

# Metro | Agenda

Meeting: Metro Council  
Date: Thursday, November 18, 2010  
Time: 2 p.m.  
Place: Council Chambers

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## CALL TO ORDER AND ROLL CALL

1. **INTRODUCTIONS**
2. **CITIZEN COMMUNICATIONS**
3. **AUDITOR COMMUNICATION**
  - 3.1 Annual Report and Ethics Line Report
4. **OREGON ZOO AZA AWARD PRESENTATION**
5. **CONSENT AGENDA**
  - 5.1 Consideration of the Minutes for November 4, 2010
  - 5.2 **Resolution No. 10-4206**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to American Sanitary Service, Inc. for Delivery of Putrescible Waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center.
  - 5.3 **Resolution No. 10-4207**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Crown Point Refuse, Inc. for Delivery of Putrescible Waste to the Wasco County Landfill for Disposal.
  - 5.4 **Resolution No. 10-4208**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Willamette Resources, Inc. for Delivery of Putrescible Waste to the Coffin Butte Landfill for Disposal.
  - 5.5 **Resolution No. 10-4209**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Arrow Sanitary Service, Inc. for Delivery of Putrescible Waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center.
  - 5.6 **Resolution No. 10-4213**, For the Purpose of Amending the 2010 Council Organizing Resolution, Resolution No. 10-4103.
  - 5.7 **Resolution No. 10-4215**, For the Purpose of Confirming the Council President's Appointments and Reappointment to the Transportation Policy Alternatives Committee (TPAC).

**Flynn**  
**Smith**  
**Jim Maddy, AZA**

**6. ORDINANCES – SECOND READING**

- 6.1 **Ordinance No. 10-1249**, For the Purpose of Amending the FY 2010-11 Budget and Appropriations Schedule and the FY 2010-11 Through 2014-15 Capital Improvement Plan, and Declaring an Emergency. **Park**

*Public Hearing*

**7. RESOLUTIONS**

- 7.1 **Resolution No. 10-4201**, For the Purpose of Amending the 2008-11 Metropolitan Transportation Improvement Program (MTIP) to Include the Funding of Land Acquisition, Construction and Related Costs to Complete the Portland-Milwaukie Light Rail Project. **Liberty**
- 7.2 **Resolution No. 10-4210**, For the Purpose of Amending the 2010-13 Metropolitan Transportation Improvement Program (MTIP) to Transfer Funds from the Greenburg Road: Tiedeman to Hwy 217 Project to the Walnut Street: Tiedeman To 116th Project. **Hosticka**
- 7.3 **Resolution No. 10-4211**, For the Purpose of Amending the 2010-13 Metropolitan Transportation Improvement Program (MTIP) to Delete the Washington Square Regional Center Trail: Hall to Greenburg Project and Substitute the Fanno Creek Trail: Main to Hall Project. **Hosticka**
- 7.4 **Resolution No. 10-4214**, For the Purpose of Adopting Metro's MWESB Contracting Recommendations and Authorizing the Metro Chief Operating Officer to Implement the Recommendations. **Liberty**

**8. CHIEF OPERATING OFFICER COMMUNICATION**

**9. COUNCILOR COMMUNICATION**

**ADJOURN**

**Television schedule for November 18,2010 Metro Council meeting**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, WA</b>          Channel 11 – Community Access Network  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  <i>Date:</i> 2 p.m. Thursday, Nov. 18 (Live)</p>	<p><b>Portland</b>          Channel 30 (CityNet 30) – Portland Community Media  <i>Web site:</i> <a href="http://www.pcmtv.org">www.pcmtv.org</a>  <i>Ph:</i> 503-288-1515  <i>Date:</i> 8:30 p.m. Sunday, Nov. 21  <i>Date:</i> 2 p.m. Monday, Nov. 22</p>
<p><b>Gresham</b>          Channel 30 - MCTV  <i>Web site:</i> <a href="http://www.metroeast.org">www.metroeast.org</a>  <i>Ph:</i> 503-491-7636  <i>Date:</i> 2 p.m. Monday, Nov. 22</p>	<p><b>Washington County</b>          Channel 30– TVC – TV  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  <i>Date:</i> 11 p.m. Saturday, Nov. 20  <i>Date:</i> 11 p.m. Sunday, Nov. 21  <i>Date:</i> 6 a.m. Tuesday, Nov. 23  <i>Date:</i> 4 p.m. Wednesday, Nov. 24</p>
<p><b>Oregon City, Gladstone</b>          Channel 28 – Willamette Falls Television  <i>Web site:</i> <a href="http://www.wftvmedia.org/">http://www.wftvmedia.org/</a>  <i>Ph:</i> 503-650-0275          Call or visit web site for program times.</p>	<p><b>West Linn</b>          Channel 30 – Willamette Falls Television  <i>Web site:</i> <a href="http://www.wftvmedia.org/">http://www.wftvmedia.org/</a>  <i>Ph:</i> 503-650-0275          Call or visit web site 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 at 503-797-1540. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the 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 web site [www.oregonmetro.gov](http://www.oregonmetro.gov) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 503-797-1804 or 503-797-1540 (Council Office).

Agenda Item Number 3.1

**Annual Report and Ethics Line Report**

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

# Accomplishments

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- ✓ Completed six audits
- ✓ Won national recognition for Oregon Zoo Construction Audit
- ✓ The first formal audit follow-ups were completed
- ✓ Peer review conducted in November 2009 was successful

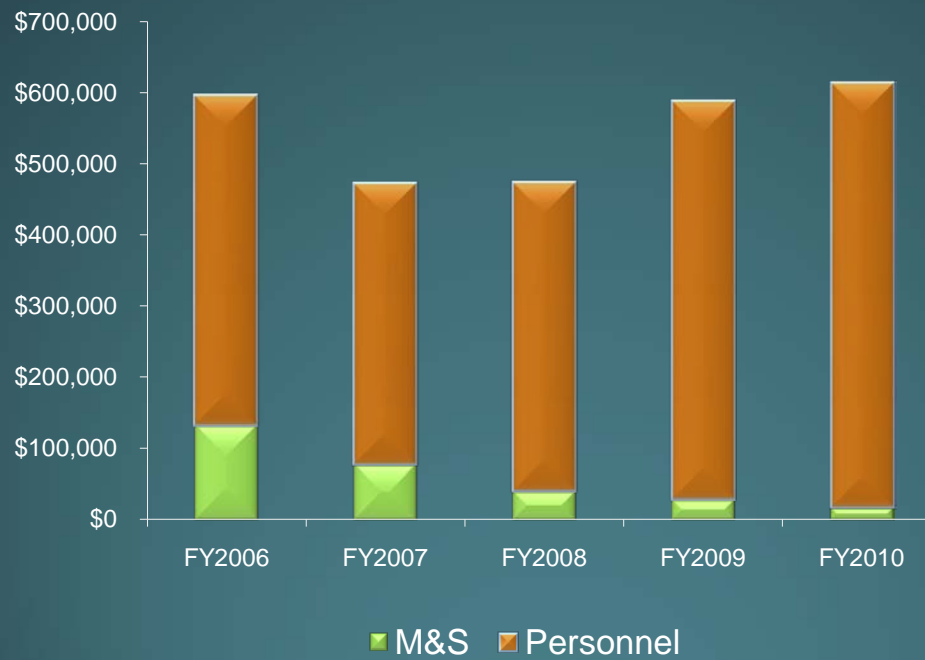
# Staffing

(Full-Time Equivalency)



# Expenditure

(adjusted for inflation)



