's interest in and rights to the Easement Area. Signs are to be of the customary size installed by Metro and may be at locations readable by either adjacent property owners or the public. Metro shall also have the right to establish and maintain visible monuments such as survey posts at prominent locations along the boundary of the Easement Area. Metro may, at Metro's discretion, install and maintain a fence around the Easement Area should Metro deem it necessary to protect the Conservation Values of the Property.

4. Grantor's Uses.

(a) Prohibited Uses. Grantor shall not engage in any activity on, or use of, the Easement Area that is inconsistent with the terms of this Easement or materially interferes with or impairs the Conservation Values of the Easement Area. Without limiting the generality of the foregoing, the activities and uses described on the attached Exhibit E are expressly prohibited.

(b) Permitted Uses. Grantor reserves all rights accruing from its ownership of the Easement Area, including the right to engage in or permit or invite others to engage in all uses of the Easement Area that are not inconsistent with the terms of this Easement or expressly prohibited herein.

[THE FOLLOWING SECTION TO BE EDITED FURTHER UPON NEGOTIATION OF ACCESS SPECIFICS, PRIOR TO EXECUTION AND RECORDATION.]

5. Driveway Access Easement. Grantor hereby grants to Metro a perpetual, non-exclusive easement over, upon and across the portion of the Property adjacent to the Easement Area (the "Driveway Area") for the exclusive purpose of vehicular and pedestrian ingress and egress from the Easement Area to Seiffert Road. Nothing in this Section is intended to prohibit

Exhibit C
Form of Conservation Easement

use of the Driveway Area by the Grantor, provided such use does not interfere with the use of the Driveway Area by Metro. The Driveway Area is more particularly depicted on the attached Exhibit C.

6. Development Rights. Grantor hereby grants to Metro all development rights appurtenant to and associated with the Easement Area and the parties agree that such rights are hereby released, terminated, and extinguished and may not be used on or transferred to any portion of the Property or the Easement Area, as it is now or hereafter may be bounded or described. In the event that an application is made at any time to a federal, state, or local government authority for permission to develop any other land, including, but not limited to, the Property or other land that is contiguous to any of the Easement Area, which development is conditioned on the existence of a specified quantity of open space or other such restrictions on development, the Easement Area shall not be used to contribute toward the satisfaction of any such open space requirement.

7. Water Rights Included. Grantor's grant of this Easement includes a grant of any and all water rights associated with the Easement Area, including all surface water rights and groundwater rights, whether tributary or nontributary, decreed or undecreed, permitted or certificated (the "Water Rights"). Grantor shall not (a) transfer, encumber, sell, lease, or otherwise separate the Water Rights from the Easement Area, (b) use the Water Rights for residential, municipal, industrial, agricultural, or commercial uses, or (c) construct, or permit others to construct, any new water diversion or storage facilities upon the Easement Area. If historic use of the Water Rights are not maintained, or the Water Rights are otherwise subject to a threat of abandonment, Metro shall have the right, but not the obligation, to (i) undertake any and all actions reasonably necessary to continue the use of the historic Water Rights, or to (ii) seek to change the Water Rights to another permitted use. Metro shall also have the right to maintain, repair, and if destroyed, reconstruct any existing facilities related to the Water Rights (such as ditches, wells, and reservoirs).

8. Baseline Documentation. The current condition of the Easement Area is documented in an inventory of relevant features of the Easement Area, dated _____, 20__, on file at the offices of Metro, and signed by Grantor for identification purposes (the "Baseline Documentation"). The Baseline Documentation consists of reports, maps, photographs, and other documentation derived from various methods (including field visits) that the parties agree provide an accurate representation and description of the Easement Area at the time of this grant. The Baseline Documentation is intended to serve as an objective, although not exclusive, information baseline for monitoring compliance with the terms of this Easement. The Baseline Documentation may be updated by Metro periodically to reflect the current condition of the Easement Area following any restoration and rehabilitation efforts carried out by Metro in accordance with Section 3(a) above.

9. Enforcement and Remedies.

(a) Notice of Violation. Metro shall have the right to prevent any use of, or activity on, the Easement Area that is inconsistent with the purpose and terms of this Easement. If Metro determines that Grantor, or third parties under Grantor's authority or permission, are in

Exhibit C
Form of Conservation Easement

violation of the terms of this Easement, Metro shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation. In the event that such violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose and terms of this Easement, such notice shall demand that Grantor, at Grantor's sole cost and expense, restore the portion of the Easement Area so injured to its prior condition in accordance with a plan approved by Metro.

(b) Failure to Cure. If Grantor fails to cure a violation within 30 days after Grantor's receipt of notice thereof from Metro, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing the violation within the 30-day period, Metro may bring an action at law or in equity to (i) enforce the terms of this Easement, (ii) enjoin the violation by a temporary, preliminary, and/or permanent injunction, (iii) recover any damages to which Metro may be entitled for such violation of the terms of this Easement, and (iv) require the restoration of the Easement Area to the condition and appearance that existed prior to such violation.

(c) Emergency Enforcement. If Metro, in its sole discretion, reasonably determines that the circumstances require immediate action to prevent or mitigate significant damage to the Easement Area, Metro may enter the Easement Area to prevent or mitigate further damage to or alteration of the Easement Area necessary to protect the Conservation Values or otherwise pursue its remedies under this Section 9 without prior notice to Grantor and without waiting for the expiration of the cure period set forth above in subsection (b).

(d) Nature of Remedies. Metro shall have available all legal and equitable remedies to enforce Grantor's obligations hereunder. Grantor agrees that Metro's remedies at law for any violation of the terms of this Easement are inadequate, and that Metro shall be entitled to injunctive relief, both prohibitive and mandatory, in addition to such other relief to which Metro may be entitled, including without limitation specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Metro's rights under this Section 9 shall be cumulative, in addition to all remedies now or hereafter existing at law or in equity, and apply equally in the event of either actual or threatened violations of the terms of this Easement.

(e) Costs of Enforcement. Grantor shall reimburse Metro for any costs or expenses incurred by Metro in enforcing the terms of this Easement necessitated by Grantor's violation of the terms of this Easement including, without limitation, all reasonable court costs, attorney fees, expert witness fees, and costs of restoration mitigation.

(f) Metro's Discretion to Enforce. Enforcement of the terms of this Easement is at the discretion of Metro. Any forbearance by Metro to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, its agents, employees, contractors, family members, invitees, or licensees shall not be deemed or construed to be a waiver by Metro of such term under this Easement. No delay or omission by Metro in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

Exhibit C
Form of Conservation Easement

(g) Waiver of Certain Defenses. Grantor acknowledges that it has carefully reviewed this Easement and has had the opportunity to consult with and been advised by legal counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Metro or its successors or assigns under or pertaining to this Easement based upon waiver, laches, estoppel, adverse possession, or prescription.

(h) Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Metro to bring any action against Grantor to abate, correct, or restore any condition on the Easement Area or to recover damages for any injury to, or change in, the Easement Area resulting from (1) causes beyond Grantor's control including, without limitation, natural changes, fire, flood, storm or earth movement, acts of trespassers, or (2) any reasonable and prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Area resulting from such causes.

10. Costs; Taxes. Grantor shall bear all costs related to the ownership of the Easement Area and the Property. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area and the Property by competent authority (collectively "taxes"), and shall furnish Metro with satisfactory evidence of payment upon request. If Grantor fails to pay any taxes when due Metro may, but is not obligated to, make or advance such payment of taxes upon ten days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate. Should Metro make or advance such payment of taxes, Grantor shall be obligated to reimburse Metro and such payment shall bear interest at the greater of (a) 9% per annum or (b) the maximum rate allowed by law, until Grantor has reimbursed Metro in full. Grantor shall also be responsible for and shall bear all costs associated with ensuring compliance with all federal, state, and local laws, regulations, rules, and ordinances. Any lawful tax or assessment on this Easement shall be paid by Metro.

11. Liability and Indemnification.

(a) Liability. The parties acknowledge and agree that because Grantor is the fee owner of the Easement Area, except as specifically provided for under subsection (b) below, the general liability for risks, damages, injuries, claims, or costs arising by virtue of Grantor's ownership and use of the Easement Area shall remain with Grantor as a normal and customary incident of the right of Property ownership. Nothing in this Easement shall be construed as giving rise to any right or ability of Metro to become an "owner" or "operator" of the Easement Area within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

(b) Indemnification. Grantor shall indemnify, defend, and hold harmless Metro (and Metro's officers, employees and agents) from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Grantor and Grantor's invitees on the Property. To the extent permitted by Article XI, Section 7 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 to 30.300, Metro shall indemnify, defend, and hold harmless Grantor

Exhibit C
Form of Conservation Easement

from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from, arising out of, or relating to the activities of Metro (or Metro's officers, employees and agents) on the Easement Area, except to the extent such damages are due to Grantor's or Grantor's invitees' negligence or willful misconduct, or to any breach of this Conservation Easement by Grantor or Grantor's invitees.

12. Covenants Running With the Land. The parties acknowledge and agree that the covenants and agreements set forth in this Easement are intended to bind Grantor, Metro, and their respective successors and assigns. The Property and the Easement Area shall be held, conveyed, mortgaged, pledged as security for a debt, leased, used, and occupied subject to the covenants, conditions, restrictions, and other limitations set forth in this Easement (the "Restrictions"). All and each of the Restrictions are imposed as equitable servitudes upon the Property and every part thereof shall run with the land. Furthermore, all and each of the Restrictions shall be binding upon and burden, and shall inure to the benefit of, all persons having or acquiring any right, title, or interest to either the Property or the Easement Area.

13. Termination of Easement. This Easement can only be terminated or extinguished by judicial proceedings in a court having jurisdiction. The total loss of all Conservation Values on the Easement Area is the only grounds under which this Easement can be terminated. The amount of the proceeds to which Metro shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Easement Area subsequent to such termination or extinguishment, shall be equal to the fair market value of this Easement at the time of extinguishment, as determined by a competent appraiser; provided, however, that such amount shall not be less than the amount determined by multiplying all proceeds from such sale, exchange, or voluntary conversion by the ratio of the value of this Easement at the time of the effective date of this Easement to the value of the Easement Area as a whole as of the effective date of this Easement, without deduction for the value of this Easement.

14. Subsequent Property Transfers and Encumbrances.

(a) Transfers. Any subsequent transfer, including, without limitation, conveyance, lease, or mortgage of the Property or the Easement Area, shall be subject to this Easement. Grantor shall incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in the Easement Area. Grantor shall also give written notice to Metro of the transfer of any interest in all or a portion of the Easement Area no later than 15 days prior to the date of such transfer. Such notice to Metro shall include the name, address, and telephone number of the prospective transferee or the prospective transferee's representative. Failure of Grantor to perform any act required by this subsection shall not impair the validity of this Easement or limit its enforceability in any way.

(b) Encumbrances. The grant of any additional easements or use restrictions by Grantor against Property is hereby prohibited, except with the prior written permission of Metro, which permission may be withheld in Metro's sole and absolute discretion. Within 45 days after receiving written notice from Grantor requesting such permission, Metro shall provide Grantor with a written response either granting or denying Grantor's request. Notwithstanding

Exhibit C
Form of Conservation Easement

the forgoing, nothing in this Easement should be construed as impairing the ability of Grantor to use the Easement Area or the Property as collateral for subsequent borrowing.

(c) Estoppel Certificate. Upon written request by Grantor, Metro shall within 60 days execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, which certifies that to the best of Metro's knowledge Grantor is in compliance with any obligation of Grantor contained in this Easement or which otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Easement Area as of Metro's most recent inspection.

15. Amendment. Grantor and Metro may mutually agree to amend this Easement; provided that no amendment shall be allowed that will affect the qualification of this Easement or the status of Metro under any applicable laws, including 26 U.S.C. § 170(h), as amended (or any successor provision(s) then applicable), and ORS 271.715-795. Any such amendment shall (a) be consistent with the purpose of this Easement, (b) either enhance or have no effect on the Conservation Values, (c) not affect this Easement's perpetual duration, (d) be in writing and be signed by both parties hereto (or their respective successors or assigns), and (e) be recorded in the official real property records of the county in which the Property is located. In no event shall the "economic hardship" of Grantor constitute a changed circumstance that would allow Grantor to unilaterally amend this Easement.

16. Assignment. This Easement is transferable by Metro, but Metro may only assign its rights and obligations hereunder to an organization that is a "qualified organization" at the time of the transfer under 26 U.S.C. § 170(h)(3) (or any successor provision then applicable) and authorized to acquire and hold conservation easements under ORS 271.715 to 271.795 (or any successor provisions then applicable). Metro shall notify Grantor in writing, at Grantor's last known address, in advance of such assignment. In the event that an assignee assumes the obligations of Metro hereunder, then Metro shall have no further liability with respect to this Easement.

17. Right of First Opportunity. In the event Grantor desires to sell or otherwise transfer all or any part of the Property (the "Offered Property"), it shall give a notice (the "First Offer Notice") to Metro. The First Offer Notice shall specify the price and terms of sale including, without limitation, the description of the Offered Property, the type of deed to be delivered, the exceptions to which the Offered Property will be subject, whether or not title insurance will be provided, and the allocation of responsibility for all closing costs. The First Offer Notice shall constitute an offer by Grantor to sell fee title to the Offered Property to Metro on the price and terms and conditions set forth in such notice. If Metro desires to accept such offer, Metro shall, within 30 days after the receiving the First Offer Notice, give Grantor written notice to such effect (the "Acceptance Notice").

(a) If Metro fails to give the Acceptance Notice within the 30-day time period, Metro shall be deemed to have waived its right to purchase the Offered Property and Grantor may sell its interest in the Offered Property to a third-party upon the price and terms and conditions set forth in the First Offer Notice at any time within six months of the expiration of the time period for the giving of the Acceptance Notice; provided, however, that Grantor may

Exhibit C
Form of Conservation Easement

only, during such period, sell at any price equal to or greater than 100 percent the price stated in the First Offer Notice and on terms no more favorable than the terms included in the First Offer Notice.

(b) In the event that Metro gives Grantor the Acceptance Notice, then Metro shall purchase the Offered Property for the purchase price stated in the First Offer Notice and upon the other terms and conditions of the First Offer Notice. Closing of the transaction shall occur on a date selected by Metro but in no event later than 90 days after Metro delivers to Grantor the Acceptance Notice. Closing shall be held in the offices of the title company of Metro's choosing, or at such other place as the parties may mutually agree.

(c) Metro's right of first opportunity shall not apply to any sale or conveyance of the Property by Grantor to any partnership, limited partnership, joint venture, corporation, or other entity in which Grantor owns and controls at least a 50% ownership interest.

18. Condemnation. If all or any part of the Easement Area is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Metro shall act jointly to recover the full value of the interests in the Easement Area subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. As between Grantor and Metro, Metro shall be entitled to receive the value of the property condemned, determined in accordance with the method set forth above in Section 13. All expenses reasonably incurred by Grantor and Metro in connection with the taking shall be paid out of the amount recovered.

19. Recording. Grantor shall immediately record this instrument in the official records of the county within which the Property is located, and in any other appropriate jurisdictions, and Metro may re-record it at any time as may be required to preserve Metro's rights in this Easement.

20. Notice and Addresses. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by mail, postage prepaid, to the address set forth below. Any party may change the address to which its notices are to be sent by duly giving notice pursuant to this Section.

To Grantor: James R. and April S. Massoni
 19990 SW Seiffert Road
 Sherwood, OR 97140

To Metro: Metro
 Natural Areas Program Director
 600 NE Grand Avenue
 Portland, OR 97232

Exhibit C
Form of Conservation Easement

With a copy to: Office of Metro Attorney
 600 NE Grand Avenue
 Portland, OR 97232

21. General Provisions.

(a) Governing Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Oregon.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purpose of this Easement and the policy and purpose of ORS Chapter 271. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Conservation Intent. Any ambiguities in this Easement shall be construed in a manner which best effectuates the Conservation Values for the Easement Area.

(d) Changed Circumstances. Grantor and Metro acknowledge that future conditions may change in the areas neighboring the Property and the Easement Area, including without limitation, increased development, land use, and zoning changes. Grantor and Metro further acknowledge that such future conditions may result in various hardships to Grantor by virtue of the restrictions contained in this Easement, including without limitation, restrictions on the ability to develop the Property and the Easement Area. However, Grantor and Metro expressly intend that this Easement continue in perpetuity regardless of such changes conditions and circumstances and regardless of hardship, whether such hardship is economic or otherwise. In no event shall the hardship of Grantor constitute a changed circumstance that would allow Grantor to unilaterally terminate this Easement.

(e) Severability. If any provision of this Easement, or its application to any person, entity, or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

(f) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement Area and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement Area, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section 15.

(g) No Forfeiture. Nothing contained in this Easement will result in a forfeiture or reversion of Grantor's title in any respect.

(h) Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon assignment of that party's interest in the Easement or

Exhibit C
Form of Conservation Easement

transfer of the Easement Area, except that liability for acts or omissions occurring prior to transfer shall survive assignment or transfer.

(i) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first set forth above.

METRO, an Oregon municipal corporation

GRANTOR:

By:

Michael Jordan, Chief Operating Officer

James R. Massoni

April S. Massoni

State of OREGON
County of MULTNOMAH

This instrument was acknowledged before me on _____, 20____ by Michael Jordan as Chief Operating Officer of Metro.

Notary Public - State of Oregon

State of OREGON
County of _____

This instrument was acknowledged before me on _____, 20____ by [name].

Notary Public - State of Oregon

Exhibit C
Form of Conservation Easement

State of OREGON
County of _____

This instrument was acknowledged before me on _____, 20____ by [name].

Notary Public - State of Oregon

Exhibit C
Form of Conservation Easement

Exhibit A
Property Description

Beginning at a point on the South line of Section 22, Township 2 South, Range 2 West, of the Willamette Meridian, County of Washington, State of Oregon, which bears South 89' 24' East 1431.80 feet from the Southwest corner of said section; thence North 0' 44' 50" East parallel with the West line of said section 659.26 feet to the North line of the South one-half of the South one-half of the Southwest one-quarter of said section; thence South 89' 25' 35" East along said North line 1186.92 feet to the Northeast corner of said South one-half of the South one-half of the Southwest one-quarter; thence South 0' 19' West 659.81 feet to the one-quarter section corner on the South line of said section; thence North 89' 24' West 1191.86 feet to the place of beginning.

Together with a non-exclusive easement for roadway and utility purposes as established by instrument recorded August 24, 1984 as Recorder's Fee No. 84033813, and as modified by Agreement recorded September 24, 2001 as Recorder's Fee No. 2001-096459, over, across and under the South 50 feet of the West 1431.80 feet of the South one-half of the South one-half of the Southwest one-quarter of Section 22, Township 2 South, Range 2 West of the Willamette Meridian, in the County of Washington and State of Oregon.

Exhibit C
Form of Conservation Easement

Exhibit B
Easement Area Description

[TO BE INSERTED FROM SURVEY OBTAINED BY METRO]

Exhibit C
Form of Conservation Easement

Exhibit C
Depiction of Easement Area

[TO BE INSERTED FROM SURVEY OBTAINED BY METRO]

Exhibit C
Form of Conservation Easement

Exhibit D
Metro's Permitted Uses and Activities

1. The removal or alteration of non-native, invasive, and competitive vegetation (including the use of mowing, digging, hand removal, herbicides, or pesticides).
2. The planting and maintenance of native vegetation for the purpose of establishing a native plant community.
3. The alteration of the land surface to restore natural systems and enhance the Conservation Values.
4. The alteration of water courses to restore natural systems and enhance the Conservation Values.
5. The removal of native species if necessary to meet management objectives (including releasing oaks, thinning overstocked stands, creating snags).
6. The installation of monitoring devices as appropriate for scientific survey or management (e.g. bat/bird/wildlife boxes).
7. Painting, flagging and posting boundaries of the Easement Area.
8. Improving physical access to the Easement Area, including, without limitation, the construction and maintenance of internal trails or roadways within the Easement Area.
9. The erection of a fence or any other restraining feature if the purpose of such feature is to protect the Conservation Values within the Easement Area.

Exhibit C
Form of Conservation Easement

Exhibit E
Grantor's Prohibited Uses and Activities

1. The partition, division, subdivision, defacto division of the Easement Area.
2. Residential use or development of any kind.
3. The filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extracting of minerals, oil, gas, coal, and other hydrocarbons, soils, sands, gravel, rocks or any other materials on or below the surface of the Easement Area or other grading of the topography of the property.
4. The manipulation or alteration, diminution, or drainage of any natural water course, wetland, stream bank, riparian area, shoreline, or body of water on the Easement Area or any activity that causes or is likely to cause significant pollution of any surface of subsurface waters.
5. Any use or activity that causes or is likely to cause significant soil degradation or erosion.
6. Any commercial or industrial activities of any kind.
7. Agricultural activities of any kind, including, without limitation, the establishment and maintenance of a livestock corral, personal gardens, row crops, haying, grazing, livestock watering, or other pasture uses.
8. Any recreational uses that involve domesticated animals, including, without limitation, using the Easement Area for horseback riding
9. Constructing, placing, or maintaining any building, cabin, garage, barn, shed, greenhouse, mobile home, house trailers, permanent tent facilities, huts, tree houses, play structures, or other temporary or permanent structures of facilities on, above, or below the Easement Area.
10. Placing, constructing, or maintaining any signs, billboards, or outdoor advertising structures on the Easement Area other than a reasonable number of signs needed to temporarily advertise the sale or lease of the Easement Area or the Property.
11. Paving or otherwise covering with concrete, asphalt, gravel, or any other paving material of any portion of the Easement Area.
12. Unless otherwise expressly permitted by Grantee in accordance with Section 14(b) of the Easement, the granting of any utility corridor right-of-way easements or cell tower leases, or the construction or installation of above ground water facilities (pumps, pipelines, ponds, ditches, and similar improvements), utility systems or structures, cell towers, septic systems, septic drain fields, communication devices, or aerial lines.

Exhibit C
Form of Conservation Easement

Exhibit E
Grantor's Prohibited Uses and Activities

13. The installation of underground storage tanks or placing, filling, storing, processing, dumping, or otherwise disposing on the Easement Area any soil, refuse, trash, rubbish, debris, junk, waste, or other such substance.
14. Dumping, depositing, abandonment, discharging, or release of any gaseous, liquid, solid, or hazardous wastes, substances, materials, trash, or debris of whatever nature on, in, over, or under the ground or into the surface or ground water of the Easement Area.
15. The gathering, harvesting, or removal of any trees, timber, logs, dead or downed wood, or plants on the Easement Area or the cutting, removing, pruning, manipulation or alteration of any vegetation on the Easement Area.
16. The introduction or planting of any non-native and/or invasive species, as identified on the 1998 Metro Native Plant List.
17. The use of herbicides or pesticides within the Easement Area.
18. The hunting or trapping of any fish, birds, or other game animals or any disruption of wildlife breeding, foraging, migration, movement, or and nesting activities on the Easement Area.
19. The erection of a fence or any other restraining feature.
20. The operating of all-terrain vehicles (ATV's), motorcycles, dune buggies, snowmobiles, or any other type of off-road motorized vehicles.
21. Any outdoor lighting within the Easement Area, as well as the use of unreasonable outdoor lighting levels on the Property that result in glare and light pollution on the Easement Area.
22. The discharge of firearms, bows and arrows, air guns, slingshots or similar devices.
23. The use of fire in any form, including without limitation, all fireworks.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4180 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ACQUIRE A CONSERVATION EASEMENT ON CERTAIN PROPERTY IN THE LOWER TUALATIN RIVER HEADWATERS TARGET AREA UNDER THE 2006 NATURAL AREAS BOND MEASURE

Date: August 12, 2010

Prepared by: Hillary Wilton
503-797-1845

BACKGROUND

Resolution No. 10-4180 requests authorization for the Chief Operating Officer to acquire a conservation easement over certain property owned by April and James Massoni located in the Lower Tualatin River Headwaters Target Area (the "Massoni Property"). The Massoni Property is approximately 18 acres in total size. An MAI appraisal has confirmed the purchase price of the Massoni Property. A legal description of the Massoni Property is attached as Exhibit A to the resolution.

Metro staff has entered into an agreement, subject to Council approval, to purchase a conservation easement over approximately 10 acres on the Massoni Property (the "Easement Area"). The Massoni's residence will remain on the 8-acre portion of the Massoni Property that lies outside the Easement Area.

The acquisition of a conservation easement over 10 acres of the Massoni Property will further Metro's Tier 1 objectives in the Lower Tualatin River Headwaters Target Area by protecting lands along Baker Creek, particularly forested uplands and other intact habitat areas important to wildlife and used by sensitive species. The conservation easement would, among other things, (1) provide Metro with access rights to the Easement Area for monitoring, restoration and enhancement purposes and (2) restrict the Massonis and future property owners from engaging in any activity that is inconsistent with the conservation values established under the conservation easement. Metro's permitted uses and the Massoni's prohibited uses are more particularly set forth on Exhibit D and Exhibit E to the proposed conservation easement, which is attached as Exhibit C to the Resolution.

The Massoni Property provides valuable riparian and upland wildlife habitat and water quality protection along approximately 1,370 feet, including both banks, of Baker Creek. The property was harvested and reforested approximately 10 years ago and is fully stocked with Douglas-fir saplings. Bigleaf maple, red alder and willow are also present in the young stand. The understory includes hazelnut, red huckleberry, Indian plum, sword fern, dwarf Oregon grape, trailing blackberry, bald hip rose and poison oak (primarily on the upland slopes). There are four to five large snags approximately 100 feet tall, which is uncommon primarily because most properties have experienced some level of logging. The presence of snags increases the diversity of species that will utilize a property. Snags and downed wood are two key ecological features missing or deficient on many of Metro's properties because of previous clearcut harvesting. The protected riparian area is approximately 150 feet wide and in very good condition but would benefit from a wider protection zone.

In addition to granting Metro the conservation easement, the Massonis have also agreed to provide Metro with a 20-year option to purchase fee title to the Easement Area. There would be no additional purchase price paid to the Massonis should Metro exercise the option. Metro is presently unable to purchase fee title to the Easement Area due to current Washington County Code land division restrictions. Metro staff intends to work with Washington County and other local partners to encourage approval of a land division in this case pursuant to ORS 215.783, a law adopted during the 2007 legislative session (effective January 1, 2008). ORS 215.783 allows a division of land that would otherwise be prohibited in forest and

forest/farm zones if the purpose of such division is to preserve one of the resulting parcels as a park or open space. The Massoni Property is separated by one 59-acre tax lot from the Streeter Property where Metro was granted a conservation easement under similar conditions via Resolution No. 08-3923.

The purchase of the conservation easement over the Massoni Property is contingent on the successful negotiation of a subordination agreement with the Massoni's mortgage note holder, in order to ensure Metro's ownership of the easement in case of a foreclosure. The purchase is also contingent on the completion of an access agreement with adjacent landowners for shared use of a private road, and other customary contingencies.

This authorization assumes that the purchase of the conservation easement will comply with all other terms of the Acquisition Parameters and Due Diligence Guidelines in the 2006 Natural Areas Implementation Work Plan, such as the environmental inspection.

Council's consideration of Resolution No. 10-4180 at its August 12, 2010 regular weekly council meeting will satisfy the public hearing requirements set forth in Metro Code Section 10.03.06.

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 on March 9, 2006.

The voters approved Metro's 2006 Natural Areas Bond Measure at the general election held on November 7, 2006.

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

Resolution No. 07-3848 "Approving the Natural Ares Acquisition Refinement Plan for The Lower Tualatin River Headwaters Target Area" was adopted by the Metro Council on September 13, 2007, and established the Acquisition priorities for Lower Tualatin River Headwaters Target Area.

Resolution No. 08-3923 "Authorizing the Chief Operating Officer to Acquire a Conservation Easement on Certain Property in the Lower Tualatin Headwaters Target Area Under the 2006 Natural Areas Bond Measure" was adopted by the Metro Council on April 10, 2008, in which a very similar transaction was approved.

Metro Code Chapter 10.03.060 provides that, prior to the acquisition or acceptance of a conservation easement, Metro shall hold one or more public hearings on the proposal, with notice as stated therein, and at the conclusion of the hearing, the Council shall decide whether to accept, reject or condition such easement, and upon acceptance Metro may execute all necessary documents to obtain the grant of the conservation easement.

3. Anticipated Effects

Acquisition of the conservation easement over the Massoni Property provides Metro an opportunity to expand, enhance and protect the riparian buffer on Baker Creek in the Lower Tualatin River Headwaters Target Area.

4. Budget Impacts

The Conservation Easement will be purchased utilizing 2006 Natural Areas Bond Measure proceeds. Future management costs will be borne by Metro.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 10-4180.

Agenda Item Number 3.3

Resolution No. 10-4181, For the Purpose of Declaring a Grave Plot in Lone Fir Cemetery Abandoned by its Owners and a Common Nuisance, and Directing the Chief Operating Officer to File an ORS 97.890 Complaint in Multnomah County Circuit Court

Consent Agenda

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DECLARING A GRAVE) RESOLUTION NO. 10-4181
PLOT IN LONE FIR CEMETERY ABANDONED)
BY ITS OWNERS AND A COMMON NUISANCE,)
AND DIRECTING THE CHIEF OPERATING) Introduced by Chief Operating Officer
OFFICER TO FILE AN ORS 97.890 COMPLAINT IN) Michael J. Jordan, with the concurrence of
MULTNOMAH COUNTY CIRCUIT COURT) Council President David Bragdon

WHEREAS, Lone Fir Cemetery has been in existence since 1855 and has been a publicly-owned and operated cemetery since 1928; and

WHEREAS, Metro owns and operates Lone Fir Cemetery, one of 14 Pioneer Cemeteries owned and operated by Metro in Multnomah County; and

WHEREAS, on February 1 of 1902, P.A. Christenson purchased a grave plot containing three graves in the southeast quadrant of Lone Fir Cemetery, identified as graves 1 North, 2 North, 3 North in lot 10, block 38. In February of 1902 the Christenson family interred a child, Lillian in grave 2 North. Then, in January of 1909, the Christenson family interred an infant, un-named, in grave 3 North. The Christenson graves were not sold subject to agreements between Metro or its predecessors in interest and the Christenson’s providing for endowment care, permanent maintenance or free care of the graves. Lone Fir Cemetery has no record of any communication or interest from the owners or heirs to the Christenson family grave plot since the last burial occurred, in 1909. One grave in the plot remains unused by the Christenson family: Grave 1 North, Lot 10, Block 38; and

WHEREAS, ORS 97.870 provides that, when a cemetery has been in use for more than 40 years, and during that time has sold graves for burial purposes, and the owners of the graves sold or parties claiming through them have not used the graves for burial purposes for more than 40 years and have not taken responsibility for keeping them maintained free of weeds or brush during that time, and when said graves are adjacent to improved and used parts of the cemetery, and by reason of their uncared for condition detract from the appearance of the cemetery and interfere with the cemetery’s harmonious use and improvement, becoming a menace to the rest of the cemetery, said graves may be declared by the cemetery’s governing board to be a common nuisance and contrary to public policy; and

WHEREAS, ORS 97.880 provides that, if the Metro Council, in its capacity as Lone Fir Cemetery’s governing board, adopts a resolution declaring the unused and unimproved graves in Lone Fir Cemetery described under ORS 97.870 a common nuisance and an abandoned and unused portion of said cemetery, the Metro Council may then direct the Chief Operating Officer to file a complaint against the owners or heirs to the abandoned and unused graves in Multnomah County Circuit Court, requesting that they appear, acknowledge their ownership and take responsibility for the graves as provided in ORS 97.890; and

WHEREAS, ORS 97.920 provides that, upon failure of the owner of the graves to appear and answer the complaint, the circuit court may enter a judgment directing Metro to abate the nuisance, create a lien on the abandoned and unused graves in favor of Metro, and execute the lien on the abandoned and unused graves by foreclosure and sale, authorizing Metro to become a purchaser of the graves on behalf of Lone Fir Cemetery; now therefore

BE IT RESOLVED that the Metro Council declares that:

- (1) Grave 1 North, Lot 10, Block 38 in Lone Fir Cemetery has not been used for burial purposes by the owners or parties claiming through them for over 40 years, and has not been maintained by them or kept free of weeds or brush by them, and has been allowed to remain entirely unused by them for more than 40 years;
- (2) Grave 1 North, Lot 10, Block 38 in Lone Fir Cemetery is adjacent to improved and used parts of Lone Fir Cemetery, and were it not for regular maintenance by Metro staff would, by reason of their uncared for condition, furnish a place for the propagation of weeds and brush, and detract from the appearance of the cemetery and interfere with the harmonious improvement thereof;
- (3) Grave 1 North, Lot 10, Block 38 in Lone Fir Cemetery is therefore declared to be a common nuisance, an abandoned and unused portion of Lone Fir Cemetery, and contrary to public policy, in accord with ORS 97.870-880; and
- (4) The Metro Council directs the Metro Chief Operating Officer to file a complaint in Multnomah County Circuit Court against the Christenson's and parties claiming through them, requiring them to appear, acknowledge their ownership and take responsibility for the grave, and demanding that the court issue a judgment if they fail to do so, declaring the grave to be a common nuisance, directing Metro to abate the nuisance, creating a lien upon the grave in favor of Metro, providing that the lien be foreclosed, and authorizing that the grave be sold and Metro become a purchaser thereof, as set forth in ORS 97.890.

ADOPTED by the Metro Council this _____ day of _____ 2010.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper
Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4181, FOR THE PURPOSE OF DECLARING A GRAVE PLOT IN LONE FIR CEMETERY ABANDONED BY ITS OWNERS AND A COMMON NUISANCE, AND DIRECTING THE CHIEF OPERATING OFFICER TO FILE AN ORS 97.890 COMPLAINT IN MULTNOMAH COUNTY CIRCUIT COURT

Date: August 5, 2010

Prepared by: Tim Collier, 503-797-1913
Rachel Fox, 503-797-1856

BACKGROUND

Metro Pioneer Cemeteries offer the region 63 acres of quiet reflection rich in art, architecture, poetry and sustains the memory of a diverse population of Oregon residents. What were once simple unplanned private burial grounds have evolved into park-like community cemeteries that are still in use today.