# Audits per FTE

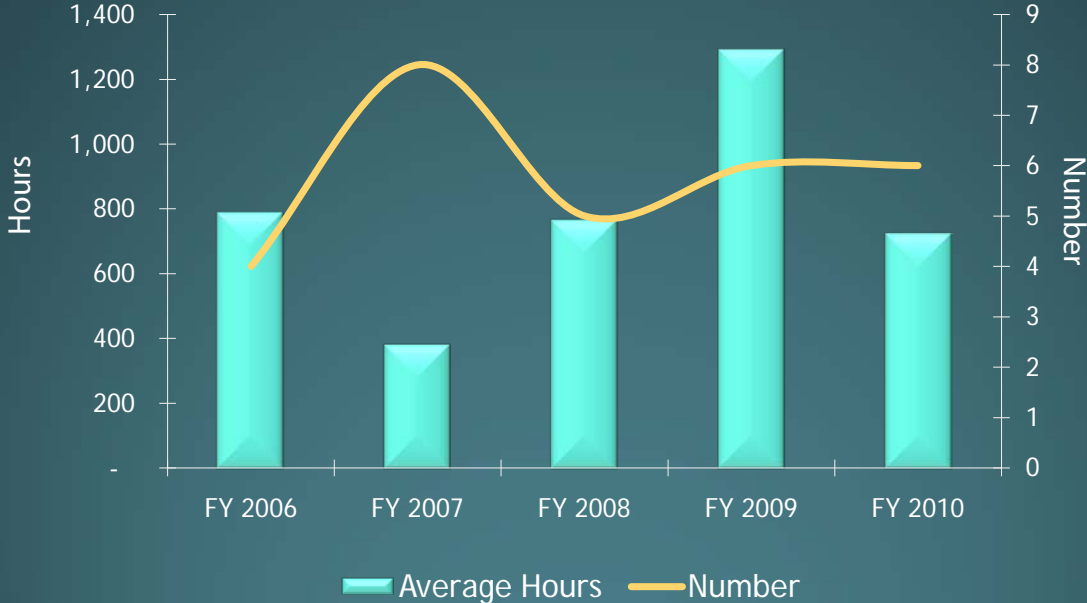


# Audit hours by Department

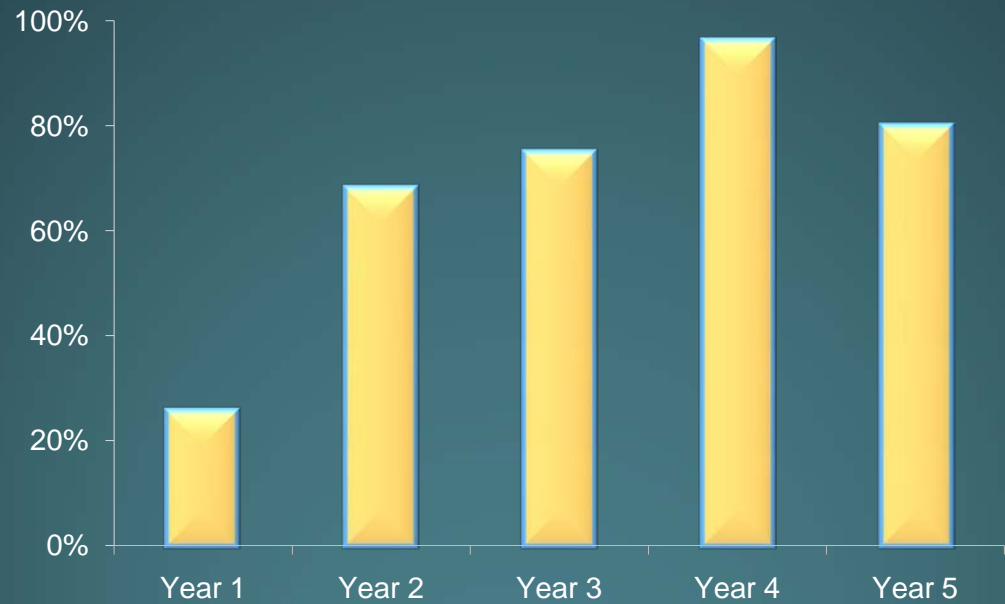




# Average Hours per Audit & Number of Audits



# Recommendation Implementation Rate (1 to 5 years after audit issued)



## Audits Underway

Audit Title	Expected Completion
Construction Excise Tax Grants	Feb 2011
Administration/Management of Large Contracts	March 2011

## Future Audits

Audit Title	Start Date	Expected Completion
Zoo Bond Program Audit Follow-up	April 2011	June 2011
Maintenance of Natural Areas	March 2011	Oct 2011
Transportation Outcomes Case Study Audit	March 2011	Oct 2011

# ETHICS LINE REPORT

# Highlights

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- ✓ The Ethics Line went live three years ago, November 2007.
- ✓ A decision matrix was created to determine the level of response, based on the quality of information and seriousness of incident received from the reporter.
- ✓ Window stickers were applied at points of service to customers.
- ✓ Average case closure time reduced from 40 to 24 days.

## Number of Reports

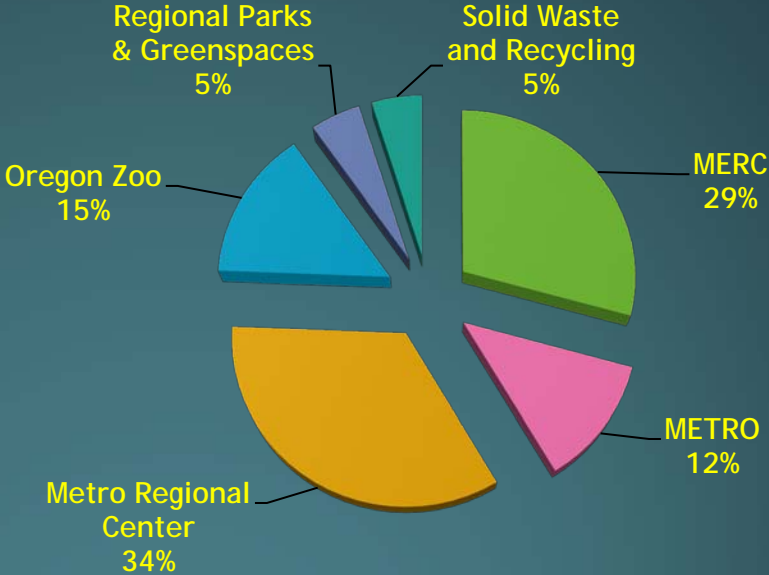
Fiscal Year	Number of Reports
2007-08	12
2008-09	6
2009-10	23
<b>Total</b>	<b>41</b>

## Concerns Reported

Case Type FY2008-10	Total
Violation of policy	7
Waste, abuse or misuse of resources	7
Misconduct or inappropriate behavior	5
Confidentiality and misappropriation	3
Time abuse	3
Accounting, auditing and internal financial controls	2
Conflict of interest	2
Improper supplier or contractor activity	2
Unsafe working conditions	2

# Location of Incident FY2007-08 to FY2009-10

Reports to the Ethics Line can choose a specific location where the incident occurred, or the general location of Metro. In most cases (88%), a specific location other than Metro was reported.





## Action Taken

In 85% of the cases, a successful investigation was completed. There were 18 cases in which no action was taken, due to the following reasons:

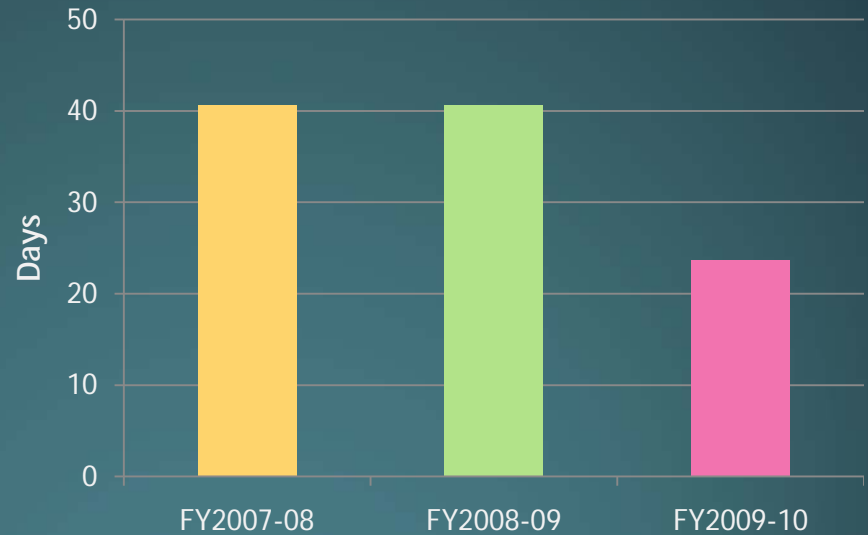
- an audit was conducted instead,
- unable to verify facts,
- withdrawn by reporter, and
- not in Metro jurisdiction.

In the remaining cases, some action was taken, from specific employee discipline to improving policies and procedures

Action Taken FY2008-10 to FY2010	Total
Employee action taken	6
Improvements in policy or communication	5
Information communicated to hotline reporter	4
Management to make changes	4
Reporter notified of results	4
No action taken	18
Total	41

## Average Days to Close

The average time to close an Ethics Line report has decreased from 40 days in FY2007-08 to 24 days in FY2009-10.



Questions?

November 2010

**OFFICE OF THE AUDITOR  
ANNUAL REPORT**

The Metro Charter requires the Auditor to conduct performance audits of its operations. During performance audits, auditors examine the organization's goals and objectives to determine if they are being met. At completion, we make recommendations for improvement. All of our audits are public and available on our web site.

The Office is also required to follow government auditing standards. A team of outside auditors reviews our procedures every three years and determines if we meet those standards. Our last review in November 2009 was successful.

The Office completed six audits in FY2009-10. Each audit was well received by management and the Metro Council. For a brief description of the audits released, see page 4. We made a total of 18 recommendations that, when implemented, should improve the effectiveness and accountability of Metro and MERC programs and the quality of information available to the public.

This past year, the first formal audit follow-up was completed, with a detailed review of the progress made on recommendations from our audits of the Natural Areas Bond Program and Functional Plan Compliance.

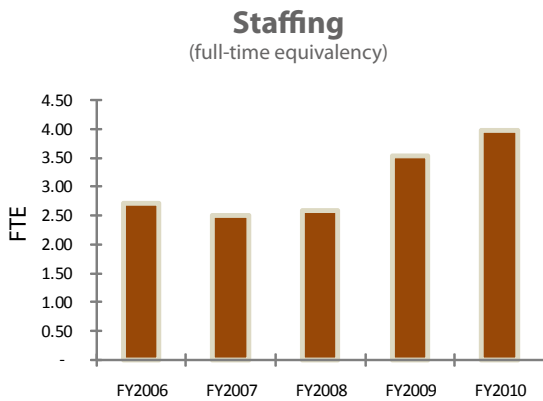
Our work was also recognized in a national competition. The Association of Local Government Auditors awarded the Office the 2009 Gold Knighton Award for the *Oregon Zoo Construction* audit.

I appreciate the support received from the Metro Council and the cooperation extended to us by management and staff. I look forward to continuing our work with the Metro Council, MERC Commission and management, the Metro Chief Operating Officer, management and staff in finding ways to improve efficiency and effectiveness. I also thank citizens who, over the past year, have supported this office's work or provided input for improvement.

Sincerely,



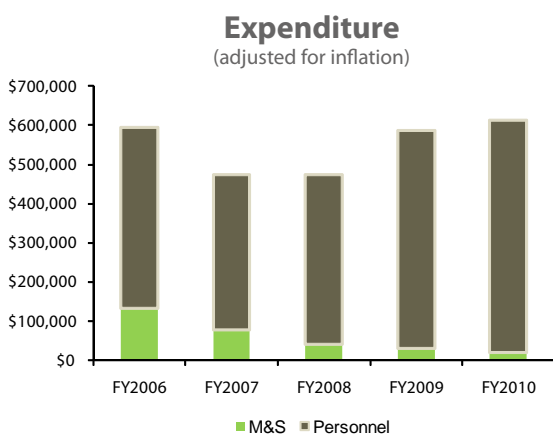
Suzanne Flynn  
Metro Auditor



This graph represents actual staffing. The Metro Council approved the addition of a staff auditor beginning in FY2008-09, bringing the number of auditor positions to four.