The Metro Pioneer Cemeteries were established from as early as 1837 through the early homesteading period (circa 1850-1870). As the years passed, caretaking responsibilities were often handed down to family descendants, and as the cemeteries grew, to private cemetery associations. None of the cemeteries had perpetual maintenance funds. Instead, to a greater or lesser degree, they relied on continuing grave sale revenue and charitable giving for maintenance funding. Over the intervening decades, care of pioneer cemeteries became inconsistent and some were abandoned to revert back to nature. After many years of such benign neglect, the Oregon Legislature mandated public stewardship of 14 of the Pioneer Cemeteries remaining in Multnomah County through a series of mid-century legislative enactments. Multnomah County received ownership of the cemeteries and was tasked with assuring proper perpetual maintenance of the facilities.

In 1994, Multnomah County transferred ownership of the Pioneer Cemeteries to Metro. Metro has continued to sell graves since that time, gradually filling the cemeteries. However, some of graves sold in the nineteenth century and early twentieth century remain empty - unused and uncared for by descendants of the pioneer families that originally purchased them. In some cases, Metro cemetery personnel have not heard from the now clearly deceased purchasers or their descendants for over 100 years. Metro considers these unused and uncared for graves practically abandoned, and they are at times a nuisance, serving as an impediment to the ongoing, orderly occupation of the cemeteries.

One such abandoned grave was sold to the P.A. Christenson family on February 1, 1902, along with two other graves, to form a family plot in the southeast corner of Lone Fir Cemetery. The Christensons purchased the graves from the Portland Lone Fir Cemetery Company, which operated Lone Fir Cemetery from 1866 to 1928. The sale contained no contribution by the Christensons for long term care of the family plot, nor was it sold subject to an agreement by the Portland Lone Fir Cemetery Company to provide perpetual care. In February of 1902 the Christenson family interred a child, Lillian. Then, in January of 1909, the Christenson family interred an un-named infant in a second grave, leaving the third grave empty. 100 years has now passed, and Metro has no record of the Christenson family caring for the grave plot or headstones since the last burial, and no record of any communication or interest from the owners or heirs to the Christenson family grave plot since 1909. Metro's recent search for the Christenson heirs has been unsuccessful, and Metro considers the unused third grave abandoned, for all practical purposes.

Oregon law provides a process for returning an abandoned grave to a cemetery authority so that it may be properly occupied. This law, found in ORS 97.890-920, requires the governing board of the cemetery, in this case the Metro Council, to declare a grave that has been sold but unoccupied for more than 40 years to be abandoned, uncared for and unused. The cemetery may then file a complaint in circuit court and provide published public notice to the record owners of the unused grave and their heirs, asking them to assert their ownership rights. If the owners do not respond and claim the grave, the court may then declare the grave abandoned and a common nuisance, and may place a cemetery lien upon the grave, allowing it to be foreclosed upon and returned to the cemetery. The cemetery may then sell the grave to someone else who wishes to be buried at Lone Fir.

Metro Parks and Environmental Services requests that the Metro Council begin the process set forth above by declaring the unused Christenson grave to be a common nuisance and an abandoned and unused portion of Lone Fir Cemetery, and directing Metro's Chief Operating Officer to file a complaint in Multnomah County Circuit Court, requesting a judgment declaring the grave a common nuisance, and providing that a lien be filed and foreclosed returning the grave to Metro.

ANALYSIS/INFORMATION

1. **Known Opposition** None known, Metro is unable to locate the Christenson family.
2. **Legal Antecedents** ORS 97.870-920 - Unused and uncared for portions of cemetery declared common nuisances
3. **Anticipated Effects** The Christenson grave will be declared abandoned and a common nuisance, and the Metro Chief Operating Officer will be authorized to file a complaint in Multnomah County Circuit Court, notifying the Christenson family and parties claiming through them that Metro considers the grave abandoned and a common nuisance, and requesting that they appear and take responsibility for the grave. If the Christenson family and interested parties claiming through them fail to do so, the court will issue a judgment declaring the grave to be a common nuisance, create a lien upon the grave in favor of Metro, provide that the lien be foreclosed, and authorize the grave to be returned to Lone Fir Cemetery.
4. **Budget Impacts** Costs of public notice and court filing fees. Outside legal representation if necessary.

RECOMMENDED ACTION

Michael Jordan, Chief Operating Officer, with the concurrence of the Council President David Bragdon, recommends adoption of Resolution No. 10-4181.

Agenda Item Number 4.1

Ordinance No. 10-1245, Amending the FY 2010-11 Budget and Appropriations Schedule to Add 1.0 FTE for a Records and Information Analyst to Support the Oregon Zoo's Veterinary Unit and Satisfy the AZA Accreditation Requirements, and Declaring an Emergency

ORDINANCES – SECOND READING
COUNCILOR LIBERTY

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2010-11 BUDGET AND)	ORDINANCE NO. 10-1245
APPROPRIATIONS SCHEDULE TO ADD 1.0 FTE)	
FOR A RECORDS AND INFORMATION)	Introduced by Michael Jordan, Chief
ANALYST TO SUPPORT THE OREGON ZOO'S)	Operating Officer, with the concurrence of
VETERINARY DIVISION AND SATISFY THE)	Council President David Bragdon
AZA ACCREDITATION REQUIREMENTS, AND)	
DECLARING AN EMERGENCY)	

WHEREAS, Metro Code chapter 2.02.040 requires Metro Council approval to add any new position to the budget; and

WHEREAS, the Metro Council has reviewed and considered the need to add FTE within the FY 2010-11 Budget; and

WHEREAS, the need for the additional FTE has been justified; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2010-11 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance to add 1.0 FTE to the Oregon Zoo to provide records and information support to the veterinary unit and satisfy the AZA accreditation requirements.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____ 2010.

David Bragdon, Council President

Attest:

Approved as to Form:

Anthony Andersen, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No. 10-1245**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Oregon Zoo							
<i>Personal Services</i>							
<i>SALWGE Salaries & Wages</i>							
5010	Reg Employees-Full Time-Exempt						
	Director	1.00	145,000	-	0	1.00	145,000
	Deputy Director	2.00	233,870	-	0	2.00	233,870
	Education Coordinator II	1.00	51,804	-	0	1.00	51,804
	Events Coordinator	1.00	56,064	-	0	1.00	56,064
	Manager I	1.00	77,801	-	0	1.00	77,801
	Manager II	3.75	327,324	-	0	3.75	327,324
	Program Analyst II	2.00	109,345	-	0	2.00	109,345
	Program Analyst III	1.00	71,190	-	0	1.00	71,190
	Program Analyst IV	1.00	66,305	-	0	1.00	66,305
	Program Supervisor II	2.00	152,196	-	0	2.00	152,196
	Project Coordinator	1.00	73,466	-	0	1.00	73,466
	Records & Information Analyst	-	0	1.00	42,770	1.00	42,770
	Registrar	1.00	51,804	-	0	1.00	51,804
	Research Coordinator II	1.00	66,305	-	0	1.00	66,305
	Senior Public Affairs Specialist	1.00	76,440	-	0	1.00	76,440
	Service Supervisor I	4.00	198,042	-	0	4.00	198,042
	Service Supervisor II	9.00	486,738	-	0	9.00	486,738
	Service Supervisor III	5.00	333,894	-	0	5.00	333,894
	Service Supervisor IV	1.00	72,807	-	0	1.00	72,807
	Veterinarian I	1.00	77,801	-	0	1.00	77,801
	Veterinarian II	1.00	92,998	-	0	1.00	92,998
	Volunteer Coordinator II	1.00	51,804	-	0	1.00	51,804
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Assistant III	1.00	45,039	-	0	1.00	45,039
	Administrative Specialist I	1.00	36,895	-	0	1.00	36,895
	Administrative Specialist II	1.00	40,612	-	0	1.00	40,612
	Administrative Specialist III	4.00	183,829	-	0	4.00	183,829
	Animal Keeper	30.00	1,459,500	-	0	30.00	1,459,500
	Custodian	6.00	257,972	-	0	6.00	257,972
	Education Coordinator I	2.00	103,524	-	0	2.00	103,524
	Gardener 1	7.00	327,838	-	0	7.00	327,838
	Maintenance Electrician	1.00	72,809	-	0	1.00	72,809
	Maintenance Lead	1.00	64,310	-	0	1.00	64,310
	Maintenance Technician	2.00	123,150	-	0	2.00	123,150
	Maintenance Worker 2	12.00	628,908	-	0	12.00	628,908
	Nutrition Technician	1.00	46,834	-	0	1.00	46,834
	Program Assistant 1	2.00	75,753	-	0	2.00	75,753
	Program Assistant 2	2.00	79,115	-	0	2.00	79,115
	Safety and Security Officer	4.00	149,606	-	0	4.00	149,606
	Senior Animal Keeper	6.00	318,960	-	0	6.00	318,960
	Senior Gardener	1.00	55,875	-	0	1.00	55,875
	Storekeeper	1.00	49,319	-	0	1.00	49,319
	Typist/Receptionist-Lead	1.00	36,874	-	0	1.00	36,874
	Veterinary Technician	2.00	97,300	-	0	2.00	97,300
	Volunteer Coordinator I	1.00	59,946	-	0	1.00	59,946
5020	Reg Emp-Part Time-Exempt						
	Assistant Public Affairs Specialist	0.63	35,971	-	0	0.63	35,971
	Associate Visual Communications	0.50	29,969	-	0	0.50	29,969
	Video/Photography Technician	0.50	28,548	-	0	0.50	28,548

**Exhibit A
Ordinance No. 10-1245**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Oregon Zoo							
5025	Reg Employees-Part Time-Non-Exempt						
	Animal Keeper-PT	1.50	72,975	-	0	1.50	72,975
	Clerk/Bookkeeper	0.75	28,031	-	0	0.75	28,031
	Food Service/Retail Specialist	3.90	160,483	-	0	3.90	160,483
	Lead Cash Office Clerk	0.85	33,331	-	0	0.85	33,331
	Nutrition Technician I	0.50	23,417	-	0	0.50	23,417
	Nutrition Technician II	0.50	24,325	-	0	0.50	24,325
	Program Assistant 1	0.75	30,459	-	0	0.75	30,459
	Program Assistant 2	0.75	33,575	-	0	0.75	33,575
	Security Officer I	0.50	16,746	-	0	0.50	16,746
	Veterinary Technician	0.50	24,325	-	0	0.50	24,325
	Visitor Service Worker 3-reg	0.85	27,119	-	0	0.85	27,119
5030	Temporary Employees		1,834,109		0		1,834,109
5040	Seasonal Employees		1,614,377		0		1,614,377
5080	Overtime		388,908		0		388,908
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		78,381		0		78,381
	Merit Adjustment Pool (LIUNA)		22,621		0		22,621
	Step Increases (AFSCME)		18,374		0		18,374
	COLA (represented employees)		62,758		0		62,758
	Other Adjustments (non-represented)		13,065		0		13,065
	Other Adjustments (AFSCME)		8,352		0		8,352
	Other Adjustments (Class & Comp Study)		131,957		0		131,957
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		3,647,377		19,947		3,667,324
5190	PERS Bond Recovery		317,586		1,283		318,869
Total Personal Services		148.73	\$16,191,128	1.00	\$64,000	149.73	\$16,255,128
<u>Materials & Services</u>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		114,288		0		114,288
5205	Operating Supplies		1,409,242		0		1,409,242
5210	Subscriptions and Dues		56,154		0		56,154
5214	Fuels and Lubricants		133,000		0		133,000
5215	Maintenance & Repairs Supplies		388,100		0		388,100
5220	Food		1,333,720		0		1,333,720
<i>SVCS</i>	<i>Services</i>						
5245	Marketing		6,125		0		6,125
5240	Contracted Professional Svcs		1,370,952		0		1,370,952
5251	Utility Services		2,326,620		(64,000)		2,262,620
5255	Cleaning Services		39,600		0		39,600
5260	Maintenance & Repair Services		243,125		0		243,125
5265	Rentals		197,930		0		197,930
5280	Other Purchased Services		904,809		0		904,809
5290	Operations Contracts		1,835,709		0		1,835,709
<i>CAPMNT</i>	<i>Capital Maintenance</i>						
5262	Capital Maintenance - Non-CIP		327,000		0		327,000
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
5300	Payments to Other Agencies		83,535		0		83,535
5315	Grants to Other Governments		26,000		0		26,000

**Exhibit A
Ordinance No. 10-1245**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Oregon Zoo							
<i>OTHEXP Other Expenditures</i>							
	5445 Grants		20,000		0		20,000
	5450 Travel		91,185		0		91,185
	5455 Staff Development		43,020		0		43,020
	5490 Miscellaneous Expenditures		62,950		0		62,950
	Total Materials & Services		\$11,013,064		(\$64,000)		\$10,949,064
TOTAL REQUIREMENTS		148.73	\$27,204,192	1.00	\$0	149.73	\$27,204,192

Exhibit B
Ordinance 10-1245
Schedule of Appropriations

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Revised</u> <u>Appropriation</u>
GENERAL FUND			
Communications	2,514,675	0	2,514,675
Council Office	3,496,913	0	3,496,913
Finance & Regulatory Services	3,358,417	0	3,358,417
Human Resources	1,836,807	0	1,836,807
Information Services	3,058,380	0	3,058,380
Metro Auditor	671,433	0	671,433
Office of Metro Attorney	2,012,886	0	2,012,886
Oregon Zoo	27,204,192	0	27,204,192
Parks & Environmental Services	6,942,305	0	6,942,305
Planning and Development	15,414,229	0	15,414,229
Research Center	4,631,745	0	4,631,745
Sustainability Center	5,470,794	0	5,470,794
Former ORS 197.352 Claims & Judgments	100	0	100
Special Appropriations	5,201,637	0	5,201,637
Non-Departmental			
Debt Service	1,529,472	0	1,529,472
Interfund Transfers	4,313,554	0	4,313,554
Contingency	3,478,646	0	3,478,646
Unappropriated Balance	13,191,950	0	13,191,950
Total Fund Requirements	\$104,328,135	\$0	\$104,328,135

*NOTE : No change in the appropriation schedule is necessary as a result of this amendment.
All appropriations remain as previously adopted*

STAFF REPORT

FOR THE PURPOSE OF AMENDING THE FY 2010-11 BUDGET AND APPROPRIATIONS SCHEDULE TO ADD 1.0 FTE FOR A RECORDS AND INFORMATION ANALYST TO SUPPORT THE OREGON ZOO'S VETERINARY DIVISION AND SATISFY THE AZA ACCREDITATION REQUIREMENTS, AND DECLARING AN EMERGENCY

Date: July 19, 2010

Presented by: Joanne Ossanna 503-220-5705

BACKGROUND

The Oregon Zoo's veterinary division consists of two full-time veterinarians, two full-time veterinary technicians and one part-time hospital keeper who is also a veterinary technician. The division is responsible for the health of the animal collection which numbers over 1200; in addition they oversee the preventative health program for the Zoo's animal collection and 60 staff. Preventative health includes the annual staff TB testing, rabies serum titer checks, zoonotic training and animal exams. The veterinary division also oversees the animal nutrition program by managing the commissary which employs two full-time staff and one part-time animal nutritionist. They generate records from all animal procedures and treatments, veterinary supply purchases, animal food and bedding purchases and medical testing, and transports as well as other support tasks for the division.

During the American Zoo and Aquarium (AZA) accreditation inspection in 2004 the visiting team noted as a concern that there wasn't any clerical support assigned to the veterinary division. This concern came to the new Zoo Director's attention during a review of current staff. This issue needs to be addressed immediately, because the zoo will be inspected by the AZA accreditation team this month. Currently, the staff of the veterinary division must enter data into the medical records system (MedARKS), process purchase orders, write contracts and perform the duties of a medical records specialist, in addition to meeting the medical and nutritional needs of the animal collection.

The addition of this full-time Records & Information Analyst position will satisfy AZA accreditation requirements by providing the needed clerical and records support that is required for a veterinary department in an AZA accredited Zoo of this size and stature. This position will be responsible for data entry, filing, scheduling, coordinating animal shipments, processing purchasing card and purchase order information and general clerical support. These are just a few of the tasks this position will perform for not only the veterinary division but the living collections division as a whole. The addition of the Records & Information Analyst will allow for the veterinary staff to focus more intently on the care and well-being of the animal collection while ensuring the veterinary division is organized and functioning efficiently.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget.