Metro Regional Center

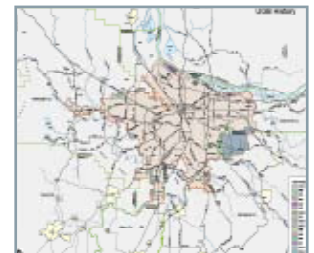


The addition of a new staff auditor in FY2008-09 is the primary reason for the increase in expenditure from FY2007-08 to FY2008-09. Expenditure on materials and services (M&S) declined in FY2006-07 after the contract for the external auditor was removed from the budget.

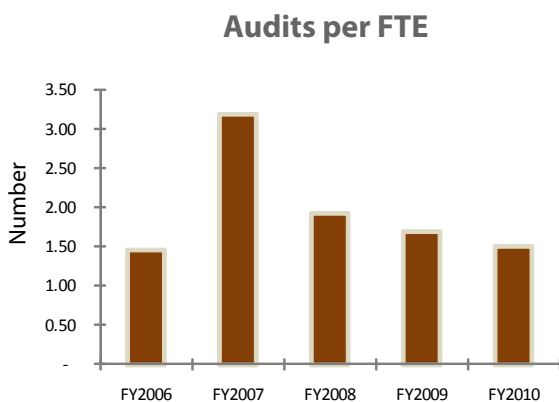
In FY2009-10, spending on M&S accounted for only 3% of the total, down from 22% in FY2005-06.



Oregon Zoo



Urban Growth Boundary Map



The number of audits that can be completed each year is the result of staff hours available and the audit focus. Vacancies or leave can reduce the hours available. The length of time to complete an audit is affected by the complexity of the subject and size of the program. In FY2009-10, 1.5 audits per FTE were completed, down from 1.7 the prior year. FY2006-07 reflects a higher rate due to audits requiring fewer hours to complete and the Office using outside contractors.



Oregon Convention Center

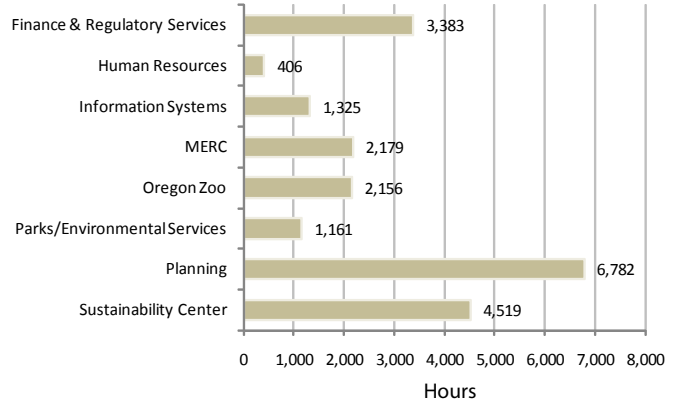


Dairy & McKay Creeks

When considering audits to place on the audit schedule, one consideration is the frequency of audits performed in each department of Metro. Some other criteria are:

- Potential for savings or improvement
- Interest of Council or public
- Potential for loss

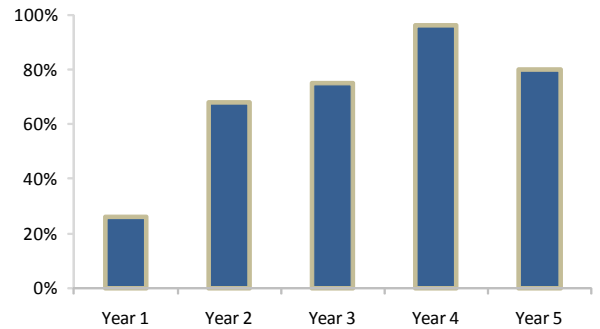
### Audit Hours by Department (FY2006-10)



Escobar Cemetery

Our office surveys auditees on an annual basis, asking them to report on the status of recommendations. This rate represents the percent of recommendations that were implemented from one to five years after the audit was issued. A positive trend would show the percentage increasing as time from audit completion increases. According to the survey completed in January 2010, 80% of recommendations from audits completed five years' earlier were implemented.

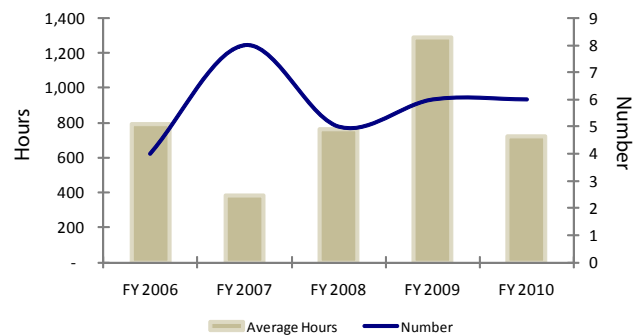
### Implementation Rate 1 to 5 years after audit issued



Natural Areas

Audits vary in length, depending on their scope and complexity. In FY2009-10, six audits were completed. The hours required to complete those audits ranged from 32 to 1,871 hours. Average hours per audit completed in FY2009-10 were 816.

### Average Hours per Audit and Number of Audits



Gleason boat ramp

## Audits completed, underway or scheduled



### Audits Completed in FY2009-10

**Oregon Zoo Construction (Nov 2009).** This audit assessed the management of construction projects at the Oregon Zoo. Three projects in various stages of completion were selected for the review. The purpose of this audit was to determine if Metro and the Zoo were prepared to implement the 2008 bond measure. *(Audit team: Lieber, Wager)*

**Natural Areas Audit Follow-up (Jan 2010).** This follow-up was performed on the audit released in 2007 entitled "Natural Areas Program: Improved Transparency Recommended." A review was performed to determine if Metro had implemented the recommendations made in the original audit. Of the 8 recommendations, 7 had been implemented. *(Auditor: Lieber)*

**Ethics Line Case 27 (Jan 2010).** A special investigation into construction expense coding at the Oregon Zoo based on a report filed on Metro's Ethics Line. Inconsistencies were found in coding practices during the investigation. *(Auditor: Lieber)*

**Tracking Transportation Project Outcomes (Feb 2010).** We reviewed Metro's ability to evaluate the outcomes of transportation planning efforts. The 2040 Growth Concept, a long-term plan on how the region should manage growth, was adopted by Metro Council in 1995 and contains objectives for the transportation system. The scope of the audit included transportation projects completed during the 5-year period 2003-2008. *(Audit team: Evans, Hull Caballero)*

**Functional Plan Compliance Audit Follow-up (Feb 2010).** In March 2008, the Auditor's Office released an audit report that examined how Metro monitors compliance with the Functional Plan. The follow-up audit looked at whether Metro took action to improve the plan compliance monitoring. Of the 7 recommendations from the original audit, 3 have been implemented. *(Auditor: Wager)*

**Financial Condition of Metro FY2000-FY2009 (May 2010).** This report provided citizens and public officials with an overview of Metro's financial condition. It included 23 financial and demographic measures covering a 10-year period for fiscal years 2000-2009. *(Auditor: Flynn)*

### Audits Underway

The following audits are currently underway, with the anticipated audit report release dates noted

	Start Date	Expected Completion
TOD Follow-up Audit	July 2010	Nov 2010
Construction Excise Tax Grants	Sept 2010	Feb 2011
Administration/Management of Large Contracts	Sept 2010	March 2011

### Future Audits

	Start Date	Expected Completion
Zoo Bond Program Audit Follow-up	April 2011	June 2011
Maintenance of Natural Areas	March 2011	Oct 2011
Transportation Outcomes: Case Study Audit	March 2011	Oct 2011

### Audit Staff:

**Suzanne Flynn:** Metro Auditor  
suzanne.flynn@oregonmetro.gov

**Michael Anderson,** Senior Management Auditor  
michael.anderson@oregonmetro.gov

**Brian Evans,** Senior Management Auditor  
brian.evans@oregonmetro.gov

**Mary Hull Caballero,** Senior Management Auditor  
mary.hull-caballero@oregonmetro.gov

**Kristin Lieber,** Senior Management Auditor  
kristin.lieber@oregonmetro.gov

**Lisa Braun,** Administrative Assistant  
lisa.braun@oregonmetro.gov

## OFFICE OF THE AUDITOR

## ETHICS LINE REPORT

November 2010

### Background

In November 2007, the Metro Auditor established an Ethics Line for Metro employees and citizens who use Metro services. The Auditor's Office contracts with EthicsPoint to operate the service that includes a 24-hour call center that can be accessed at a toll free number, 888-299-5460, and a web site, [www.metroethicsline.org](http://www.metroethicsline.org). Employees and citizens can anonymously report any concerns that they have by either method.

The Ethics Line is advertised on Metro's website in three locations: A widget on Metro's landing page, a widget on the page titled "How are we doing?" and on the Metro Auditor's page. Posters are also placed at Metro service locations and on employee bulletin boards. The Metro Auditor includes information about the Ethics Line when talking to new employees at the monthly orientation.

### Ethics Line Protocol

The Metro Auditor's Office administers the Ethics Line in consultation with a Steering Committee that includes the COO, Metro Attorney, Deputy COO, MERC General Manager, HR Director and Finance and Regulatory Services Director. When new cases arrive, the investigation is usually assigned to Metro management. At any time, the Auditor's Office can also initiate an independent audit. The Auditor's Office posts the results of the investigation on the Ethics Line system for the reporter to access.

### By the Numbers

#### NUMBER OF REPORTS

Forty-one reports have been received from the Ethics Line inception to June 30, 2010. (Exhibit 1). Of those, thirty-five reports were received via the web site, five were taken by the call center and one report was received anonymously by mail.

Fiscal Year	Number
2007-08	12
2008-09	6
2009-10	23
<b>Total</b>	<b>41</b>

#### TYPE OF CONCERNS

The two most frequently reported concerns were a violation of policy and waste, abuse or misuse of resources (Exhibit 2).

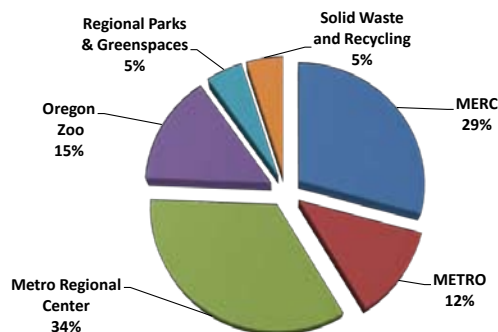
Case Type FY2008-10	Total
Violation of policy	7
Waste, abuse or misuse of resources	7
Misconduct or inappropriate behavior	5
Confidentiality and misappropriation	3
Time abuse	3
Accounting, auditing and internal financial controls	2
Conflict of interest	2
Improper supplier or contractor activity	2
Unsafe working conditions	2
Environmental protection, health or safety law	1
Other	7
<b>Grand Total</b>	<b>41</b>



**LOCATION**

Reporters to the Ethics Line can choose a specific location where the incident occurred or the general location of Metro. In most cases (88%), a specific location other than Metro was reported).

**Location of Incident  
FY2007-08 to FY2009-10**



**ACTION TAKEN**

In 85% of the cases, a successful investigation was completed. There were twelve cases in which no action was taken. Reasons why an investigation was not completed were:

- an audit was conducted instead,
- unable to verify facts,
- withdrawn by reporter, and
- not in Metro jurisdiction.

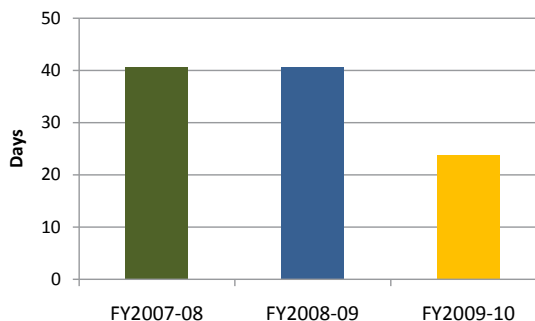
In the remaining cases, some action was taken, from specific employee discipline to improving policies and procedures.

Action Taken FY2008-10 to FY2010	Total
Employee action taken	6
Improvements in policy or communication	6
Referred to appropriate agency	1
Criticism noted	3
Management to make changes	4
Reporter notified of results	9
No action taken	12
<b>Grand Total</b>	<b>41</b>

**AVERAGE DAYS TO CLOSE**

The average time to close an Ethics Line report has decreased from 40 days in FY2007-08 to 24 days in FY2009-10.

**Average Days to Close  
FY2007-08 to FY2009-10**



**Accomplishments**

Over the past 2 ½ years, the operation of the Ethics Line has been strengthened. Accomplishments include:

- Decision-matrix to determine the level of response based upon the quality of the information received from the reporter and the seriousness of the incident.
- Window stickers to place on points of service to customers.
- Procedure to respond to customer service complaints.
- Average case closure time was reduced from 40 to 24 days.

Agenda Item Number 4.0

**Oregon Zoo AZA Award Presentation**

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

Agenda Item Number 5.1

**Consideration of the Minutes for November 4, 2010**

*Consent Agenda*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers



**METRO COUNCIL MEETING**  
Nov. 4, 2010  
Metro Regional Center, Council Chamber

Councilors Present: Councilors Rod Park, Kathryn Harrington, Robert Liberty and Carl Hosticka

Councilors Absent: Council President Carlotta Collette and Councilor Rex Burkholder

Councilor Rod Park convened the regular Council meeting at 2:03 p.m.

**1. INTRODUCTIONS**

There were none.

**2. CITIZEN COMMUNICATIONS**

There were none.

**3. COMMUNITY INVESTMENT TOOLKIT: ECO-EFFICIENT EMPLOYMENT**

Ms. Miranda Bateschell of Metro provided a presentation on the third volume of the Community Investment Toolkit series, Eco-Efficient Employment. Eco-Efficient employment refers to businesses realizing economic and ecological benefits by utilizing operations that produce more with less – less water, less energy, less capital, less land and less waste. Her presentation overviewed the toolkit chapter index (Chapter 1: High Performance Infrastructure, Chapter 2: 21<sup>st</sup> Century Design, and Chapter 3: Redevelopment and Reuse) and provided examples of projects completed to date. The toolkit is scheduled for release November 2010.

Council discussion included efficient use of money and leveraging additional funds, and specifics of the Maplewood and Seattle Green Factor projects.

**4. CONSENT AGENDA**

Motion:	Councilor Carl Hosticka moved to adopt the consent agenda.
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Vote:	Councilors Harrington, Park, Liberty and Hosticka voted in support of the motion. The vote was 4 aye, the motion passed.
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**5. ORDINANCES – FIRST READING**

5.1 **Ordinance No. 10-1249**, For the Purpose of Amending the FY 2010-11 Budget and Appropriations Schedule and the FY 2010-11 through 2014-15 Capital Improvement Plan, and Declaring an Emergency.

A second reading and council consideration of Ordinance No. 10-1249 is scheduled for Nov. 18, 2010.

**6. CHIEF OPERATING OFFICER COMMUNICATION**

Mr. Michael Jordan provided a brief update on the Department of Land Conservation and Development's action on the Portland metropolitan region's urban and rural reserves.

**7. COUNCILOR COMMUNICATION**

Council discussed the Nov. 4 JPACT meeting and Portland to Milwaukie Light Rail project update.

**8. ADJOURN**

There being no further business, Councilor Park adjourned the meeting at 2:33 p.m. The Metro Council will reconvene the next regular council meeting on Nov. 18, 2010 at 2 p.m.

Prepared by,



Kelsey Newell, Regional Engagement Coordinator

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF NOVEMBER 4, 2010**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
3.0	PowerPoint	N/A	"Eco-Efficient Employment" provided by Miranda Bateschell	110410c-01
4.1	Minutes	10/28/10	Council minutes for October 28, 2010	110410c-02
5.1	Staff Report	N/A	Revised staff report to Ordinance No. 10-1249	110410c-03

Agenda Item Number 5.2

**Resolution No. 10-4206**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to American Sanitary Service, Inc. for Delivery of Putrescible Waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center.

*Consent Agenda*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A ) RESOLUTION NO. 10-4206  
RENEWED NON-SYSTEM LICENSE TO AMERICAN SANITARY )  
SERVICE, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO ) Introduced by Michael Jordan,  
THE WEST VAN MATERIALS RECOVERY CENTER AND THE ) Chief Operating Officer, with the  
CENTRAL TRANSFER AND RECYCLING CENTER ) concurrence of Carlotta Collette,  
 ) Council President

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

WHEREAS, American Sanitary Service, Inc. ("American") holds Metro Solid Waste Facility Non-System License No. N-020-10A, which expires on December 31, 2010; and

WHEREAS, American has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, the Metro Code Chapter provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of American is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to American a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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





**METRO**

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

**No. N-020-11**

<b>LICENSEE:</b>	
American Sanitary Service, Inc. 12820 NE Marx Street Portland, OR 97230	
<b>CONTACT PERSON:</b>	
Phone:	Jason Craft (503) 251-1308      Dean Large (360) 695-4858
Fax:	(503) 257-8699      (360) 695-5091
E-Mail:	<a href="mailto:jasoncr@wcx.org">jasoncr@wcx.org</a> <a href="mailto:deanl@wcx.org">deanl@wcx.org</a>
<b>MAILING ADDRESS:</b>	
American Sanitary Service, Inc. 12820 NE Marx Street Portland, OR 97230	

**ISSUED BY METRO:**

\_\_\_\_\_  
Michael Jordan, Chief Operating Officer

\_\_\_\_\_  
Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by American Sanitary Service, Inc.
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	<p>(a) Licensee is authorized to deliver to the non-system facilities described in Section 3 of this license up to 3,799 tons per calendar year of the waste described in Section 1.</p> <p>(b) By no later than November 2, 2011, Metro's Chief Operating Officer ("COO") may release additional reserve tonnage and amend this license to adjust the calendar year tonnage limitation as established by Metro Council and described in the staff report to Resolution No. 10-4206.</p>
<b>3</b>	<b>NON-SYSTEM FACILITIES</b>
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facilities:</p> <p style="padding-left: 40px;">West Van Materials Recovery Center 6601 NW Old Lower River Road Vancouver, WA 98660</p> <p style="padding-left: 40px;">Central Transfer and Recycling Center 11034 NE 117<sup>th</sup> Avenue Vancouver, WA 98661</p> <p>This license is issued on condition that the non-system facilities named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from Clark County or other appropriate regulatory authority that these non-system facilities are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2011, unless terminated sooner under Section 7 of this license.