3. **Anticipated Effects:** This action authorizes the addition of 1.0 FTE full-time regular Records and Information Analyst at the Oregon Zoo to provide needed clerical and records support for the veterinary unit and to satisfy AZA accreditation requirements.
4. **Budget Impacts:** This ordinance provides for two actions:
 - a. Authorizes the addition of 1.0 FTE full-time regular Records & Information Analyst for the Oregon Zoo's veterinary division. The additional estimated impact on the General Fund in FY 2010-11 for salary and fringe benefits is estimated to be approximately \$64,000.
 - b. Authorizes the budget transfer of \$64,000 from the Oregon Zoo's water utility budget to personal services to provide budget authority for the new position. This reduction in the water utility budget is possible due to the cost savings realized from conservation efforts and significant repairs of water lines.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

Agenda Item Number 5.1

Resolution No. 10-4171, For the Purpose of Authorizing the Chief Operating Officer to Dispose of Real Property in the Johnson Creek Target Area and Purchase Real Property in the Johnson Creek Target Area

RESOLUTIONS
COUNCILOR PARK

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 10-4171
THE CHIEF OPERATING OFFICER TO)
DISPOSE OF REAL PROPERTY IN THE) Introduced by Chief Operating Officer
JOHNSON CREEK TARGET AREA AND) Michael Jordan with the concurrence
PURCHASE REAL PROPERTY IN THE) of Council President David Bragdon
JOHNSON CREEK TARGET AREA)

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

WHEREAS, at the general election held on November 7, 2006 the voters approved the 2006 Natural Areas Bond Measure, which identified the Johnson Creek Target Area goal of acquiring property within the remaining upland habitat areas adjacent to the main stem, along major tributary creeks, and within the Johnson Creek floodplain to protect water quality and connect existing public holdings; and

WHEREAS, Council approved the Johnson Creek Target Area refinement plan for the 2006 Natural Areas Bond Measure on September 13, 2007 via Resolution No. 07-3851 (“Approving the Natural Areas Acquisition Refinement Plan for the Johnson Creek and Watershed Target Area”) which approved the acquisition of the properties within the target area, subject to all terms of the transaction complying with the 2006 Natural Areas Acquisition Parameters and Due Diligence Guidelines, set forth in Metro Council Resolution No. 07-3766A “Authorizing the Chief Operating Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan,” (the “Acquisition Parameters and Due Diligence Guidelines”) adopted by the Metro Council on March 1, 2007; and

WHEREAS, Metro acquired, with 2006 Natural Areas Bond Measure funds, an approximate 19-acre parcel in the Johnson Creek Target Area located along SE 252nd Avenue, which is specifically identified on the attached Exhibit A (the “Larger Parcel”); and

WHEREAS, the majority of the Larger Parcel contributes to the goals of the Johnson Creek Target Area refinement plan in that it is “within the remaining upland habitat areas adjacent to the main stem of Johnson Creek” and is located “within the Johnson Creek floodplain”; and

WHEREAS, a westerly 0.5-acre portion of the Larger Parcel (the “Metro Property”) is located outside of the critical natural resource area and is improved with a single family residence; and

WHEREAS, because the Metro Property is not “within the remaining upland habitat areas adjacent to the main stem of Johnson Creek” nor “within the Johnson Creek floodplain,” it therefore does not fulfill the Tier I objective to “protect lands along the mainstream and important tributaries of Johnson Creek”; and

WHEREAS, the disposition of the Metro Property and reinvestment of the proceeds according to the 2006 Natural Areas Bond Measure is considered the best action for future use of the Metro Property; and

WHEREAS, Raymond Marston is the owner of certain real property approximately 2.97 acres in size, located at 7715 SE Telford Road, Gresham, Oregon, 97030 in unincorporated Multnomah County (the "Marston Property"). The Marston Property has been identified as a Tier I acquisition priority in the Johnson Creek Target Area and is more particularly depicted on the attached Exhibit B; and

WHEREAS, Metro desires to acquire the Marston Property in exchange for: (a) the Metro Property plus (b) \$98,000 to pay off the existing mortgage against the Marston Property; and

WHEREAS, the \$98,000 payment would result in Metro paying \$68,000 over the appraised value for the Marston Property, however at the same time will translate into significant savings, avoiding the capital costs of preparing the Metro Property for a market sale and costs of a market sale including commissions; and

WHEREAS, the Acquisition Parameters and Due Diligence Guidelines require, among other things, that prior to closing a real estate transaction related to the 2006 Natural Areas Bond Measure the purchase price for the property must be equal to or less than the fair market value as established by Metro's appraisal and appraisal review processes; and

WHEREAS, because it is in the best interest of the 2006 Natural Areas Bond Measure Program to both: (a) dispose of the Metro Property, and (b) acquire the Marston Property; now therefore

BE IT RESOLVED that the Metro Council concludes that the Metro Property, as depicted on Exhibit A, is not needed for public use and that the public interest will be furthered by the disposition of the Metro Property; and

BE IT FURTHER RESOLVED that the Metro Council concludes that, for the reasons stated and as provided herein, it is in the public interest to complete the above-described real property exchange transaction, and therefore authorizes the Chief Operating Officer to:

1. Transfer and convey fee title to the Metro Property to Marston in return for Marston transferring and conveying fee title to the Marston Property to Metro, provided that all documents necessary to effect the exchange transaction (including without limitation any required land use applications), are in forms acceptable to the Metro Attorney; and

2. Acquire the Marston Property for \$68,000 above its appraised value, provided the acquisition of the Marston Property is otherwise in accord with the Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan; and

BE FURTHER IT RESOLVED that in the event the exchange transaction with Marston does not occur, the Metro Council authorizes the Chief Operating Officer to sell the Metro Property using an equitable, commercially reasonable, and appropriate process, as determined by the Chief Operating Officer in his sole discretion.

ADOPTED by the Metro Council this _____ day of _____, 2010.

Approved as to Form:

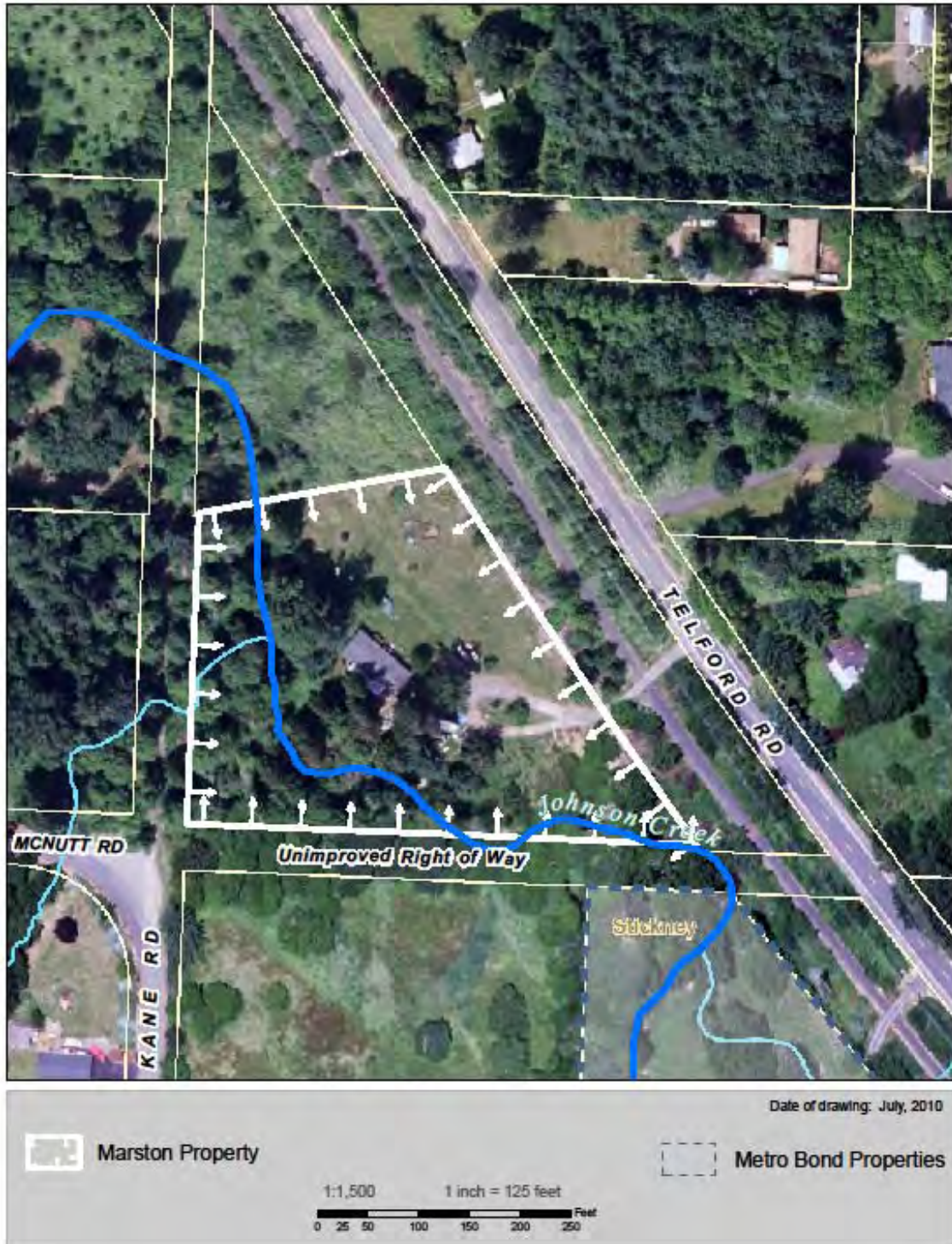
David Bragdon, Council President

Daniel B. Cooper

EXHIBIT A to Resolution 10-4171
Map of Larger Parcel and Metro Property



EXHIBIT B to Resolution 10-4171
Depiction of Marston Property



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4171 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO DISPOSE OF REAL PROPERTY IN THE JOHNSON CREEK TARGET AREA AND PURCHASE REAL PROPERTY IN THE JOHNSON CREEK TARGET AREA

Date: August 12, 2010

Prepared by: Hillary Wilton
503-797-1845

BACKGROUND

Resolution No. 10-4171 requests authorization to sell or exchange approximately 0.5 acres of Metro-owned real property (the "Metro Property") for 2.97 acres of real property owned by Raymond Marston (the "Marston Property"). The purpose of this Resolution is to authorize the Chief Operating Officer to: (1) sell the Metro Property, and (2) acquire the Marston Property at a price above the appraised value. These transactions will allow Metro to relinquish a property that does not enhance water quality and wildlife habitat, while creating a unique opportunity to protect a property that does.

The Metro Property is located within the Johnson Creek Target Area and is a 0.5-acre residential portion of a larger 19-acre property (referred to herein as the "Larger Parcel") purchased with funds from the 2006 Natural Areas Bond Measure. A depiction of both the Metro Property and the Larger Parcel is attached to the proposed Resolution as Exhibit A. When Metro purchased the Larger Parcel, the acquisition included a single family residence located on the western side of the property along Southeast 252nd Avenue. The farm house-style residence is approximately 1,700 square feet in size. Because the residence is in fair condition and is located outside of the critical natural resource area, staff believes that the structure is not a good candidate for demolition. Until recently, Metro leased the residence to a residential tenant.

Continued ownership of the Metro Property does not contribute to the goals of the 2006 Natural Areas Bond Measure. The Metro Property is not "within the remaining upland habitat areas adjacent to the main stem of Johnson Creek" nor is it "within the Johnson Creek floodplain." Moreover, if Metro retains the Metro Property, the existing residence will be a management obligation, the expense of which is not outweighed by the future potential rental income. Metro has considered the Metro Property's natural resource and future trail potential and has ultimately concluded that it is best suited as a privately owned, single family residence.

The Marston Property is also located within the Johnson Creek Target Area and is currently improved with a manufactured home. Metro's acquisition of the Marston Property will contribute significantly to Metro's Tier I acquisition goals set forth in the refinement plan, in particular helping to "protect lands along mainstream Johnson Creek Reaches 16 and 17" (see map attached to proposed Resolution as Exhibit B).

The Marston Property borders Johnson Creek and lies immediately north of two other Metro-owned properties, both of which were previous 2006 bond measure acquisitions. Acquisition of the Marston Property creates a contiguous 9-acre management unit along this critical reach of Johnson Creek. Following acquisition of the Marston Property, Metro will remove the existing mobile home structure from the floodplain and the 100-foot critical riparian zone. The undeveloped remaining portion of the Marston Property is a western red cedar-Oregon ash forest with a native understory. Metro's stabilization plan would include re-establishing a wider native riparian forest and shrubby layer on the currently developed portion.

Staff has been working toward acquiring the Marston Property for several years because it is such a high priority acquisition. Although Mr. Marston has been willing to consider selling his property to Metro, finalizing a deal has been challenging due to the following two constraints: (1) Mr. Marston will sell only if he is able to relocate to another nearby property; and (2) Mr. Marston is unable to obtain standard credit terms to obtain conventional financing on a new residence. In order to work around the aforementioned constraints, Staff approached Mr. Marston with the following land exchange proposal: Mr. Marston would convey fee title to the Marston Property to Metro and in exchange Metro would: (a) convey fee title to the Metro Property to Mr. Marston, if Mr. Marston would accept the Metro Property in as-is condition and (b) pay off Mr. Marston's outstanding mortgage to Chase Bank, in an amount not to exceed \$98,000.

Staff believes that the proposed exchange represents the only opportunity Metro will have in the foreseeable future to acquire the 3-acre Marston Property, a critical link in the Council's acquisition goals in this area. In addition, the proposed exchange will result in additional savings to Metro of the costs and staff time that would otherwise be incurred should Metro pursue a market sale of the Metro Property. The costs would include capital improvements to the property to prepare it for a market sale, including possibly updating the electrical system, recommended by property inspection, as well as a commission on sale of at least 3 percent. Mr. Marston has agreed to take the Metro property in as-is condition. The transfer of the residence would also avoid all future maintenance and upkeep expenses.

State law authorizes the governing body of any political subdivision within Oregon to sell real property owned by the political subdivision that is "not needed for public use, or whenever the public interest may be furthered" ORS 271.310(1). Metro Code section 2.04.026(a)(2) requires that the Chief Operating Office obtain the authorization of the Metro Council before selling any property owned by Metro.

Staff hereby requests that the Metro Council declare the Metro Property to be surplus and delegate to the Chief Operating Officer the authority to complete the exchange of the Metro Property for the Marston Property. Should the exchange with Mr. Marston be unsuccessful, Staff requests that the Metro Council authorize Staff to pursue a market sale of the Metro Property in accordance with the "Disposition Guidelines" outlined in Attachment 1. Proceeds from such sale shall be restricted to open space acquisition consistent with the requirements of the 2006 bond measure. The sale approach outlined on Attachment 1 is the same approach used for the sale of the "Lin Property" located in the Cooper Mountain target area as presented to and adopted by the Metro Council on October 22, 2009 under Resolution No. 09-4079, "For the Purpose of Authorizing the Chief Financial Officer to Sell Certain Real Property in the Cooper Mountain Target Area".

As referenced above, as part of the exchange Staff proposes paying off the outstanding balance (not to exceed \$98,000) on the existing mortgage encumbering the Marston Property. In November of 2009, Staff obtained independent MAI appraisals of both the Marston Property and the Metro Property. The Marston Property appraised at \$255,000 while the Metro Property appraised at \$225,000. The payment of approximately \$98,000 to Mr. Marston's lender is in essence an agreement to pay \$68,000 over the appraised value for the Marston Property. Mr. Marston has agreed to accept the Metro property in as-is condition whilst Metro has made standard requirements for Mr. Marston to prepare his property for sale to Metro. Metro will also realize savings from not needing to market the Metro property. Staff hereby requests that as part of the proposed exchange, the Metro Council authorize such additional payment.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. **Legal Antecedents**

ORS 271.310(1) authorizes the governing body of any political subdivision within Oregon to sell real property owned by the political subdivision that is “not needed for public use, or whenever the public interest may be furthered”.

Metro Code Section 2.04.026(a)(2) requires that the Chief Operating Office obtain the authorization of the Metro Council before selling any real property owned by 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 adopted by the Metro Council on March 9, 2006.

The voters approved Metro’s 2006 Natural Areas Bond Measure at the general election held on November 7, 2006.

Resolution No. 06-3720, “For the Purpose of Authorizing the Chief Operating Officer to Enter Into Options to Purchase Properties in the Newell Creek, Lower Tualatin Headwaters, Forest Park and Johnson Creek Target Areas, and Including a Property in the Forest Park Target Area Subject to Unusual Circumstances Under the Proposed 2006 Natural Areas Bond Measure Implementation Work Plan,” adopted by the Metro Council on August 17, 2006.

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

Resolution No. 07-3851, “Approving the Natural Areas Acquisition Refinement Plan for the Johnson Creek and Watershed Target Area”, adopted by the Metro Council on September 13, 2007.

The tax-exempt status of the bonds sold to finance the purchase of the Larger Parcel imposes some limitations and requirements on whether and how Metro Property may be sold, and on the use of the proceeds of such sale. Staff has consulted with the Office of Metro Attorney, which has consulted with Metro’s bond counsel regarding this issue. The sale of the Metro Property will be in compliance with the advice of the Metro Attorney and bond counsel to ensure that the tax-exempt status of the bonds is maintained.

3. **Anticipated Effects**

The Metro Property will be declared surplus and not needed for public use, and will be offered for sale at a price sufficient to protect Metro’s financial investment in the property. Disposition of the Metro Property is consistent with the covenants of the Bond Measure, whose funds were used to acquire and stabilize the property, provided that the anticipated proceeds will be administered within the guidelines of the Bond Measure rules. The sale of the property will relieve Metro of maintenance obligations and property taxes for the residence.

4. **Budget Impacts**

All costs associated with the property line adjustment necessary to result in the Metro Property becoming a legal lot of record will be paid for by Metro. Metro will also pay for ordinary due diligence expenses and closing costs related to the acquisition of the Marston Property, including the costs incurred to obtain a Phase I Environmental Assessment, a title policy, and one-half of the escrow fees. Such costs will be paid for with 2006 Natural Area Bond proceeds. Stabilization costs will also be paid with 2006 Natural Area Bond funds. Should the exchange with Mr. Marston be

unsuccessful, net revenues from sale of the Metro Property, after payment of any appraisal, brokerage, closing, or other out-of-pocket costs associated with the sale, will be returned to the 2006 Bond Measure account for use to acquire other real property consistent with the goals and requirements of such measure.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 10-4171.

DISPOSITION GUIDELINES
The Metro Property in the Johnson Creek Target Area

The following disposition transaction procedures are the elements of analysis, outreach and sale that have and will be followed by Metro staff in the disposition of the Metro Property in order to assure fair and honest dealings with potential purchasers and protection of public investment in this natural area property.