<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

<b>6</b>	<b>Record Keeping and Reporting</b>
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facilities described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facilities:</p> <ul style="list-style-type: none"><li>i. Ticket or weight slip number from the non-system facility;</li><li>ii. Material category designating the type of material transferred to the non-system facility;</li><li>iii. Date the load was transferred to the non-system facility;</li><li>iv. Time the load was transferred to the non-system facility;</li><li>v. Net weight of the load; and</li><li>vi. Fee charged by the non-system facility</li></ul> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none"><li>i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;</li><li>ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li><li>iii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.</li></ul> <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facilities named in Section 3, above.</p> <p>(d) Metro may require the Licensee to report the information required by this Section on a weekly or daily basis.</p>



<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) The permissive transfer of solid waste to the non-system facilities, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</li><li>(b) In addition to the amendments by the COO authorized by Section 2 of this license, this license shall be subject to amendment, modification, or termination by the COO in the event that the COO determines that:<ul style="list-style-type: none"><li>i. There has been sufficient change in any circumstances under which Metro issued this license;</li><li>ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.;</li><li>iii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facilities listed in Section 3; or</li><li>iv. There has been sufficient change in the amount of tonnage available for allocation during the term of the license. In the event that additional tonnage becomes available for allocation, the COO may amend Section 2(a) of this license to increase the calendar year tonnage limitation by up to five percent in addition to the reserve tonnage amount described in Section 2(b).</li></ul></li><li>(c) This license shall, in addition to subsections (b)(i) through (b)(iv), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</li><li>(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</li><li>(e) This license shall terminate upon the execution of designated facility agreements with the facilities listed in Section 3 that authorizes the facilities to accept the waste described in Section 1 of this license.</li><li>(f) This license authorizes the delivery of solid waste to the facilities listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</li><li>(g) The COO may direct the Licensee's waste flow under this non-system license to Metro Central Transfer Station or Metro South Transfer Station with a minimum of 24 hours written notice. Any redirection of the waste flow by the COO is effective immediately.</li><li>(h) If the Licensee exceeds the calendar year limitation set forth in Section 2</li></ul>



	<p>of this license, each ton or portion thereof by which the Licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500.</p> <p>(i) At least once during the first half of the calendar year and once during the second half of the year, Licensee shall review its collection routes to determine which of its accounts are within the Metro region. Any adjustments are to be implemented in the next month's Regional System Fee and Excise Tax Report. Reports confirming the reviews and summarizing changes shall be submitted to Metro by May 31 and November 30, 2011.</p>
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<b>8</b>	<b>COMPLIANCE WITH LAW</b>
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

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

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4206 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO AMERICAN SANITARY SERVICE, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER

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November 1, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4206 will authorize the Chief Operating Officer (COO) to issue a one-year non-system license (NSL), substantially similar to the proposed license attached to this resolution as Exhibit A, to American Sanitary Service, Inc. (American) authorizing the delivery of up to 3,799 tons of putrescible waste to either the West Van Materials Recovery Center (WVAN) or the Central Transfer and Recycling Center (CTRC) during calendar year 2011. The applicant (American), the destination facilities (WVAN and CTRC), as well as the ultimate disposal site (Finley Buttes Landfill) are all owned by Waste Connections, Inc. (WCI), a waste management company headquartered in Folsom, California.

### 1. INTRODUCTION

#### A. Background

##### (1) Overview

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. NSLs allow Metro to closely monitor and potentially guide waste flows to authorized facilities in order to comply with the contract. This approach provides for a high level of control and fast response to changing conditions. Resolution No. 10-4206 would grant an NSL to American to deliver Metro-area putrescible waste to facilities owned by WCI located in Clark County, Washington. That is, this NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under Metro's disposal contract. Metro Council is scheduled to consider four such NSL resolutions controlling the uncommitted ten percent. In addition to this action for American, Metro Council is scheduled to consider resolutions for Arrow Sanitary Service, Inc. (Res. No. 10-4209), Crown Point Refuse, Inc. (Res. No. 10-4207), and Willamette Resources, Inc. (Res. No. 10-4208) at its meeting on November 18, 2010.

In December 2009, the Metro Council granted one-year NSLs to each of the above referenced licensees. The Council approved a maximum tonnage allocation for the calendar year which, summed across all licenses, did not exceed 9.5 percent of the total forecasted tonnage subject to the flow guarantee based on Metro's tonnage forecast for 2010. Upon issuance of the NSLs, each licensee immediately received 85 percent of its portion of the total tonnage allocation as an upfront annual limit. The remaining amount was held in reserve for the COO to "release" as available by November 2, 2010. On October 22, 2010, the COO released additional tonnage to each of the licensees, reflecting the revised, downward forecast. Table 1 illustrates the initial and adjusted annual tonnage authorizations for each licensee in 2010.

**Table 1: Summary of Annual Tonnage Authorizations for existing NSLs in 2010**

Licensee	Licensee's Portion of Allocable Tonnage for 2010 (Percent)	Initial Tonnage Authorization for 2010	Additional Tonnage Released in October 2010	Total Adjusted Tonnage Authorization for 2010
American Sanitary Service, Inc. NSL No. N-020-10A	5.9	3,848	497	4,345
Arrow Sanitary Service, Inc. NSL No. N-029-10A	43.6	28,518	3,682	32,200
Crown Point Refuse, Inc. NSL No. N-108-10A	0.4	239	31	270
Willamette Resources, Inc. NSL No. N-005-10(3)A	50.2	32,845	4,240	37,085
TOTAL	100	65,450	8,450	73,900

As discussed in the "Budget/Rate Impact" section of this staff report, the current policy of allocating the uncommitted tonnage increases Metro's tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro's transfer station customers will pay approximately \$495,000 more in calendar year 2011 than if 100 percent of the waste were delivered to a landfill owned by Waste Management. Last year, staff assumed these NSLs would be renewed and incorporated their effects into the January – June 2011 portion of the FY 2010-11 solid waste rates and budget. The financial impact of granting the proposed NSLs will be factored into the July – December 2011 portion of the FY 2011-12 solid waste rates and budget.

(2) Design of the 2011 NSLs

For the 2011 renewal period, staff is proposing the same approach for evaluating the applications and determining the annual tonnage authorizations that was used for 2010. In particular, staff recommends that the Metro Council again grant one-year NSLs allocating up to 9.5 percent of the available forecasted tonnage to those applicants that have applied to renew their existing licenses. The limitation for each NSL will be based on a share of the tonnage that is projected to be available for allocation in 2011. The available tonnage is based on the latest tonnage forecast completed in October 2010. This same forecast will be used to develop the FY 2011-12 budget and solid waste rates.

If the Metro Council allocates the full 9.5 percent as proposed, then, based on the current Code requirement to consider the impact of Metro's contractual obligations when granting NSLs, staff would recommend that the Council not allow tonnage limit increases under these licenses, except as described in this report. Furthermore, should Metro receive new applications for these types of NSLs during 2011, it would be difficult for the Council to adopt findings approving such NSLs unless additional solid waste tonnage becomes available during the year (e.g., a significant economic upturn or a current license-holder no longer using its entire tonnage allocation).

In the proposed NSLs for 2011, each licensee will initially receive 85 percent of its portion of the total tonnage allocation as an upfront annual tonnage limit. The remaining 15 percent would then be held in reserve for the COO to potentially release, as available, by no later than November 2, 2011. The COO may adjust the licensee's annual tonnage limit as necessary as described in this report without seeking further Council action. Metro would enforce the annual tonnage limit stipulated in the license.

(3) Tonnage Allocation Methodology

The tonnage allocations are based on Metro’s forecast of future waste that is subject to the flow guarantee under its disposal contract with Waste Management, and the share of such waste that each licensee controlled in the most recent 12-month period (September 2009 through August 2010). The details of the allocation are as follows:

- *Total Tonnage.* Metro forecasts that 780,855 tons will be subject to the flow guarantee in calendar year 2011. The amount of new food waste diversion expected in 2011 (5,912 tons) is accounted for in this forecast. These numbers are derived from Metro’s latest econometric forecasting model of the solid waste system. This model is used for all of Metro’s major decisions involving solid waste tonnage including budgeting, rate setting and revenue projections. The allocation numbers are based on the most recent forecast, which was completed in October 2010 and covers the period through June 2012.
- *Reservation Tonnage.* Metro reserves a portion of the total tonnage to meet its contractual obligations under the disposal contract. For these allocations, Metro reserved 90.5 percent, which is comprised of the 90 percent flow guarantee plus a management allowance of 0.5 percent for the tonnage that would flow during a 2.6 week cycle should the redirection of the waste have to be implemented. The 2.6 weeks is comprised of a 2-week reporting lag, plus four days for notification and redirection logistics.
- *Allocable Tonnage.* 74,181 tons comprise the 9.5 percent of the total tonnage (780,855 tons) that are not reserved and therefore initially available to allocate among the applicants.
- *Licensee’s Portion.* Each licensee is allocated a share of the 74,181 tons in the same proportion as the tonnage subject to the flow guarantee that the licensee controlled (as measured by actual deliveries to all solid waste facilities) during the most recent 12-month period, September 2009 through August 2010. Table 2 illustrates the amount of solid waste that each licensee delivered to all solid waste facilities during the above referenced period.

**Table 2: Amount of Solid Waste that Licensees Delivered to All Solid Waste Facilities  
(September 2009 through August 2010)**

Licensee	Tons	Percent
American Sanitary Service, Inc.	5,632	6.0
Arrow Sanitary Service, Inc.	39,597	42.4
Crown Point Refuse, Inc.	300	0.3
Willamette Resources, Inc.	47,948	51.3
<b>TOTAL</b>	<b>93,477</b>	<b>100</b>



Table 3 illustrates the proposed 2011 authorizations for each licensee based upon its share of the allocable tonnage. For American, the share was 6.0 percent, leading to the initial recommended license authorization of up to 3,799 tons in 2011.

**Table 3: Comparison of Proposed 2011 Allocations by NSL Applicant**

Licensee	Initial Annual Tonnage Authorization for 2011 (85%)	Tonnage Reserve for 2011 (15%)	Total Tonnage Allocation for 2011
American Sanitary Service, Inc. Res. No. 10-4206	3,799	670	4,469
Arrow Sanitary Service, Inc. Res. No. 10-4209	26,710	4,713	31,423
Crown Point Refuse, Inc. Res. No. 10-4207	202	36	238
Willamette Resources, Inc. Res. No. 10-4208	32,343	5,708	38,051
<b>TOTAL</b>	<b>63,054</b>	<b>11,127</b>	<b>74,181</b>

**B. The Applicant**

American is a solid waste hauler that is franchised to collect solid waste within the cities of Portland and Gresham. The applicant has been a holder of NSLs since 2002.

The term of American’s existing NSL No. N-020-10A commenced on January 1, 2010 and is set to expire on December 31, 2010. The calendar year tonnage limitation that Metro initially established for the NSL (3,848 tons) was based on Metro’s forecast, issued October 2009, of the waste that was subject to its disposal contract with Waste Management. However, based on Metro’s most recent forecast (dated October 2010), the COO subsequently amended American’s NSL to release an additional 497 tons, resulting in a total adjusted tonnage authorization of 4,345 tons for 2010. Table 1 illustrates American’s initial and adjusted annual tonnage authorizations for 2010.

On August 31, 2010, American submitted an NSL application requesting that Metro renew its NSL in 2011 with a tonnage authorization of 5,000 tons. However, under the proposed NSL, American would receive an initial tonnage authorization of 3,799 tons for use in 2011 with the potential for additional tonnage to be released by the COO as explained in Section 1C of this report.

**C. Special Provisions of the NSL**

The proposed license includes several special conditions that are intended to further minimize Metro’s risk of noncompliance with its disposal contract by providing Metro with additional controls for monitoring and managing the flow guarantee against the currently declining waste tonnage in the system.

The main special conditions that are included in the proposed NSL for American are described below. Items (1) through (5) describe conditions that were carried forward from the existing license and are included in all of the proposed NSLs for all licensees identified in Section 1A(1) of this report. Item (6)

also describes a condition that was carried forward from the existing license; however, this condition is unique to American.

(1) Calendar Year Tonnage Authorization

NSLs generally include a set tonnage authorization for the duration of the license. However, the proposed NSL authorizes the COO to potentially release additional tonnage to the licensee if available during the term of the license.

Section 2 of the proposed NSL authorizes American to initially deliver up to 3,799 tons of putrescible waste to WVAN and CTRC during calendar year 2011. This annual tonnage limit is immediately available for use throughout the term of the license. The license also stipulates that, by no later than November 2, 2011, the COO may release reserved tonnage and increase the licensee's limit by up to an additional 15 percent (670 tons) as available. If the COO were to release the full reserve amount provided under this proposed license, then American's annual tonnage limit would be increased up to a total of 4,469 tons. This condition allows the COO to adjust the annual tonnage authorization as necessary to meet Metro's contractual obligations and allows the maximum use of the licensee's available tonnage. By adopting this resolution, the Metro Council authorizes the COO to release the reserve tonnage as described above.

(2) Tonnage Authorization Growth Allowance

NSLs generally do not include growth allowance provisions. However, should economic conditions improve during the upcoming calendar year and tonnage increase above the level that was forecasted by Metro, the proposed NSL includes a growth allowance provision to allow for additional allocation of the available tonnage.

Section 7 of the proposed NSL stipulates that in addition to the 15 percent reserve tonnage allocation described above, the COO may increase the annual tonnage authorization of the licensee by up to an additional five percent of its total tonnage allocation (223 tons) if such tonnage is available during the term of the license. If the COO were to grant the maximum growth allowance and release the licensee's full reserve amount (as described above), then American's annual tonnage limit could be increased up to a total of 20 percent (i.e., maximum tonnage authorization of 4,692 tons). The COO's decision whether to grant such a growth allowance will be based on Metro's forecast of waste that is subject to the flow guarantee under its disposal contract with Waste Management. This means that through the combination of the reserve tonnage and growth allowance conditions described above, the COO is authorized to increase the annual tonnage limit of the proposed license by up to 20 percent without seeking further Council action. Any tonnage increases greater than 20 percent (i.e., the combined growth allowance and reserve tonnage amounts) would require Council approval. By adopting this resolution, the Metro Council authorizes the COO to determine and allocate a growth allowance as described above.

(3) Term of License

The term of a standard NSL renewal is generally two years. However, the proposed NSL has a one-year term due to continuing economic uncertainty and other factors that could reduce the amount of tonnage available for the upcoming year. Section 4 of the proposed NSL stipulates that the license commences on January 1, 2011, and terminates on December 31, 2011.

(4) Redirection of Waste Flow

In the event of further deterioration in the tonnage situation, the proposed NSL authorizes the COO to immediately redirect the licensee's waste to Metro Central or South Transfer Stations if necessary to prevent a violation of the disposal contract flow guarantee.

Section 7 of the proposed NSL stipulates that the COO may redirect the licensee's waste flow with a minimum of 24 hours written notice. By adopting this resolution, the Metro Council authorizes the COO to redirect the licensee's waste, as described above, if necessary to comply with the disposal contract flow guarantee.

(5) Weekly and Daily Reporting Requirement

NSLs generally specify that required information must be transmitted to Metro on a monthly basis. However, the proposed NSL allows the COO to require the licensee to report such information to Metro on a weekly or daily basis if necessary.

Section 6 of the proposed NSL stipulates that the COO may determine when more frequent reporting is necessary. By adopting this resolution, the Metro Council authorizes the COO to immediately implement more frequent reporting requirements as needed.

(6) Collection Route Audit (Unique to American)

NSLs generally include scale-based reporting requirements for all transactions. However, the proposed NSL allows for the licensee to perform a semi-annual collection route audit to implement reporting adjustments. The applicant has hauling accounts that lie outside the Metro region. In order to route its trucks efficiently, American trucks must cross the Metro jurisdictional boundary and co-mingle in-Metro waste with a small amount of out-of-Metro waste on one collection route. In order to determine the appropriate fees and taxes owed to Metro, American and Metro have mutually agreed to a procedure whereby American performs a semi-annual review of its collection routes to determine which accounts are located within the Metro region.

Section 6 of the proposed NSL stipulates that the licensee must perform an audit of its collection routes at least twice during the calendar year and implement all necessary tonnage adjustments for reporting and the remittance of fees and taxes. Staff finds this to be a reasonable and verifiable procedure for the small amount of waste that the applicant collects from outside of the Metro region.

**2. ANALYSIS/INFORMATION**

**A. Known Opposition**

There is no known opposition to the proposed license renewal.

**B. Legal Antecedents**

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Code Section 5.05.035(c) provides that, when

determining whether or not to approve an NSL application, the Metro Council shall consider the following factors to the extent relevant to such determination.

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

The applicant (American) is well known to Metro regulatory staff and is owned by a major, national integrated solid waste company. The environmental risks from the use of the non-system facilities are minimal as both the transfer stations and landfill destinations are fully regulated by the appropriate local and state authorities.

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

Metro staff's investigation of WCI revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

WVAN and CTRC use operational practices and management controls that are typical of transfer stations and that Metro considers adequate for the protection of health and the environment. In addition, the Finley Buttes Landfill uses operational practices and management controls that are typical of Subtitle D landfills. Staff at DEQ, the landfill's regulator, consider the operational practices and management controls in place at the landfill to be appropriate for the protection of health and the environment.

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

The proposed license covers putrescible solid waste, which currently has limited recovery potential. The one-year duration of the license puts no long-term constraint or commitment on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

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

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. This proposed NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under the disposal contract. This proposed NSL renewal is one of four similar licenses that will expire at the end of 2011. Provisions in the NSL allow Metro to monitor compliance with its disposal contract, as was covered in Section 1A of this report.

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

American exceeded its NSL tonnage limitation for the first half of calendar year 2009 by 42.53 tons. Metro issued a Notice of Violation to American for exceeding its tonnage authorization, imposing a penalty of \$888.38. In addition to the imposition of a penalty, Metro reduced American's subsequent third quarter tonnage limit by 43 tons. American has since paid its penalty, as part of a settlement agreement that was approved by Council, and remained in compliance with its tonnage authorizations since that time.

The applicant is currently in compliance with its Metro-issued NSL. With the exception of the above referenced violation, the applicant has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, American has had no violations related to public health, safety or environmental regulations during the term of the existing license.

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

This criterion was examined above in Sections 1A and 1C of this report.

### **C. Anticipated/Potential Effects**

This proposed NSL is one of many action items currently under consideration by Metro which is affected by potential declines in the amount of solid waste subject to the flow guarantee. Some decisions could have the effect of shrinking the pool of waste available for allocation. The forecast of waste subject to the flow guarantee, which is the basis for the NSL tonnage authorizations in 2011, incorporates the best available information as of this writing.

### **D. Budget/Rate Impacts**

As is generally known, the price that Metro pays for disposal at Columbia Ridge Landfill is a "declining block rate" — meaning that the more waste that is delivered to any landfill owned by Waste Management, the lower the per-ton cost paid by Metro. Based on projected tonnage and contract prices, allocating the uncommitted 74,181 tons to non-Waste Management landfills increases the Metro tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro customers will pay approximately \$495,000 more for disposal than if all of the uncommitted waste were to flow to Waste Management landfills. This is a conservative estimate, as it is based on the assumption that none of these tons would have been handled directly through Metro transfer stations. Had that been the case there would be additional fiscal impacts from loss of transaction revenue and higher per-ton revenue required to cover fixed costs. The practice of issuing these types of NSLs has been occurring under the Council's direction for the past ten years.

The Metro Regional System Fee and Excise Tax will continue to be collected on all waste delivered under authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-020-10A). Therefore, the financial impact has already been factored into the budget.

### **3. RECOMMENDED ACTION**

Based on the information provided above and the analysis provided in this report, the COO recommends that the Metro Council adopt Resolution No. 10-4206. Approval of this resolution will authorize the COO to issue an NSL to American subject to the requirements listed in Metro Code Chapter 5.05; and further subject to special conditions which are incorporated into the proposed NSL attached to this resolution as Exhibit A.

TG/WJ:bjl

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Agenda Item Number 5.3

**Resolution No. 10-4207**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Crown Point Refuse, Inc. for Delivery of Putrescible Waste to the Wasco County Landfill for Disposal.