1. Analysis

- Original Acquisition. Review of the original acquisition file and stabilization efforts since Metro's acquisition of the property is the first step in the disposition process. Staff has conducted research to ensure that the sale of the property would not conflict with the restrictions imposed by the original acquisition funding. The Metro Property acquisition was funded entirely by 2006 Natural Area Bond funds. As noted in the Staff Report for Resolution No. 10-4171, there are several compelling reasons for Metro to remove the Metro Property from its holdings.

- Title Review. Staff will review a current title report to make sure the Metro Property is free and clear of liens that could interfere with a transfer of title to the prospective purchaser.

- Physical Inspection. Metro staff has physically inspected the property to identify possible hazards, unrecorded easements etc. and made a preliminary evaluation of the condition of any structures and improvements. Staff will inspect the property to identify any encroachments and take measures to correct them, if possible.

2. Outreach

- Assessment of community impact. An assessment of community impact has been made and the sale of the property is not anticipated to have a negative effect on relationships with partners and community.

- Recommendation for stakeholder and public notice. A specific recommendation for stakeholder notice and public notice for the sale shall be developed by the Natural Areas Public Affairs Specialist and reviewed by the Program Director. This recommendation will likely include targeted stakeholder contact to parties including the City of Gresham, as well as a written notice to a small radius of neighbors.

3. Sale Process

- Market Value and Negotiated Sale Price. Market value for the property shall be established by an appraisal completed by an independent certified appraiser that states a conclusion of the market value of the property or, if appropriate, a range of value. The appraisal shall be completed in accordance with the Uniform Standards of Professional Appraisal Practice and may be a summary format report. The negotiated sale price, or the total value of money and real property received, for the property shall be:

- Not greater than that which will ensure that Metro does not violate any of its bond covenants, including any applicable bond arbitrage limitations, as determined by the Metro Attorney in consultation with the Metro Chief Financial Officer; and
- Except when limited by the foregoing provision, not less than:

- a) the market value as established by the appraisal process described below; or
 - b) 90% of such market value, with the authorization of the Chief Operating Officer upon review of a recommendation from the Natural Areas Program Director finding that:
 - i) The property has been on the market for a reasonable exposure period and a disposition transaction has not been completed; and
 - ii) It is in the public interest to sell the property at the reduced value.
- Marketing and Sale of Property. Metro or its authorized agents shall advertise the Metro Property for sale by commercially reasonable means which may include signage, direct marketing, newspaper advertising, or listing on public real estate listing services. Contracting agents for the sale of the property shall be at the discretion of the Natural Areas Program Director and shall be established in accordance with Metro Code.
 - The Metro Property will be offered for sale ‘as is’ directly by Metro. The property will be signed and advertised “For Sale By Owner”. A one page flier will be available at the property and on request. A detailed information package, including a title report, a copy of the relevant zoning code, the form of purchase and sale agreement and any other information deemed relevant to the transaction will be provided to interested parties at a cost according to the standard public information request rates. (\$30 for a CD, or \$30 plus \$0.05 black and white or \$0.15 per color paper copies). Staff will hold not less than 2 open houses at the property for interested parties. Offers will be accepted by sealed bid process not less than 60 days after the property is listed. There will be a reserve price of not less than 10% less than the appraised value. The winning bid shall be determined by the following factors: date the bid was received by Metro, offer price, and other terms deemed to be relevant to a successful transaction as determined by the Metro Chief Operating Officer, in his sole discretion.
 - Should Natural Areas staff be unsuccessful selling the property by the above means, or the property circumstances warrant, a third party auction house may be hired to manage a similar sealed bid process.
 - Distribution of proceeds from sale. The Metro Chief Financial Officer shall determine the distribution of the proceeds from the disposition transaction, in consultation with the Metro Attorney, in order to ensure that such distribution is consistent with bond covenants and the intent of the bond measures approved by the voters.
 - Notice to Metro Council. The Natural Areas Bond Program Director or his/her designees shall notify the Council promptly following the closing of any disposition transaction.
 - Document Retention. Documents related to disposition transactions shall be retained as determined appropriate by the Metro Attorney, consistent with Metro’s records retention policies.

Agenda Item Number 5.2

Resolution No. 10-4174, For the Purpose of Endorsing a Consortium
Grant Application to the US Department of Housing and Urban
Development for a Sustainable Communities Regional Planning
Grant Program

RESOLUTIONS
COUNCILOR LIBERTY

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING A) RESOLUTION NO. 10-4174
CONSORTIUM GRANT APPLICATION TO THE)
US DEPARTMENT OF HOUSING AND URBAN) Introduced by Councilor Robert Liberty
DEVELOPMENT FOR A SUSTAINABLE
COMMUNITIES REGIONAL PLANNING
GRANT PROGRAM

WHEREAS, the US Department of Housing and Urban Development (HUD), the US Department of Transportation and the US Environmental Protection Agency have come together to form the Partnership for Sustainable Communities (The Partnership);

WHEREAS, in support of The Partnership, the US Department of Housing and Urban Development has released a Notice of Funding Availability for a Sustainable Communities Regional Planning Grant Program;

WHEREAS, the intent of the program is to fund the development of a Regional Plan for Sustainable Development or a Detailed Execution Plan and Program for a Regional Plan for Sustainable Development;

WHEREAS, the grant program is available for application by a consortium comprised, at a minimum, of the metropolitan planning organization, the traditional principle city, local governments representing at least 50% of the area’s population and non-profit organization(s), foundation(s) or educational institution(s) that have the capacity to engage diverse populations;

WHEREAS, the Portland metropolitan area has a Regional Plan for Sustainable Development in the form of the 2040 Growth Concept and various state, regional and local implementation instruments which has been successful at addressing land use, transportation and environmental protection and enhancement;

WHEREAS, the Portland metropolitan area has invested in a multi-modal transportation system, particularly in light rail, bus, bike, pedestrian and demand and system management linked to regional and local land use plans and regional and local programs for preserving and enhancing significant natural habitat producing significant benefit for the community;

WHEREAS, the plan is deficient in addressing housing affordability and the benefit to the community is not equitably shared by all members of the community, especially low-income communities and communities of color;

WHEREAS, a consortium has formed to seek a grant from HUD to develop a Housing Equity and Opportunity Strategy as a unique partnership between providers of housing and community-based organizations that represent populations typically underserved that lack adequate access to the decision-making system;

WHEREAS, the Joint Policy Advisory Committee on Transportation at their meeting on _____ in their capacity to act on all matters of the metropolitan planning organization and the Metro Policy Advisory Committee at their meeting on _____ in their capacity under the

Metro Charter to advise on land use matters have recommended support of this grant application; now therefore

BE IT RESOLVED that the Metro Council:

1. Endorses the formation of a consortium to submit an application for HUD funds under the Sustainable Communities Regional Planning Grant Program to develop a Housing Equity and Opportunity Strategy as described in the attached Declaration of Cooperation (Exhibit A);
2. Supports Metro submitting the grant application as lead applicant on behalf of the Consortium.

ADOPTED by the Metro Council this [insert date] day of [insert month], 2010.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Housing Equity and Opportunity Strategy for the Portland Metropolitan Region

DECLARATION OF COOPERATION

8/2/10

Our Intent

The Portland metropolitan region has long been a national leader in developing and implementing innovative approaches to land use and transportation planning, responsible resource use and climate protection. After investing decades of work building healthy human and natural communities, our region is widely viewed as one of the most livable places in the country.

Yet we also know that the exceptional quality of life for which our region is known is not equitably shared by all who live here, especially members of low-income communities and communities of color. We cannot succeed as a region unless all of our fellow residents have the opportunity to share equitably in the livability we have worked so hard to create and to live in communities that nourish their potential.

This Declaration of Cooperation signals the formation of a consortium of public and community based stakeholders for the purpose of working together to seek a grant under the US Department of Housing and Urban Development's (HUD) "Sustainable Communities Regional Planning Grant Program" to support development and implementation of a Housing Equity and Opportunity Strategy for the Portland metropolitan region. The basic approach outlined in this Declaration of Cooperation is:

1. To involve local governments, housing authorities, community-based organizations and the private sector in collaboratively developing an integrated regional plan for housing equity and opportunity in the Portland metropolitan region. This will include testing the concepts included in the plan through the development of several pilot projects that model targeted and restorative investment.
2. To link affordable housing investments in the region to available and planned public services and infrastructure, such as employment opportunities, health care, transportation, education, and recreation.
3. To review the adequacy and availability of public services to *existing* market or assisted low-cost housing in the region, and to help local governments evaluate the equity of current public service distribution in the region.

To build on these efforts, additional funding is being sought through HUD's Sustainable Communities Regional Planning Grant Program, which is part of The Partnership for Sustainable Communities established jointly by the US Departments of Housing and Urban Development (HUD) and Transportation (DOT) and the Environmental Protection Agency (EPA).

While this is not a binding legal contract, this Declaration of Cooperation constitutes a statement of the good faith and commitment of the undersigned parties, and represents a public commitment to think and lead in new ways and to work in new partnerships, with equity as a core goal, to develop consensus-based strategies that address the needs of the region as a whole, to strive to identify opportunities and solutions whenever possible, to contribute assistance and support within resource limits as identified in the grant application, and to collaborate with other consortium members in promoting the successful implementation of the agreed-upon strategies. Within 120 days of the award of the grant, the parties to this agreement will need to execute specific contracts to carry out tasks funded through the grant and to refine roles and responsibilities for the conduct of the grant work program.

Intended Outcomes

The development and implementation of a Housing Equity and Opportunity Strategy for the Portland metropolitan region builds on the region's reputation and practice of multi-disciplinary planning, including forty years of integrating environmental protection, land use and transportation, and fits the objectives of HUD's Sustainable Communities Planning Grant Program. This federal grant program provides an opportunity for the region to build on our success in land use and livability policy by creating new partnerships, policies and investments that promote equity and opportunity for all regional residents.

The Housing Equity and Opportunity Strategy will be an implementation plan. It will provide a road map for investment in places, people and processes. The Strategy will include:

- Thorough analysis and understanding about the current status of our region with respect to equity and opportunity utilizing current data and reports of the parties and other community verified sources;
- Implementation strategies that cross fields and sectors and provide integrated approaches to investment to insure that we achieve positive triple bottom line results (Equity, Economy, Environment);
- Development of opportunity maps to guide strategies and inform investments;
- Development of a tool to assess the equity impact of investments;
- Investment in effective individual, organizational and community capacity to promote democratic ideals and civic engagement in the creation of communities of opportunity; and
- Strategies to evaluate outcomes resulting from policies and investments across income, race/ethnicity and geography, and systems to track progress towards goals over time and inform future decision-making.

The Consortium's grant application is intended to result in five basic outcomes:

- **Housing Equity and Opportunity Strategy** – With the leadership of regional housing development partners, including community-based organizations, housing authorities, local government public service and infrastructure providers, and the private sector, this grant will develop a strategic plan to coordinate and integrate equitable access to

affordable housing, jobs and workforce training, high-quality public transportation and other critical public services and facilities for the Metro region. This regional plan will *not* diminish or take away any vested authority of local jurisdictions or non-profit organizations, but will guide local decisions through a regional plan that has been collaboratively developed.

- **Linkage, leverage and integration** – This Housing Equity and Opportunity Strategy will create linkage between federal, state, regional, local non-profit and private investments in housing, transportation, education, and other service planning in order to promote greater equity and opportunity for all regional residents. In so doing, it will also provide opportunities to leverage public investments in affordable housing with other public investments in the region. The results of the Housing Equity and Opportunity Strategy will provide input to various implementation programs throughout the region, including development of Metro’s Community Investment Strategy (an over-arching effort to implement the region’s long-term vision and achieve regionally agreed-upon outcomes through a broad range of investments).
- **An on-going governance structure** – While this consortium of regional partners is initially designed to *develop* the Housing Equity and Opportunity Strategy, the intent is to have the consortium develop a governance structure to oversee the implementation of regional housing and equity measures on an on-going basis.
- **Increased capacity of community-based organizations to participate in the consortium** – Many communities are underserved, or their community-based organizations lack the staffing capacity to engage their constituencies and participate effectively in this collaborative effort. Grant funding will be used to involve community based organizations (as well as local governments) in specific tasks and decision-making related to the regional housing strategy with the objective of having increased capacity and capability to engage in decision-making beyond the duration of the grant.
- **A framework for monitoring and measuring performance over time** – The consortium will develop and implement indicators to track progress and guide future implementation actions and will integrate with the Regional Indicators project at Portland State University.

Governance

- A Steering Committee, consisting of the signers of this document, will provide a forum for decision-making on all policy matters involved in implementation of the grant and development of the regional Housing Equity and Opportunity Strategy. The Steering Committee shall determine the consortium’s policy direction and establish procedures for allocating resources and grant funds. Membership in the Consortium and Steering Committee will expand upon receipt of the grant to include organizations representative of the full diversity of the region and to include additional local governments, the private

sector and service providers such as workforce training, education, health care providers, climate policy, arts & culture, etc.

- A Budget Committee will be established consisting of a representative group of fiscal officers of the Steering Committee organizations. It shall ensure all federal, state, and local budget, accounting and finance rules are followed and oversee disbursement of funds, including paying of consultants, pursuant to the Cooperative Agreement and in accordance with Steering Committee’s decision regarding allocation of resources and grant funds.
- A Technical Advisory Committee will oversee technical work related to the plan and make recommendations, as assigned by the Steering Committee. The Technical Advisory Committee will ensure integration with PSU’s Community Data Commons and the Regional Indicators Project.
- An Outreach Advisory Committee will oversee and coordinate outreach to stakeholders and the public.
- Facilitation and staff support for the Consortium and Steering Committee meetings shall be provided by the National Policy Consensus Center. Additional support will be provided by staff of consortium members.
- The Steering Committee will operate on a consensus-seeking basis. Members of the consortium agree to work with each other in a collaborative manner that develops trust and brings forward interests to be addressed in a supportive manner.
- The “Lead Applicant” of the Consortium will be Metro, with the following authority and responsibilities:
 - Authority to act as the Consortium’s representative when dealing with HUD on behalf of all members of the Consortium;
 - Responsibility for submitting the Grant Application and executing a Cooperative Grant Agreement if awarded;
 - Fiscal and administrative responsibility for the Grant on behalf of the Consortium.

Declaration of Cooperation

We, the undersigned government organizations, agree to join this Consortium to seek a HUD grant in our capacity as a public entity responsible for setting policy and funding and implementing infrastructure, programs and services intended to equitably benefit the public.

Metro

City of Portland

David Bragdon, Council President

Sam Adams, Mayor

Multnomah County

Washington Co. and Washington Co.
Housing Authority

Jeff Cogen, Chair

Tom Brian, Chair

Clackamas Co. and Clackamas Co.
Housing Authority

Portland Housing Bureau

Lynn Peterson, Chair

Nick Fish, Commissioner

City of Beaverton
(as a direct CDBG recipient)

Denny Doyle, Mayor

Housing Authority of Portland

TriMet

Steve Rudman, Executive Director

Neil McFarlane, General Manager

Oregon Housing and Community Services

Portland State University

Victor Merced, Director

Wim Wiewel, President

City of Vancouver

Vancouver Housing Authority

Patrick McDonnell, City Manager

Roy Johnson, Executive Director

We, the undersigned non-government organizations, agree to join this consortium in our capacity as providers of housing and other services to people and communities, and who have needs for services that equitably enhance their access to opportunity, and that are typically underrepresented in public decision-making.

Fair Housing Council of Oregon

Urban League of Portland

Moloy Goode, Executive Director

Marcus Mundy, President and CEO

Housing Organizations of Color Coalition

Coalition for a Livable Future

Maxine Fitzpatrick, Chair

Jill Fuglister, Co-Executive Director

Community Housing Fund

Oregon Opportunity Network

Ramsay Weit, Executive Director

Cathey Briggs, Executive Director

Bienestar

Karen Shawcross, Executive Director

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4174 FOR THE PURPOSE OF ENDORING A CONSORTIUM GRANT APPLICATION TO THE US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A SUSTAINABLE COMMUNITIES PLANNING GRANT PROGRAM

Date: July 28, 2010

Prepared by: Andy Cotugno, Ext. 1763

BACKGROUND

On June 24, 2010 the Department of Housing and Urban Development (HUD) released a Notice of Funding Availability (NOFA) for a Sustainable Communities Planning Grant Program. Under this program, applications can be submitted to develop a Regional Plan for Sustainable Development or, in regions that already have one, a Detailed Execution Plan and Program. For the Portland region, it is proposed that we seek such a grant in the maximum allowable amount of \$5 million to develop a Housing Equity and Opportunity Strategy.

The NOFA provides that an applicant is only eligible if submitted by a consortium comprised of at least the metropolitan planning organization, the principle central city, local governments that comprise at least 50% of the population of the region and non-government organizations that can provide connections to diverse communities, especially low income and communities of color. Based upon this requirement, it is recommended that Metro join with a broader consortium comprised of the following:

Government Organizations

- Metro
- City of Portland
- City of Beaverton
- Multnomah County
- Clackamas County
- Washington County
- City of Vancouver
- Vancouver Housing Authority
- Housing Authority of Portland
- Washington County Housing Authority
- Clackamas County Housing Authority
- TriMet
- Oregon Housing and Community Services
- Portland State University

Non-Government Organizations

- Fair Housing Council of Oregon
- Urban League
- Housing Organizations of Color Coalition
- Coalition for a Livable Future
- Community Housing Fund
- Oregon Opportunity Network
- Bienestar Housing

In addition, the Declaration of Cooperation, a memorandum of understanding that the consortium members will sign, recognizes the intent to expand membership to fully represent the region, including further representation from cities and other government and non-government services providers such as schools, work force training, public health, etc. Consistent with the NOFA, Metro is designated the “lead applicant” to apply on behalf of the Consortium.