*Consent Agenda*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A ) RESOLUTION NO. 10-4207  
RENEWED NON-SYSTEM LICENSE TO CROWN POINT )  
REFUSE, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO ) Introduced by Michael Jordan,  
THE WASCO COUNTY LANDFILL FOR DISPOSAL ) Chief Operating Officer, with the  
 ) concurrence of Carlotta Collette,  
 ) Council President

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

WHEREAS, Crown Point Refuse, Inc. ("Crown Point") holds Metro Solid Waste Facility Non-System License No. N-108-10A, which expires on December 31, 2010; and

WHEREAS, Crown Point has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Wasco County Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, the Metro Code Chapter provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of Crown Point is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Crown Point a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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





**METRO**

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

**No. N-108-11**

<b>LICENSEE:</b>
Crown Point Refuse, Inc. 2430 NW Marine Drive Troutdale, OR 97060
<b>CONTACT PERSON:</b>
Randall Burbach Phone: (503) 695-3239 Fax: (503) 661-7216 E-mail: <a href="mailto:crownpointrefuse@verizon.net">crownpointrefuse@verizon.net</a>
<b>MAILING ADDRESS:</b>
Crown Point Refuse, Inc. PO Box 360 Corbett, OR 97019

**ISSUED BY METRO:**

\_\_\_\_\_  
Michael Jordan, Chief Operating Officer

\_\_\_\_\_  
Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by Crown Point Refuse, Inc.
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	<p>(a) Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 202 tons per calendar year of the waste described in Section 1.</p> <p>(b) By no later than November 2, 2011, Metro's Chief Operating Officer ("COO") may release additional reserve tonnage and amend this license to adjust the calendar year tonnage limitation as established by Metro Council and described in the staff report to Resolution No. 10-4207.</p>
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Wasco County Landfill 2550 Steele Road The Dalles, OR 97058</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2011, unless terminated sooner under Section 7 of this license.



<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

<b>6</b>	<b>Record Keeping and Reporting</b>
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none"><li>i. Ticket or weight slip number from the non-system facility;</li><li>ii. Material category designating the type of material transferred to the non-system facility;</li><li>iii. Date the load was transferred to the non-system facility;</li><li>iv. Time the load was transferred to the non-system facility;</li><li>v. Net weight of the load; and</li><li>vi. Fee charged by the non-system facility</li></ul> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none"><li>i. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li><li>ii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.</li></ul> <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p> <p>(d) Metro may require the Licensee to report the information required by this Section on a weekly or daily basis.</p> <p>(e) At least once per calendar year, Licensee shall sample the weight of the waste it collects from within the Metro region for at least two consecutive weeks. The samples will be used as a basis for reporting the tonnage on the Licensee's Regional System Fee and Excise Tax Report.</p>



<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</li><li>(b) In addition to the amendments by the COO authorized by Section 2 of this license, this license shall be subject to amendment, modification, or termination by the COO in the event that the COO determines that:<ul style="list-style-type: none"><li>i. There has been sufficient change in any circumstances under which Metro issued this license;</li><li>ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.;</li><li>iii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3; or</li><li>iv. There has been sufficient change in the amount of tonnage available for allocation during the term of the license. In the event that additional tonnage becomes available for allocation, the COO may amend Section 2(a) of this license to increase the calendar year tonnage limitation by up to five percent in addition to the reserve tonnage amount described in Section 2(b).</li></ul></li><li>(c) This license shall, in addition to subsections (b)(i) through (b)(iv), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</li><li>(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</li><li>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</li><li>(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</li><li>(g) The COO may direct the Licensee's waste flow under this non-system license to Metro Central Transfer Station or Metro South Transfer Station with a minimum of 24 hours written notice. Any redirection of the waste flow by the COO is effective immediately.</li></ul>



	(h) If the Licensee exceeds the calendar year limitation set forth in Section 2 of this license, each ton or portion thereof by which the Licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500.
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<b>8</b>	<b>COMPLIANCE WITH LAW</b>
	Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.

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

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4207 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO CROWN POINT REFUSE, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO THE WASCO COUNTY LANDFILL FOR DISPOSAL

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November 1, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4207 will authorize the Chief Operating Officer (COO) to issue a one-year non-system license (NSL), substantially similar to the proposed license attached to this resolution as Exhibit A, to Crown Point Refuse, Inc. (Crown Point) authorizing the delivery of up to 202 tons of putrescible waste to the Wasco County Landfill (WCL) during calendar year 2011.

### 1. INTRODUCTION

#### A. Background

##### (1) Overview

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. NSLs allow Metro to closely monitor and potentially guide waste flows to authorized facilities in order to comply with the contract. This approach provides for a high level of control and fast response to changing conditions. Resolution No. 10-4207 would grant an NSL to Crown Point to deliver Metro-area putrescible waste to a disposal site owned by Waste Connections, Inc. located in Wasco County, Oregon. That is, this NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under Metro's disposal contract. Metro Council is scheduled to consider four such NSL resolutions controlling the uncommitted ten percent. In addition to this action for Crown Point, Metro Council is scheduled to consider resolutions for American Sanitary Service, Inc. (Res. No. 10-4206), Arrow Sanitary Service, Inc. (Res. No. 10-4209), and Willamette Resources, Inc. (Res. No. 10-4208) at its meeting on November 18, 2010.

In December 2009, the Metro Council granted one-year NSLs to each of the above referenced licensees. The Council approved a maximum tonnage allocation for the calendar year which, summed across all licenses, did not exceed 9.5 percent of the total forecasted tonnage subject to the flow guarantee based on Metro's tonnage forecast for 2010. Upon issuance of the NSLs, each licensee immediately received 85 percent of its portion of the total tonnage allocation as an upfront annual limit. The remaining amount was held in reserve for the COO to "release" as available by November 2, 2010. On October 22, 2010, the COO released additional tonnage to each of the licensees, reflecting the revised, downward forecast. Table 1 illustrates the initial and adjusted annual tonnage authorizations for each licensee in 2010.

**Table 1: Summary of Annual Tonnage Authorizations for existing NSLs in 2010**

Licensee	Licensee's Portion of Allocable Tonnage for 2010 (Percent)	Initial Tonnage Authorization for 2010	Additional Tonnage Released in October 2010	Total Adjusted Tonnage Authorization for 2010
American Sanitary Service, Inc. NSL No. N-020-10A	5.9	3,848	497	4,345
Arrow Sanitary Service, Inc. NSL No. N-029-10A	43.6	28,518	3,682	32,200
Crown Point Refuse, Inc. NSL No. N-108-10A	0.4	239	31	270
Willamette Resources, Inc. NSL No. N-005-10(3)A	50.2	32,845	4,240	37,085
<b>TOTAL</b>	<b>100</b>	<b>65,450</b>	<b>8,450</b>	<b>73,900</b>

As discussed in the "Budget/Rate Impact" section of this staff report, the current policy of allocating the uncommitted tonnage increases Metro's tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro's transfer station customers will pay approximately \$495,000 more in calendar year 2011 than if 100 percent of the waste were delivered to a landfill owned by Waste Management. Last year, staff assumed these NSLs would be renewed and incorporated their effects into the January – June 2011 portion of the FY 2010-11 solid waste rates and budget. The financial impact of granting the proposed NSLs will be factored into the July – December 2011 portion of the FY 2011-12 solid waste rates and budget.

(2) Design of the 2011 NSLs

For the 2011 renewal period, staff is proposing the same approach for evaluating the applications and determining the annual tonnage authorizations that was used for 2010. In particular, staff recommends that the Metro Council again grant one-year NSLs allocating up to 9.5 percent of the available forecasted tonnage to those applicants that have applied to renew their existing licenses. The limitation for each NSL will be based on a share of the tonnage that is projected to be available for allocation in 2011. The available tonnage is based on the latest tonnage forecast completed in October 2010. This same forecast will be used to develop the FY 2011-12 budget and solid waste rates.

If the Metro Council allocates the full 9.5 percent as proposed, then, based on the current Code requirement to consider the impact of Metro's contractual obligations when granting NSLs, staff would recommend that the Council not allow tonnage limit increases under these licenses, except as described in this report. Furthermore, should Metro receive new applications for these types of NSLs during 2011, it would be difficult for the Council to adopt findings approving such NSLs unless additional solid waste tonnage becomes available during the year (e.g., a significant economic upturn or a current license-holder no longer using its entire tonnage allocation).

In the proposed NSLs for 2011, each licensee will initially receive 85 percent of its portion of the total tonnage allocation as an upfront annual tonnage limit. The remaining 15 percent would then be held in reserve for the COO to potentially release, as available, by no later than November 2, 2011. The COO may adjust the licensee's annual tonnage limit as necessary as described in this report without seeking further Council action. Metro would enforce the annual tonnage limit stipulated in the license.

(3) Tonnage Allocation Methodology

The tonnage allocations are based on Metro’s forecast of future waste that is subject to the flow guarantee under its disposal contract with Waste Management, and the share of such waste that each licensee controlled in the most recent 12-month period (September 2009 through August 2010). The details of the allocation are as follows:

- *Total Tonnage.* Metro forecasts that 780,855 tons will be subject to the flow guarantee in calendar year 2011. The amount of new food waste diversion expected in 2011 (5,912 tons) is accounted for in this forecast. These numbers are derived from Metro’s latest econometric forecasting model of the solid waste system. This model is used for all of Metro’s major decisions involving solid waste tonnage including budgeting, rate setting and revenue projections. The allocation numbers are based on the most recent forecast, which was completed in October 2010 and covers the period through June 2012.
- *Reservation Tonnage.* Metro reserves a portion of the total tonnage to meet its contractual obligations under the disposal contract. For these allocations, Metro reserved 90.5 percent, which is comprised of the 90 percent flow guarantee plus a management allowance of 0.5 percent for the tonnage that would flow during a 2.6 week cycle should the redirection of the waste have to be implemented. The 2.6 weeks is comprised of a 2-week reporting lag, plus four days for notification and redirection logistics.
- *Allocable Tonnage.* 74,181 tons comprise the 9.5 percent of the total tonnage (780,855 tons) that are not reserved and therefore initially available to allocate among the applicants.
- *Licensee’s Portion.* Each licensee is allocated a share of the 74,181 tons in the same proportion as the tonnage subject to the flow guarantee that the licensee controlled (as measured by actual deliveries to all solid waste facilities) during the most recent 12-month period, September 2009 through August 2010. Table 2 illustrates the amount of solid waste that each licensee delivered to all solid waste facilities during the above referenced period.