Endorsement of Resolution No. 10-4174 would support Metro's execution of the Declaration of Cooperation forming the consortium and establishing the major products and outcomes being sought through the grant work program, the approach to carrying out the work on a multi-agency basis (both government and non-government) and the initial framework for a decision-making structure.

The key focus of the grant proposal is development of an Integrated Housing Equity and Opportunity Strategy. Through this, the region aims to develop a guiding document to address the following:

- 1) Aligning investments to achieve the vision
- 2) Affirmatively connecting people to opportunities in housing, transportation, education
- 3) Opening decision making processes to those that haven't historically participated
- 4) Providing incentives and tools to encourage new ways of doing things
- 5) Measuring and evaluating our results on an ongoing basis

To develop this strategy, the grant would enable the region to undertake the following activities:

- 1) Collect and analyze data, including community based information
- 2) Develop, adopt and implement policy and investment strategies
- 3) Develop government and community based capacity to do things in new ways
- 4) Develop and implement new governance models
- 5) Communicate in new and transformative ways

This Declaration of Cooperation is an initial step in the process. Upon grant award, a more detailed agreement specifying membership and decision-making will need to be executed within 120-days.

ANALYSIS/INFORMATION

1. **Known Opposition:** Opposition has not been identified at this point in time. However, this work program involves organizations working together in new collaborative ways. As such, there is concern about how the work will be carried out.
2. **Legal Antecedents:** This is a planning grant opportunity provided through the US Department of Housing and Urban Development. Inclusion of Metro satisfies their minimum requirement that the MPO be one of the consortium members. The other memberships exceed the HUD minimum.
3. **Anticipated Effects:** The Declaration of Cooperation to form the Consortium is a mandatory element of the HUD grant application. The HUD NOFA is discretionary and grant awards are expected this fall. Upon successful receipt of a grant award, a final cooperative agreement will need to be executed establishing membership, governance, outcomes and roles and responsibilities.
4. **Budget Impacts:** If a grant is awarded, the Metro Budget will need to be amended to incorporate the revenues and authorize the expenditures. Expenditure categories will include personnel and contractual. In addition, elements of Metro's current budget on work program activities related to the grant products will be counted as in-kind match for the grant (in-kind contributions will also be provided by other members of the Consortium).

RECOMMENDED ACTION

Adoption of Resolution No. 10-4174 by the Metro Council is recommended.

Agenda Item Number 5.3

**Resolution No. 10-4177, For the Purpose of Amending the January
2008 MTIP (FY 2008-2011) to Modify Funding Allocations for
Southwest Corridor and East Metro Corridor Refinement Plans**

RESOLUTIONS
COUNCILOR COLLETTE

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE) RESOLUTION NO. 10-4177
JANUARY 2008 MTIP (FY 2008-2011) TO)
MODIFY FUNDING ALLOCATIONS FOR) Introduced by Councilor Collette
SOUTHWEST CORRIDOR AND EAST METRO)
CORRIDOR REFINEMENT PLANS)

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

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

WHEREAS, JPACT and the Metro Council approved the 2008-11 MTIP on August 16, 2007 via Metro Council Resolution No. 07-3825 (“FOR THE PURPOSE OF APPROVING THE 2008-2011 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA”); and

WHEREAS, the work for the Southwest Corridor and East Metro Corridor Refinement Plan were adopted by Metro Council Resolution No. 10-4119 (“FOR THE PURPOSE OF UPDATING THE WORK PROGRAM FOR CORRIDOR REFINEMENT PLANNING THROUGH 2020 AND PROCEEDING WITH THE NEXT TWO CORRIDOR REFINEMENT PLANS IN THE 2010-2013 REGIONAL TRANSPORTATION PLAN CYCLE”) as the next regional priorities for Corridor Refinement Plans on February 25, 2010; and

WHEREAS, the Southwest Corridor and East Metro Corridor Refinement Plans are included in the work element of the FY 2010 UPWP and in the 2035 Regional Transportation Plan (“RTP”), adopted on June 10, 2010 via Metro Council Ordinance No. 10-1241B (“FOR THE PURPOSE OF AMENDING THE 2035 REGIONAL TRANSPORTATION PLAN (FEDERAL COMPONENT) AND THE 2004 REGIONAL TRANSPORTATION PLAN TO COMPLY WITH FEDERAL AND STATE LAW; TO ADD THE REGIONAL TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS ACTION PLAN, THE REGIONAL FREIGHT PLAN AND THE HIGH CAPACITY TRANSIT SYSTEM PLAN; TO AMEND THE REGIONAL TRANSPORTATION FUNCTIONAL PLAN AND ADD IT TO THE METRO CODE; TO AMEND THE REGIONAL FRAMEWORK PLAN; AND TO AMEND THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN”); and

WHEREAS, the funding sources are no longer needed for the I-5/99W Tualatin Sherwood Connector Project and the I-5/99W Tualatin-Sherwood Connect (Concept Plan); and

WHEREAS, the funding sources are no longer needed for the Powell/Foster Corridor Plan; and

WHEREAS, the East Metro Corridor and Southwest Corridor budgets are still developing and this resolution allocates available funds at this time; and

WHEREAS, the funding sources have since been further developed and identified for those two corridor refinement plans; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to amend the programming of the 2008-11 Metropolitan Transportation Improvement Program to include the funding for these two corridor refinement plans as shown in Exhibit A.

ADOPTED by the Metro Council this 12 day of August, 2010

David Bragdon, Council President

Approved as to Form:

Alison Kean Campbell, Deputy Metro Attorney

Exhibit A to Resolution No. 10-4177

Listed below are the existing and modified Metropolitan Transportation Improvement Program programming for the Southwest Corridor and East Metro Corridor Refinement Plans.

East Metro Corridor Refinement Plan

From Next Priority Corridor Study

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	MTIP No. 1151; ODOT No. 15546	Next Priority Corridor Study	System level planning and alternatives for selected corridor.	Federal Local	Sys study	\$150,746

From Next Priority Corridor Study

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	MTIP No. 1151; ODOT No. 14564	Next Priority Corridor Study	System level planning and alternatives for selected corridor.	Federal Local	Sys study	\$270,000

From Next Corridor Powell/Foster

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	MTIP No. 1178; ODOT No. 14565	Next Corridor Powell/Foster	This process will provide a set of feasible transportation improvements for the corridor with implementation, phasing & funding strategies.	Federal Local	Planning	\$ 200,098

Total Funding Transferred to Next Priority Study- East Metro Amended Programming

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	MTIP No. 1151; ODOT No. (14564, 14565, 15546)	Next Priority Corridor Study – East Metro	System level planning and alternatives for selected corridor.	Federal Local	Sys study	\$620,844

Southwest Corridor Refinement Plan

From Next Priority Corridor Study

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	MTIP No. 1151; ODOT No. 17144	Next Priority Corridor Study	System level planning and alternatives for selected corridor.	Federal Local	Sys study	\$150,746

From I-5/99W Connector Project

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	MTIP No. 1061; ODOT No. 13301	I-5/99W Connector Project	Completes planning work for a proposed four-lane, limited access highway between Highway 99W near Sherwood and I-5 near Tualatin and Wilsonville.	Federal Local State	Planning- Alt Anal Planning- Land Use	\$300,000

From I-5/99W Tualatin-Sherwood Connect (Concept Plan)

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	ODOT No. 15669	I-5/99W Tualatin-Sherwood Connect (Concept Plan)				\$ 400,000

Total Funding Transferred to Next Priority Study- Southwest Corridor Amended Programming

Sponsor	Key No.	Project Name	Project Description	Funding Source	Project Phase	2011
Metro	MTIP No. 1151; ODOT No. 17144, 13301, 15669	Next Priority Corridor Study – Southwest Corridor	Transportation system level planning and multi-modal alternatives for selected corridor.	Federal Local	Sys study	\$850,746

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4177, FOR THE PURPOSE OF AMENDING THE FY 2008-2011 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO MODIFY FUNDING ALLOCATIONS FOR SOUTHWEST CORRIDOR AND EAST METRO CORRIDOR REFINEMENT PLANS

Date: August 12, 2010

Prepared by: Tony Mendoza, x1726

BACKGROUND

In the Metropolitan Transportation Improvement Program (MTIP) adopted by Metro Council Resolution No. 07-3825 on August 17, 2007 (“FOR THE PURPOSE OF APPROVING THE 2008-2011 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA”), funding amounts were allocated for the Southwest Corridor Refinement Plan and the East Metro Corridor Refinement Plan, but specific amounts and sources were not identified in the MTIP. This resolution would amend the MTIP funding allocations for Southwest Corridor and East Metro Corridor Refinement Plans. Identification of funding amounts and sources for these two corridors will not affect the funding of other projects because the funds identified here are funds remaining from other completed projects in the vicinity of the projects and the funds identified for the Next Priority Corridor Study.

The 2035 Regional Transportation Plan (“RTP”), adopted on June 10, 2010 by Metro Council Ordinance No. 10-1241A, identifies five corridors where more analysis is needed through future corridor refinement plans. The Southwest Corridor Refinement Plan and the East Metro Corridor Refinement Plan are located in two of the five mobility corridor refinement planning areas identified in the RTP. The 2008- 2011 Metropolitan Transportation Improvement Program, adopted by Metro Council Resolution 07-3825 on August 16, 2007 (FOR THE PURPOSE OF APPROVING THE 2008-11 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA) (“2008-11 MTIP”), also identifies these two corridors; but at the time those resolutions were passed, funding and sources of funding had not yet been identified.

Proceeding forward with these two mobility corridor refinement plans was approved on January 14, 2010 by the Joint Policy Advisory Committee on Transportation (JPACT) and on February 25, 2010 by the Metro Council by Resolution No. 10-4119 (“FOR THE PURPOSE OF UPDATING THE WORK PROGRAM FOR CORRIDOR REFINEMENT PLANNING THROUGH 2020 AND PROCEEDING WITH THE NEXT TWO CORRIDOR REFINEMENT PLANS IN THE 2010-2013 REGIONAL TRANSPORTATION PLAN CYCLE”). Specifically, the following corridors were the subject of resolution No. 10-4119 and are the subject of the immediate resolution identifying funding amounts and sources:

1. Southwest Corridor Refinement Plan - Mobility Corridors #2 and # 20 (in the vicinity of I-5/Barbur Blvd, from Portland Central City to approximately the “Tigard Triangle” located at the intersection of I-5, OR 99W, and Hwy. 217); and
2. East Metro Corridor Refinement Plan - Mobility Corridor #15 (the segment in the East Metro area from I-84 southward to US 26 and the Springwater area).

These corridors emerged as top candidates for mobility corridor refinement planning based on a combination of technical factors and local support, urgency and readiness. Development of the technical and local support factors, as well as the rating and ranking of candidate corridors, was conducted in a months-long collaboration with regional partners, and is evidence of agreement on priorities for the next four years.

Refinement plans generally involve a combination of transportation and land use analysis, multiple local jurisdictions and facilities operated by multiple transportation providers. In addition to completing system planning requirements, these studies establish a work program for implementation of project development activities and identified capital projects and operational initiatives and projects for each corridor.

1. Southwest Corridor Refinement Plan

The Southwest Corridor Refinement Plan is being conducted in the context of an overall mobility corridor vision called the *Southwest Corridor Plan*. The Southwest Corridor Refinement Plan includes Mobility Corridors #2 and # 20 in the vicinity of I-5/Barbur Blvd, from Portland Central City southward to approximately the “Tigard Triangle”. The *Southwest Corridor Plan*, is comprised of the following elements including the refinement plan being identified for funding in the present resolution:

- Southwest Corridor Refinement Plan (Metro, ODOT & TriMet) (the subject of this resolution);
- Southwest Corridor Transit Alternatives Analysis (Metro, ODOT & TriMet);
- Barbur Concept Plan (City of Portland);
- 99W Land Use Plan (City of Tigard); and
- 99W Corridor Planning (City of Tualatin).

Within this effort, the land use and corridor planning efforts will help define the areas best served by high capacity transit for development and re-development. The Refinement Plan being identified for funding in the present resolution would identify a broad range of multi-modal transportation improvements to meet mobility needs, while the transit alternatives analysis would define how transit functions best meet the land use aspirations in the area. As a whole, the *Southwest Corridor Plan* will provide a decision-making structure for the land use and transportation authorities to agree to mutually beneficial investments or policies to leverage the highest value for public investment. Procedurally, decisions that emerge from these analyses will be incorporated into state, regional, and local plans through the various amendment processes established by law in this state.

2. East Metro Corridor Refinement Plan

This transportation corridor, or travel demand area, includes the major streets that provide access between Interstate 84 and U.S. Route 26/Powell Boulevard as well as the transit service and bicycle and pedestrian routes in the corridor. The East Metro Corridor Refinement Plan will determine how to improve connectivity between I-84 and Highway 26 for freight, regional through-trips, and local trips with improved access within and between existing neighborhoods. This includes mobility corridor #15, but the primary study area for improvement is within between I-84 southward to US 26 and the Springwater area.

Metro is beginning work with Multnomah County, Oregon Department of Transportation and the cities of Gresham, Troutdale, Fairview and Wood Village to further define the needs of and goals for this corridor. Other agencies and analyses from affected areas, including the Port of Portland, Damascus, Happy Valley, and Clackamas County shall be considered in the plan. The East Metro Corridor Refinement Plan analysis will address the comprehensive multimodal needs of the corridor in relation to employment, housing and land use goals, auto and freight movement, transit, and bicycle and pedestrian facilities.

Work Plans, Budget and Scope

This resolution identifies federal funding sources to initiate project work for FY 11. Neither the Southwest Corridor nor the East Metro corridor have finalized work plans, budgets or scope for FY11

with partnering agencies. The funding identified in this resolution is based on preliminary work plans developed by Metro. Final decisions on scope and budget will be completed collaboratively with partner jurisdictions. It is anticipated that the final scope changes will modify the total projected costs to complete these projects. Additionally, the MTIP does not identify all sources available to these projects, such as local contributions above local match requirements and other sources, such as ODOT Transportation Growth Management funds.

ANALYSIS/INFORMATION

1. Known Opposition

No known opposition.

2. Legal Antecedents

The Metro Council and JPACT must approve any substantive amendments to the MTIP.

Metro Council Resolution No. 10-4119: FOR THE PURPOSE OF UPDATING THE WORK PROGRAM FOR CORRIDOR REFINEMENT PLANNING THROUGH 2020 AND PROCEEDING WITH THE NEXT TWO CORRIDOR REFINEMENT PLANS IN THE 2010-2013 REGIONAL TRANSPORTATION PLAN CYCLE, adopted by the Metro Council on February 25, 2010.

Metro Council Resolution No. 07-3825: FOR THE PURPOSE OF APPROVING THE 2008-2011 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA adopted by the Metro Council on August 16, 2007.

Metro Council Resolution No. 10-4136: FOR THE PURPOSE OF CERTIFYING THAT THE PORTLAND METROPOLITAN AREA IS IN COMPLIANCE WITH FEDERAL TRANSPORTATION PLANNING REQUIREMENTS AND ADOPTING THE FY 2010-11 UNIFIED PLANNING WORK PROGRAM, adopted by the Metro Council on April 15, 2010.

Metro Council Ordinance No. 10-1241B: FOR THE PURPOSE OF AMENDING THE 2035 REGIONAL TRANSPORTATION PLAN (FEDERAL COMPONENT) AND THE 2004 REGIONAL TRANSPORTATION PLAN TO COMPLY WITH FEDERAL AND STATE LAW; TO ADD THE REGIONAL TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS ACTION PLAN, THE REGIONAL FREIGHT PLAN AND THE HIGH CAPACITY TRANSIT SYSTEM PLAN; TO AMEND THE REGIONAL TRANSPORTATION FUNCTIONAL PLAN AND ADD IT TO THE METRO CODE; TO AMEND THE REGIONAL FRAMEWORK PLAN; AND TO AMEND THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN, adopted on June 10, 2010.

Metro Council Resolution No. 10-4150A: FOR THE PURPOSE OF ADOPTING THE CONFORMITY DETERMINATION FOR THE 2035 REGIONAL TRANSPORTATION PLAN AND THE 2010-2013 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM, adopted on June 10, 2010.

3. Anticipated Effects

Adoption of this resolution will amend the MTIP to identify the costs and funding sources for the Southwest Corridor Refinement Plan and the East Metro Corridor Refinement Plan.

4. Budget Impacts

No Metro funds are obligated by this amendment to the MTIP.

RECOMMENDED ACTION

Approve Resolution No. 10-4177.

Exhibits

- Exhibit A: Existing Programming and Amended Programming Metropolitan Transportation Improvement Program funding source chart for the Southwest Corridor and East Metro Corridor Refinement Plans.

Agenda Item Number 5.4

Resolution No. 10-4178, For the Purpose of Submitting to the Metro Council a Proposal for the Investment of \$475,000 from the Metro Tourism Opportunity and Competitiveness Account (MTOCA) for Three Capital Projects at the Oregon Convention Center

RESOLUTIONS
COUNCILOR PARK

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUBMITTING TO) RESOLUTION NO. 10-4178
THE METRO COUNCIL A PROPOSAL FOR)
THE INVESTMENT OF \$475, 000 FROM THE) Introduced by Councilor Park
METRO TOURISM OPPORTUNITY AND
COMPETITIVENESS ACCOUNT (“MTOCA”)
FOR CAPITAL PROJECTS AT THE OREGON
CONVENTION CENTER.

WHEREAS, the 2010-11 adopted budget includes a transfer of \$475,000 from Metro general fund MTOCA to the MERC Fund; and

WHEREAS, in Resolution No. 04-3494A, the Metro Council stated its desire that annual requests for appropriations from MTOCA be set out for discussion, consideration, and action in a manner separate and discrete from general budget process; and continue with explanatory statements; and

WHEREAS, at its public meeting on August 4, 2010 the MERC Commission approved Resolution 10-16 recommending to the Metro Council, a request for phase II of the moveable air-wall refurbishment replacement and maintenance project (\$220,000), phase II of the Variable Air Volume (VAV) controllers and CO2 sensor upgrade (\$105,000), add automatic hand dryers to all restrooms (\$150,000) for a total amount of \$475,000, funds included in the FY 2010-11 budget from the MTOCA account.

BE IT RESOLVED that the Metro Council approves the recommendation of an expenditure of \$475,000 previously budgeted during the general FY 2010-11 budget process of \$220,000 for phase II of the moveable air-wall refurbishment replacement and maintenance project, \$105,000 for phase II of the Variable Air Volume (VAV) controllers and CO2 sensor upgrade, \$150,000 to add automatic hand dryers to all restrooms for the Oregon Convention Center, with the MTOCA funds.

ADOPTED by the Metro Council this 12th day of August, 2010.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO.10-4178 FOR THE PURPOSE OF SUBMITTING TO THE METRO COUNCIL A PROPOSAL FOR THE INVESTMENT OF \$475,000 FROM THE METRO TOURISM OPPORTUNITY AND COMPETITIVENESS ACCOUNT (“MTOCA”) FOR CAPITAL PROJECTS AT THE OREGON CONVENTION CENTER

Date: August 4, 2010

Prepared by: Cynthia Hill/Jeff Blosser

BACKGROUND

The Metro Council has approved a Policy and Guidelines for establishing a process and criteria for proposed investments from the Metro Tourism and Opportunity and Competitiveness Account. This resolution reflects the recommendation of the MERC Commission as stated in Exhibit A, MERC approved Resolution 10-16:

The three projects were identified as needed capital projects in the 2009-10 budget process. Due to available funding, the moveable air-wall retrofit/refurbishment and the variable air volume (VAV) controllers and CO2 sensors upgrade projects were phased over two fiscal years. FY 2010-11 is the second year of the phased projects. The entire scope of work needed to complete each project was bid out in one package, and contractors were selected through an RFB process last fiscal year, and contracted to perform all of the necessary work. Both projects are on schedule and progressing as planned. MTOCA funds need to be approved and assigned to these projects in the current fiscal year to keep the work moving forward to completion. The Hand Dryer project would be bid out and work completed in this fiscal year.

Goal #1: Targeted capital investments in the Oregon Convention Center’s physical plant that yield demonstrable marketing advantages.

- **Strategy A: Green Building (LEEDS) Certification.**
 - The Hand Dryer project, which installs hand dryers in all restrooms at the Oregon Convention Center (OCC) was originally budgeted in FY 2009-10, however due to available funding, it was carried forward into FY 2010-11. The Hand Dryers will reduce the purchasing of paper towels and save event related labor costs to service the restrooms.
 - The Variable Air Volume (VAV) Controls and CO2 Sensor upgrade will reduce electrical consumption, reduce service labor on the equipment and help towards the LEED re-certification of the Oregon Convention Center.

Goal #3 Maintain the Oregon Convention Center in First Class Condition

- **Strategy A – Ensure sufficient funds for basic OCC cleaning, maintenance and event service.**
 - The Moveable Air-Wall project is strictly geared toward protecting current assets and making sure OCC provides superior customer service to our meeting room, ballroom and exhibit hall users wanting to divide their spaces for the program needs.

There is an appropriation of \$475,000 included in the FY 2010-11 Adopted Budget. Exhibit “A” includes a recap of the MTOCA project funding and actual expenditures by year through June 30, 2010.

<u>Fiscal Year</u>	<u>Resources</u>	<u>Uses</u>	<u>Balance</u>
Transfer from Metro FY 2004-05	\$ 504,000	\$ 28,642	
Transfer from Metro, adjust to prior year	36,143		
Transfer from Metro FY 2005-06	636,208	348,126	
Transfer from Metro FY 2006-07	652,113	1,140,551	
Transfer from Metro FY 2007-08	669,720	980,865	
Transfer from Metro FY 2008-09 (includes PY Adjustment)	746,146	462,656	
Transfer from Metro FY 2009-10	187,252	257,049	
Totals	\$3,431,582	\$3,217,889	\$213,693

Venue capital projects and funding are presented to the MERC Budget Committee, MERC Commission and Metro Council for consideration during the general budget development process. Staff will look at options to include the MTOCA project approval process within the budget development process and bring recommendations back to Council for consideration.

ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** Resolution No. 04-3494A, the Metro Council stated its desire that annual requests for appropriations from MTOCA be set out for discussion, consideration, and action in a manner separate and discrete from general budget process; and continue with explanatory statements.
3. **Anticipated Effects** Enhance the overall ability for OCC Staff to keep the building in first class condition for our clients, reduce costs of the operation and improve the functionality of the facility for events.
4. **Budget Impacts** See attached Metropolitan Exposition Recreation Commission Staff Report.

RECOMMENDED ACTION

Staff recommends that Council adopt Resolution 10-4178, approving the expenditure \$475,000 as currently appropriated as follows: \$220,000 for phase II of the moveable air-wall refurbishment replacement and maintenance project, \$105,000 for phase II of the Variable Air Volume (VAV) controllers and CO2 sensor upgrade, \$150,000 to add automatic hand dryers to all restrooms for the Oregon Convention Center, with MTOCA funds.

METROPOLITAN EXPOSITION-RECREATION COMMISSION

Resolution No. 10-16

For the purpose of submitting to the Metro Council a proposal for the investment of \$475,000 from the Metro Tourism Opportunity and Competitiveness Account (“MTOCA”) for three capital projects at the Oregon Convention Center. These projects are 1) Phase II of the Moveable Air-Wall Project for \$220,000; 2) Phase II of VAV Controllers and CO2 Sensors on AHUs LEED Certification \$105,000; and 3) Hand Dryer Installation in the Restrooms for \$150,000.

WHEREAS, the FY 2010-11 adopted budget includes a transfer of \$475, 000 from Metro general fund MTOCA account to the MERC Fund; and

WHEREAS, in Resolution No. 04-3494A, the Metro Council stated its desire that annual requests for appropriations from MTOCA be set out for discussion, consideration, and action in a manner separate and discrete from general budget process; and

WHEREAS, the Commission must approve and recommend to the Metro Council any requests from the MTOCA fund; and

Whereas, the Commission desires to request funds for phase II of the moveable air-wall refurbishment replacement and maintenance project (\$220,000), phase II of the VAV controllers and CO2 sensor upgrade (\$105,000), add automatic hand dryers to all restrooms (\$150,000) for a total amount of \$475,000 funds included in the FY 2010-11 budget from the MTOCA account.

BE IT THEREFORE RESOLVED that MERC approves the recommendation to the Metro Council of an expenditure of \$475,000 from the MTOCA, previously budgeted during the general FY 2010-11 budget process, and respectfully requests that the Metro Council approve the expenditure of \$475,000 from the MTOCA account for three capital projects at the Oregon Convention Center. These projects are: 1)Phase II of the Moveable Air-Wall Project for \$220,000; 2) VAV Controllers and CO2 Sensors on AHUs LEED Certification for \$105,000; and 3) Hand Dryer Installation in the Restrooms for \$150,000.

Passed by the Commission on August 4, 2010.

Chair

Approved as to Form:
Daniel B. Cooper, Metro Attorney

Secretary-Treasurer

By: _____
Nathan A. Schwartz Sykes
Senior Attorney

MERC Staff Report

Agenda Item/Issue: For the purpose of submitting to the Metro Council a proposal for the investment of \$475,000 from the Metro Tourism Opportunity and Competitiveness Account (MTOCA) for three separate capital projects at the Oregon Convention Center. These projects are 1) Phase II of the Moveable Air-Wall Project for \$220,000; 2) Phase II of VAV Controllers and CO2 Sensors on AHUs LEED Certification \$105,000; and 3) Hand Dryer Installation in the Restrooms for \$150,000.

Resolution No.: 10-16

Presented By: Jeffrey A. Blosser

Date: August 4, 2010

Background and Analysis: The three projects were identified as needed capital projects in the 2009-10 budget process, but due to available funding, the Moveable Air-Wall retrofit/refurbishment and the VAV Controllers and CO2 Sensors upgrade projects were phased over two fiscal years. The entire scope of work needed to complete each project was bid out in one package and contractors were selected through an RFB process last fiscal year and contracted to perform all of the necessary work. Both projects are on schedule and progressing as planned. MTOCA funds need to be approved and assigned to these approved projects now in this current fiscal year of 2010-11 to keep the work moving forward to completion. The Hand Dryer project was carried into this fiscal year again due to the shortfalls in the funding for this type of project and would be bid out and work to be completed in this fiscal year. The Hand Dryers will reduce the purchasing of paper towels and save event related labor costs to service the restrooms. The VAV Controls will reduce electrical consumption, reduce service labor on the equipment and help towards the LEED re-certification of the Oregon Convention Center. The Moveable Air-Wall project is strictly geared towards protecting current assets and making sure OCC provides superior customer service to our meeting room, ballroom and exhibit hall users wanting to divide their spaces for the program needs. These three projects meet the criteria established by Metro for using MTOCA funds and were identified as the funding source for these needed projects. All projects were approved through the budgeting process by the MERC Commission and the Metro Council.

Venue capital projects and funding are presented to the MERC Budget Committee, MERC Commission and Metro Council for consideration during the general budget development process. Staff will look at options to include the MTOCA project approval process within the budget development process and bring recommendations back to Council for consideration.

MTOCA Year to Date as of June 30, 2010

	<u>Resources</u>	<u>Uses</u>	<u>Balance</u>
Excise Tax from Metro 2004-05 FY	\$ 504,000	\$ 28,642	
Excise Tax from Metro, adjust to actual collections 2004-05 FY	36,143		
Excise Tax from Metro 2005-06 FY	636,208	348,126	
Excise Tax from Metro 2006-07 FY	652,113	1,140,551	
Excise Tax from Metro 2007-08 FY	669,720	980,865	
Excise Tax from Metro 2008-09 FY (includes PY Adjustment)	746,146	462,656	
Excise Tax from Metro 2009-10	187,252	257,049	
	<hr/>		
Totals	<u>\$3,431,582</u>	<u>\$3,217,889</u>	<u>\$213,693</u>

Fiscal Impact: All three projects have been approved by the MERC Commission and the Metro Council in the budget process and are included in the 2010-11 fiscal year budget. There are no additional costs for these projects.

Recommendation: Staff recommends that the Metropolitan Exposition-Recreation Commission adopt Resolution 10-16 and submit the Capital Project items of the Hand Dryer Installation, VAV Controls and CO2 sensors installation and phase II of the Moveable Air-Wall refurbishment projects to Metro Council to be approved with a total cost of \$475,000, funded from the Metro Tourism Opportunity and Competitiveness Account as adopted in the 2010-11 budget.

Metro Tourism Opportunity and Competitiveness Account

Oregon Convention Center

as of June 30, 2010

<u>Resources</u>	<u>Amount</u>
Excise Tax from Metro 2004-05 FY	504,000
Excise Tax from Metro, adjust to actual collections 2004-05 FY	36,143
Excise Tax from Metro 2005-06 FY	636,208
Excise Tax from Metro 2006-07 FY	652,113
Excise Tax from Metro 2007-08 FY	669,720
Excise Tax from Metro 2008-09 FY (includes PY Adjustment)	746,146
Excise Tax from Metro 2009-10 FY	187,252
Total Resources	3,431,582
 <u>Project Expenditures</u>	
Green Building LEED Certification (Goal 1 Strategy A)	
Retrofit existing building to meet LEED standards - Metro Ordinance 04-1064	
Rebuild chiller units and ventilation noise abatement	430,544
Replace Toilets/Urinals-Sloan uppercut flush valve	69,479
Variable Frequency Drives	129,148
Green Building LEED Certification	60,945
Subtotal Green Building LEED Certification	690,116
 Priority Audio Visual Control Room - original building (Goal 1 Strategy B)	
Replace analog system in original building due to failure and lack of replacement parts. - Metro Resolution 05-3613	
	1,138,348
Subtotal Audio Visual Control Room Project	1,138,348
 Headquarter Hotel (Goal #1 Strategy C)	
2007-08 MTOCA Funding Developer Agreement	669,720
2008-09 MTOCA Funding HQH project costs	462,656
2009-10 MTOCA Funding HQH carryover project costs	4,750
Subtotal Headquarter Hotel Year to Date	1,137,126
 Maintain the Oregon Convention Center in First Class Condition (Goal #3 Strategy A)	
Year one of two year project to refurbish Divider Air Walls (\$340,000)	252,299
Lighting & Ballast Replacement /retrofit (Grant match \$125,000)	-
Subtotal 2009-10 Priorities	252,299
 Total Project Expenditures	 3,217,889
 Ending Balance (Resources less Total Project Expenditures)	 213,693

MTOCA Goals

Goal 1	Targeted capital investments in the Oregon Convention Center's physical plant that yield demonstrable marketing advantages. Strategy A -- Green Building LEED Certification Strategy B -- OCC Operational Advantage Strategy C -- Headquarters Hotel Related Investments
Goal 2	Assist the Visitor Development Fund with Oregon Convention Center Facility Costs. Strategy A -- Offset Facility Costs when VDI allocation not fully funded
Goal 3	Maintain the Oregon Convention Center in First Class Condition Strategy A -- Ensure sufficient funds for basic OCC cleaning, maintenance, and event service

Agenda Item Number 5.5

Resolution No. 10-4179, For the Purpose of Amending the FY 2010
Unified Planning Work Program (UPWP) to Modify Funding
Allocations for Southwest Corridor and East Metro Corridor
Refinement Plans

RESOLUTIONS
COUNCILOR COLLETTE

Metro Council Meeting
Thursday, August 12, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY) RESOLUTION NO. 10-4179
2010 UNIFIED PLANNING WORK PROGRAM)
(UPWP) TO MODIFY FUNDING) Introduced by Councilor Collette
ALLOCATIONS FOR SOUTHWEST CORRIDOR)
AND EAST METRO CORRIDOR REFINEMENT)
PLANS)

WHEREAS, the FY 2010-11 Unified Planning Work Program (UPWP) was adopted by the Metro Council on April 15, 2010 by Resolution No. 10-4136 (“FOR THE PURPOSE OF CERTIFYING THAT THE PORTLAND METROPOLITAN AREA IS IN COMPLIANCE WITH FEDERAL TRANSPORTATION PLANNING REQUIREMENTS AND ADOPTING THE FY 2010-11 UNIFIED PLANNING WORK PROGRAM”); the FY 2010-11 UPWP describes all Federally-funded transportation planning activities for the Portland-Vancouver metropolitan area to be conducted in FY 2010 to be carried out by Metro, Southwest Washington Regional Transportation Council, Tualatin Hills Parks & Recreation, the cities and counties of Clackamas County, Multnomah County, Washington County, TriMet, and Oregon Department of Transportation; and

WHEREAS, approval of the budget elements of the FY 2010 UPWP is required to receive federal transportation planning funds; and

WHEREAS, although the Southwest Corridor and East Metro Corridor Refinement Plans are included in the work element of the FY 2010 UPWP, in the 2035 Regional Transportation Plan (“RTP”), adopted on June 10, 2010 via Metro Council Ordinance No. 10-1241B (“FOR THE PURPOSE OF AMENDING THE 2035 REGIONAL TRANSPORTATION PLAN (FEDERAL COMPONENT) AND THE 2004 REGIONAL TRANSPORTATION PLAN TO COMPLY WITH FEDERAL AND STATE LAW; TO ADD THE REGIONAL TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS ACTION PLAN, THE REGIONAL FREIGHT PLAN AND THE HIGH CAPACITY TRANSIT SYSTEM PLAN; TO AMEND THE REGIONAL TRANSPORTATION FUNCTIONAL PLAN AND ADD IT TO THE METRO CODE; TO AMEND THE REGIONAL FRAMEWORK PLAN; AND TO AMEND THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN”) and in the FY 2008-2011 Metropolitan Transportation Improvement Program (“MTIP”) adopted by the Metro Council on August 16, 2007 via Metro Council Resolution No. 07-3825 (“FOR THE PURPOSE OF APPROVING THE 2008-2011 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN ARE”) the sources and costs for those refinement plans had not yet been identified at the time the UPWP, the RTP, and the MTP were adopted; and

WHEREAS, the funding sources and costs have since been further developed and identified for those two corridor refinement plans; and

WHEREAS, the East Metro Corridor and Southwest Corridor budgets are still developing and this resolution identifies available funds at this time; and

WHEREAS, on August 12, 2010 this resolution was approved by the Joint Policy Advisory Committee on Transportation (“JPACT”) for recommendation to the Metro Council; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to amend the FY 2010 UPWP to identify funding amounts and sources allocated through the Metropolitan Transportation Improvement Program (“MTIP”) process to the UPWP’s Southwest Corridor and East

Metro Corridor Refinement Plans as shown in the attached Exhibit A and to modify the FY 2010-11 Unified Planning Work Program Funding Summary as shown in Exhibit B.

ADOPTED by the Metro Council this 12 day of August, 2010

David Bragdon, Council President

Approved as to Form:

Alison Kean Campbell, Deputy Metro Attorney

Exhibit A to Resolution No. 10-4179

The cost and funding source charts below replace the charts found on page 57 for Southwest Corridor and page 60 for East Metro FY 2010 Unified Planning Work Program, adopted on April 15, 2010. This resolution does not alter the Southwest Corridor Refinement Plan narrative on page 55-57 and the East Metro narrative on pages 58-60.

**Southwest Corridor- Amended Chart on page 57:
Cost and Funding Sources:**

Requirements:		Resources:	
Personal Services	\$ TBD	11 Next Corridor STP (FFY10) 17141	\$ 150,746
		1-5/99W Tualatin-Sherwood Connector (Concept Plan) 15669	\$ 400,000
		I-5/OR 99W Tualatin-Sherwood Connector 13301	\$ 300,000
Interfund Transfers	\$ TBD	ODOT Support Funds	\$ 35,000
Materials & Services	\$ TBD	Metro/Local Match	\$ 97,372
Consultant			
Miscellaneous			
Computer	\$ TBD		
<hr/>		<hr/>	
<i>TOTAL</i>	\$ 983,118	<i>TOTAL</i>	\$ 983,118
<hr/>		<hr/>	

Full-Time Equivalent Staffing

Regular Full-Time FTE	TBD
<hr/>	
<i>TOTAL</i>	TBD
<hr/>	

**East Metro- Amended Chart on page 60:
Cost and Funding Sources:**

Requirements:

Personal Services \$ TBD

Interfund Transfers \$ TBD

Materials & \$ TBD
 Services

 Consultant
 Miscellaneous
 Computer \$ TBD

TOTAL \$ **691,902**

Resources:

Next Corridor \$ 470,098
 STP c/o
 14564/14565

 \$ 150,746
 11 Next
 Corridor STP
 (FFY10)15546

Metro/Local \$ 71,058
 Match

TOTAL \$ **691,902**

**Full-Time
 Equivalent
 Staffing**

Regular Full-Time TBD
 FTE

TOTAL **TBD**

Exhibit B to Resolution No. 10-4179

The table below is the modified FY 2010-11 Unified Planning Work Program Funding Summary that includes the modified funding sources for the Southwest Corridor and East Metro Corridor Refinement Plans.

METRO
FY 2010-11 Unified Planning Work Program Funding Summary -- AMENDED

8/12/10

ODOT Key #	11 PL ODOT ¹	11 STP* (FFY 10) Metro	09 STP* (FFY 08) Metro	STP Household Survey -	11 ODOT Support Funds	11 Sec 5303*	10 Sec 5303*	11 TriMet Support	FTA Streetcar OR-39-0002	Next Corridor STP c/o	11 Next Corridor STP (FFY 10)	I-5/99W Tualatin- Sherwood Connector (Concept	I-5/OR 99W Tualatin- Sherwood Connector	CMAQ RTO OR95-X010 14441, 14442, 14443	Other Anticipated Funds	Metro/Local Match	Total
		15544	14386	TBD					14570	14564, 14565	15546, 17141	15669	13301				
METRO																	
Transportation Planning																	
1	Regional Transportation Plan	294,931	69,808	5,389	-	77,173	200,359	60,467	58,941	-	-	-	-	-	73,163	73,813	914,044
2	Best Design Practices in Transportation	17,821	90,554	16,773	-	-	26,950	7,244	-	-	-	-	-	-	-	20,833	180,175
3	Making the Greatest Place - Transportation Support	2,267	-	-	-	-	32,607	12,000	16,792	-	-	-	-	-	-	11,152	74,818
4	Transportation System Management	144,301	9,701	-	-	36,230	-	-	11,206	-	-	-	-	-	-	1,110	202,548
5	Regional Travel Options	-	-	-	-	-	-	-	-	-	-	-	-	1,888,422	-	153,104	2,041,526
6	Metropolitan Transportation Improvement Prog	357,666	96,101	4,058	-	7,035	24,081	57,995	90,478	-	-	-	-	-	35,000	31,983	704,397
7	Environmental Justice and Title VI	31,403	-	-	-	-	-	-	-	-	-	-	-	-	-	-	31,403
8	Regional Transportation Plan Financing	44,885	-	-	-	-	-	-	-	-	-	-	-	-	41,113	-	85,998
9	Regional Freight Plan	-	77,250	-	-	-	-	-	-	-	-	-	-	-	-	8,842	86,092
Research & Modeling																	
1	Model Development Program	441,582 ²	122,499	2,053	350,000	3,228	31,201	-	4,325	-	-	-	-	-	430,690	78,318	1,463,898
2	System Monitoring	142,678	-	-	-	-	-	-	-	-	-	-	-	-	-	-	142,678
3	Technical Assistance	-	31,265	-	-	21,369	-	-	5,758	-	-	-	-	-	-	7,609	66,001
4	Economic, Demographic and Land Use Forecasting	145,972	14,509	-	-	-	19,336	17,443	-	-	-	-	-	-	201,987	129,653	528,900
5	GIS Mapping and Land Information	32,929	-	-	-	15,000	68,505	-	37,500	-	-	-	-	-	845,183	719,150	1,718,267
Administrative Services																	
1	Grants Management and MPO Coordination	534,233	447,223	105,799	-	16,681	48,938	10,667	-	-	-	-	-	-	89,150	218,796	1,471,487
Corridor Planning & Development																	
1	Streetcar Methods for Station Planning & Access	-	-	-	-	-	-	-	-	132,914	-	-	-	-	-	33,229	166,143
2	Bi-State Coordination	-	22,679	5,488	-	-	-	-	-	-	-	-	-	-	-	3,224	31,391
3	Project Initiatives	74,684	-	13,484	-	13,284	29,775	693	-	-	-	-	-	-	-	9,160	141,080
4	Southwest Corridor Refinement Plan	-	-	-	-	35,000	-	-	-	-	150,746	400,000	300,000	-	-	97,372	983,118
5	East Metro Corridor Refinement Plan	-	-	-	-	-	-	-	-	470,098	150,746	-	-	-	-	71,058	691,902
	Metro Subtotal	2,265,352	981,589	153,044	350,000	225,000	481,752	166,509	225,000	132,914	470,098	301,492	400,000	300,000	1,888,422	1,716,286	11,725,866
	GRAND TOTAL	2,265,352	981,589	153,044	350,000	225,000	481,752	166,509	225,000	132,914	470,098	301,492	400,000	300,000	1,888,422	1,716,286	11,725,866

*Federal funds only, no match included.

¹ PL funds include \$499,441 carryover from FY09.

² In FY 2008-09, ODOT provided \$241,500 of STP for the Household Survey to allow Metro to carryover the equal amount of PL funds in FY 2010-11.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4179, FOR THE PURPOSE OF AMENDING THE FY 2010 UNIFIED PLANNING WORK PROGRAM (UPWP) TO MODIFY FUNDING ALLOCATIONS FOR SOUTHWEST CORRIDOR AND EAST METRO CORRIDOR REFINEMENT PLANS

Date: August 12, 2010

Prepared by: Tony Mendoza, x1726

BACKGROUND

On April 15, 2010, the Metro Council adopted the FY 2010-11 Unified Planning Work Program (“UPWP”) via Resolution No. 10-4136 (“FOR THE PURPOSE OF CERTIFYING THAT THE PORTLAND METROPOLITAN AREA IS IN COMPLIANCE WITH FEDERAL TRANSPORTATION PLANNING REQUIREMENTS AND ADOPTING THE FY 2010-11 UNIFIED PLANNING WORK PROGRAM”). Although the Southwest Corridor Refinement Plan and the East Metro Corridor Refinement Plan were included in the FY 2010-11 Unified Planning Work Program (“UPWP”) adopted in the April 15, 2010 Resolution, specific costs and funding sources had not yet been identified at that time for those corridors.

Funding sources for initiating both the Southwest Corridor Refinement Plan and the East Metro Corridor Refinement Plan have now been identified. This resolution would modify the UPWP to state those funding sources and amounts. Identification of funding amounts and sources for these two corridors will not affect the funding of other projects because the funds identified here are funds remaining from other completed projects or are funds already identified as Next Priority Corridor Study funds.

The 2035 Regional Transportation Plan (“RTP”), adopted on June 10, 2010 by Metro Council Ordinance No. 10-1241A, identifies five corridors where more analysis is needed through future corridor refinement plans. The Southwest Corridor Refinement Plan and the East Metro Corridor Refinement Plan are located in two of the five mobility corridor refinement planning areas identified in the RTP. The 2008- 2011 Metropolitan Transportation Improvement Program, adopted by Metro Council Resolution 07-3825 on August 16, 2007 (FOR THE PURPOSE OF APPROVING THE 2008-11 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA) (“2008-11 MTIP”), also identifies these two corridors; but at the time those resolutions were passed, funding and sources of funding had not yet been identified.

Proceeding forward with these two mobility corridor refinement plans was approved on January 14, 2010 by the Joint Policy Advisory Committee on Transportation (JPACT) and on February 25, 2010 by the Metro Council by Resolution No. 10-4119 (“FOR THE PURPOSE OF UPDATING THE WORK PROGRAM FOR CORRIDOR REFINEMENT PLANNING THROUGH 2020 AND PROCEEDING WITH THE NEXT TWO CORRIDOR REFINEMENT PLANS IN THE 2010-2013 REGIONAL TRANSPORTATION PLAN CYCLE”). Specifically, the following corridors were the subject of resolution No. 10-4119 and are the subject of the immediate resolution identifying funding amounts and sources:

1. Southwest Corridor Refinement Plan - Mobility Corridors #2 and # 20 (in the vicinity of I-5/Barbur Blvd, from Portland Central City to approximately the “Tigard Triangle” located at the intersection of I-5, OR 99W, and Hwy. 217); and
2. East Metro Corridor Refinement Plan - Mobility Corridor #15 (the segment in the East Metro area from I-84 southward to US 26 and the Springwater area).

These corridors emerged as top candidates for mobility corridor refinement planning based on a combination of technical factors and local support, urgency and readiness. Development of the technical and local support factors, as well as the rating and ranking of candidate corridors, was conducted in a months-long collaboration with regional partners, and is evidence of agreement on priorities for the next four years.

Refinement plans generally involve a combination of transportation and land use analysis, multiple local jurisdictions and facilities operated by multiple transportation providers. In addition to completing system planning requirements, these studies establish a work program for implementation of project development activities and identified capital projects and operational initiatives and projects for each corridor.

1. Southwest Corridor Refinement Plan

The Southwest Corridor Refinement Plan is being conducted in the context of an overall mobility corridor vision called the *Southwest Corridor Plan*. The Southwest Corridor Refinement Plan includes Mobility Corridors #2 and # 20 in the vicinity of I-5/Barbur Blvd, from Portland Central City southward to approximately the “Tigard Triangle”. The *Southwest Corridor Plan*, is comprised of the following elements including the refinement plan being identified for funding in the present resolution:

- Southwest Corridor Refinement Plan (Metro, ODOT & TriMet) (the subject of this resolution);
- Southwest Corridor Transit Alternatives Analysis (Metro, ODOT & TriMet);
- Barbur Concept Plan (City of Portland);
- 99W Land Use Plan (City of Tigard); and
- 99W Corridor Planning (City of Tualatin).

Within this effort, the land use and corridor planning efforts will help define the areas best served by high capacity transit for development and re-development. The Refinement Plan being identified for funding in the present resolution would identify a broad range of multi-modal transportation improvements to meet mobility needs, while the transit alternatives analysis would define how transit functions best meet the land use aspirations in the area. As a whole, the *Southwest Corridor Plan* will provide a decision-making structure for the land use and transportation authorities to agree to mutually beneficial investments or policies to leverage the highest value for public investment. Procedurally, decisions that emerge from these analyses will be incorporated into state, regional, and local plans through the various amendment processes established by law in this state.

2. East Metro Corridor Refinement Plan

This transportation corridor, or travel demand area, includes the major streets that provide access between Interstate 84 and U.S. Route 26/Powell Boulevard as well as the transit service and bicycle and pedestrian routes in the corridor. The East Metro Corridor Refinement Plan will determine how to improve connectivity between I-84 and Highway 26 for freight, regional through-trips, and local trips with improved access within and between existing neighborhoods. This includes mobility corridor #15, but the primary study area for improvement is within between I-84 southward to US 26 and the Springwater area.

Metro is beginning work with Multnomah County, Oregon Department of Transportation and the cities of Gresham, Troutdale, Fairview and Wood Village to further define the needs of and goals for this corridor. Other agencies and analyses from affected areas, including the Port of Portland, Damascus, Happy

Valley, and Clackamas County shall be considered in the plan. The East Metro Corridor Refinement Plan analysis will address the comprehensive multimodal needs of the corridor in relation to employment, housing and land use goals, auto and freight movement, transit, and bicycle and pedestrian facilities.

Work Plans, Budget and Scope

This resolution identifies federal funding sources to initiate project work for FY 11. Neither the Southwest Corridor nor the East Metro corridor have finalized work plans, budgets or scope for FY11 with partnering agencies. The funding identified in this resolution is based on preliminary work plans developed by Metro. Final decisions on scope and budget will be completed collaboratively with partner jurisdictions. It is anticipated that the final scope changes will modify the total projected costs to complete these projects. Additionally, the UPWP does not identify all sources available to these projects, such as local contributions above local match requirements and other sources, such as ODOT Transportation Growth Management funds, are not reported specifically to each project in the UPWP.

ANALYSIS/INFORMATION

1. Known Opposition

No known opposition.

2. Legal Antecedents

Metro Council Resolution No. 10-4119: FOR THE PURPOSE OF UPDATING THE WORK PROGRAM FOR CORRIDOR REFINEMENT PLANNING THROUGH 2020 AND PROCEEDING WITH THE NEXT TWO CORRIDOR REFINEMENT PLANS IN THE 2010-2013 REGIONAL TRANSPORTATION PLAN CYCLE, adopted by the Metro Council on February 25, 2010.

Metro Council Resolution No. 10-4136: FOR THE PURPOSE OF CERTIFYING THAT THE PORTLAND METROPOLITAN AREA IS IN COMPLIANCE WITH FEDERAL TRANSPORTATION PLANNING REQUIREMENTS AND ADOPTING THE FY 2010-11 UNIFIED PLANNING WORK PROGRAM, adopted by the Metro Council on April 15, 2010.

Metro Council Resolution No. 07-3825: FOR THE PURPOSE OF APPROVING THE 2008-11 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA, adopted by the Metro Council on August 16, 2007.

Metro Council Resolution No. 09-4052: FOR THE PURPOSE OF ACCEPTING THE REGIONAL HIGH CAPACITY TRANSIT SYSTEM TIERS AND CORRIDORS, SYSTEM EXPANSION POLICY FRAMEWORK AND POLICY AMENDMENTS FOR ADDTION TO THE 2035 REGIONAL TRANSPORTATION PLAN, STATE COMPONENT, adopted by Metro Council on July 9, 2009.

Metro Council Ordinance No. 10-1241B: FOR THE PURPOSE OF AMENDING THE 2035 REGIONAL TRANSPORTATION PLAN (FEDERAL COMPONENT) AND THE 2004 REGIONAL TRANSPORTATION PLAN TO COMPLY WITH FEDERAL AND STATE LAW; TO ADD THE REGIONAL TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS ACTION PLAN, THE REGIONAL FREIGHT PLAN AND THE HIGH CAPACITY TRANSIT SYSTEM PLAN; TO AMEND THE REGIONAL TRANSPORTATION FUNCTIONAL PLAN AND ADD IT TO THE METRO CODE; TO AMEND THE REGIONAL FRAMEWORK PLAN; AND TO AMEND THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN, adopted on June 10, 2010.

Metro Council Resolution No. 10-4150A: FOR THE PURPOSE OF ADOPTING THE CONFORMITY DETERMINATION FOR THE 2035 REGIONAL TRANSPORTATION PLAN AND THE 2010-2013 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM, adopted on June 10, 201

3. Anticipated Effects

Adoption of this resolution will transfer funding that had remained from other completed projects and the Next Priority Corridor Study and identify other funds that had not previously been identified to fund these two corridor refinement plans. The amended UPWP will identify the costs and funding sources for the Southwest Corridor Refinement Plan and the East Metro Corridor Refinement Plan.

4. Budget Impacts

No Metro funds are obligated by this amendment to the UPWP.

RECOMMENDED ACTION

Approve Resolution No. 10-4179.

Exhibits

- Exhibit A: Modified FY 2010 Unified Planning Work Program cost and funding source chart for the Southwest Corridor and East Metro Corridor Refinement Plans.
- Exhibit B: FY 2010-11 Unified Planning Work Program Funding Summary that includes modified funding for the Southwest Corridor and East Metro Corridor Refinement Plans.