**Table 2: Amount of Solid Waste that Licensees Delivered to All Solid Waste Facilities  
(September 2009 through August 2010)**

Licensee	Tons	Percent
American Sanitary Service, Inc.	5,632	6.0
Arrow Sanitary Service, Inc.	39,597	42.4
Crown Point Refuse, Inc.	300	0.3
Willamette Resources, Inc.	47,948	51.3
<b>TOTAL</b>	<b>93,477</b>	<b>100</b>



Table 3 illustrates the proposed 2011 authorizations for each licensee based upon its share of the allocable tonnage. For Crown Point, the share was 0.3 percent, leading to the initial recommended license authorization of up to 202 tons in 2011.

**Table 3: Comparison of Proposed 2011 Allocations by NSL Applicant**

Licensee	Initial Annual Tonnage Authorization for 2011 (85%)	Tonnage Reserve for 2011 (15%)	Total Tonnage Allocation for 2011
American Sanitary Service, Inc. Res. No. 10-4206	3,799	670	4,469
Arrow Sanitary Service, Inc. Res. No. 10-4209	26,710	4,713	31,423
Crown Point Refuse, Inc. Res. No. 10-4207	202	36	238
Willamette Resources, Inc. Res. No. 10-4208	32,343	5,708	38,051
<b>TOTAL</b>	<b>63,054</b>	<b>11,127</b>	<b>74,181</b>

**B. The Applicant**

The applicant, Crown Point, collects waste at a residential area located east of Troutdale, Oregon (along the eastern boundary of the Metro region). The applicant has been a holder of NSLs since 2004.

The term of Crown Point’s existing NSL No. N-108-10A commenced on January 1, 2010 and is set to expire on December 31, 2010. The calendar year tonnage limitation that Metro initially established for the NSL (239 tons) was based on Metro’s forecast, issued October 2009, of the waste that was subject to its disposal contract with Waste Management. However, based on Metro’s most recent forecast (dated October 2010), the COO subsequently amended Crown Point’s NSL to release an additional 31 tons, resulting in a total adjusted tonnage authorization of 270 tons for 2010. Table 1 illustrates Crown Point’s initial and adjusted annual tonnage authorizations for 2010.

On August 31, 2010, Crown Point submitted an NSL application requesting that Metro renew its NSL in 2011 with a tonnage authorization of 500 tons. However, under the proposed NSL, Crown Point would receive an initial tonnage authorization of 202 tons for use in 2011 with the potential for additional tonnage to be released by the COO as explained in Section 1C of this report.

**C. Special Provisions of the NSL**

The proposed license includes several special conditions that are intended to further minimize Metro’s risk of noncompliance with its disposal contract by providing Metro with additional controls for monitoring and managing the flow guarantee against the currently declining waste tonnage in the system.

The main special conditions that are included in the proposed NSL for Crown Point are described below. Items (1) through (5) describe conditions that were carried forward from the existing license and are included in all of the proposed NSLs for all licensees identified in Section 1A(1) of this report. Item (6)

also describes a condition that was carried forward from the existing license; however, this condition is unique to Crown Point.

(1) Calendar Year Tonnage Authorization

NSLs generally include a set tonnage authorization for the duration of the license. However, the proposed NSL authorizes the COO to potentially release additional tonnage to the licensee if available during the term of the license.

Section 2 of the proposed NSL authorizes Crown Point to initially deliver up to 202 tons of putrescible waste to WCL during calendar year 2011. This annual tonnage limit is immediately available for use throughout the term of the license. The license also stipulates that, by no later than November 2, 2011, the COO may release reserved tonnage and increase the licensee's limit by up to an additional 15 percent (36 tons) as available. If the COO were to release the full reserve amount provided under this proposed license, then Crown Point's annual tonnage limit would be increased up to a total of 238 tons. This condition allows the COO to adjust the annual tonnage authorization as necessary to meet Metro's contractual obligations and allows the maximum use of the licensee's available tonnage. By adopting this resolution, the Metro Council authorizes the COO to release the reserve tonnage as described above.

(2) Tonnage Authorization Growth Allowance

NSLs generally do not include growth allowance provisions. However, should economic conditions improve during the upcoming calendar year and tonnage increase above the level that was forecasted by Metro, the proposed NSL includes a growth allowance provision to allow for additional allocation of the available tonnage.

Section 7 of the proposed NSL stipulates that in addition to the 15 percent reserve tonnage allocation described above, the COO may increase the annual tonnage authorization of the licensee by up to an additional five percent of its total tonnage allocation (12 tons) if such tonnage is available during the term of the license. If the COO were to grant the maximum growth allowance and release the licensee's full reserve amount (as described above), then Crown Point's annual tonnage limit could be increased up to a total of 20 percent (i.e., maximum tonnage authorization of 250 tons). The COO's decision whether to grant such a growth allowance will be based on Metro's forecast of waste that is subject to the flow guarantee under its disposal contract with Waste Management. This means that through the combination of the reserve tonnage and growth allowance conditions described above, the COO is authorized to increase the annual tonnage limit of the proposed license by up to 20 percent without seeking further Council action. Any tonnage increases greater than 20 percent (i.e., the combined growth allowance and reserve tonnage amounts) would require Council approval. By adopting this resolution, the Metro Council authorizes the COO to determine and allocate a growth allowance as described above.

(3) Term of License

The term of a standard NSL renewal is generally two years. However, the proposed NSL has a one-year term due to continuing economic uncertainty and other factors that could reduce the amount of tonnage available for the upcoming year. Section 4 of the proposed NSL stipulates that the license commences on January 1, 2011, and terminates on December 31, 2011.

(4) Redirection of Waste Flow

In the event of further deterioration in the tonnage situation, the proposed NSL authorizes the COO to immediately redirect the licensee's waste to Metro Central or South Transfer Stations if necessary to prevent a violation of the disposal contract flow guarantee.

Section 7 of the proposed NSL stipulates that the COO may redirect the licensee's waste flow with a minimum of 24 hours written notice. By adopting this resolution, the Metro Council authorizes the COO to redirect the licensee's waste, as described above, if necessary to comply with the disposal contract flow guarantee.

(5) Weekly and Daily Reporting Requirement

NSLs generally specify that required information must be transmitted to Metro on a monthly basis. However, the proposed NSL allows the COO to require the licensee to report such information to Metro on a weekly or daily basis if necessary.

Section 6 of the proposed NSL stipulates that the COO may determine when more frequent reporting is necessary. By adopting this resolution, the Metro Council authorizes the COO to immediately implement more frequent reporting requirements as needed.

(6) Sample Weights (Unique to Crown Point)

NSLs generally include scale-based reporting requirements for all transactions. However, the proposed NSL allows for the licensee to report an average monthly tonnage amount. The majority of the applicant's hauling accounts lie outside the Metro region. In order to route its trucks efficiently, Crown Point's trucks must cross the Metro jurisdictional boundary and co-mingle in-Metro waste with out-of-Metro waste. In order to determine the appropriate fees and taxes owed to Metro, Crown Point and Metro have mutually agreed to a procedure whereby Crown Point reports an average monthly tonnage amount determined by weight studies it performs on an annual basis.

Section 6 of the proposed NSL stipulates that the licensee must sample the weight of the waste it collects from inside the Metro region for a period of two consecutive weeks in order to determine a monthly average tonnage amount to use for reporting and the remittance of fees and taxes. Staff finds this to be a reasonable and verifiable procedure for the small amount of waste covered by this NSL.

**2. ANALYSIS/INFORMATION**

**A. Known Opposition**

There is no known opposition to the proposed license renewal.

**B. Legal Antecedents**

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Code Section 5.05.035(c) provides that, when

determining whether or not to approve an NSL application, the Metro Council shall consider the following factors to the extent relevant to such determination.

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

The applicant (Crown Point) and the disposal site (WCL) are well known to Metro regulatory staff. The landfill is owned by a major, national integrated solid waste company. The environmental risks from the use of the disposal site are minimal as the landfill is fully regulated by the appropriate local and state authorities.

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

WCL is owned and operated by Waste Connections, Inc (WCI). Metro staff's investigation of WCI revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

WCL uses operational practices and management controls that are typical of Subtitle D landfills. Staff at DEQ, the landfill's regulator, consider the operational practices and management controls in place at the landfill to be appropriate for the protection of health and the environment.

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

The proposed license covers putrescible solid waste, which currently has limited recovery potential. The one-year duration of the license puts no long-term constraint or commitment on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

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

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. This proposed NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under the disposal contract. This proposed NSL renewal is one of four similar licenses that will expire at the end of 2011. Provisions in the NSL allow Metro to monitor compliance with its disposal contract, as was covered in Section 1A of this report.

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

The applicant is currently in compliance with its Metro-issued NSL and has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, Crown Point has a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

This criterion was examined above in Sections 1A and 1C of this report.

### **C. Anticipated/Potential Effects**

This proposed NSL is one of many action items currently under consideration by Metro which is affected by potential declines in the amount of solid waste subject to the flow guarantee. Some decisions could have the effect of shrinking the pool of waste available for allocation. The forecast of waste subject to the flow guarantee, which is the basis for the NSL tonnage authorizations in 2011, incorporates the best available information as of this writing.

### **D. Budget/Rate Impacts**

As is generally known, the price that Metro pays for disposal at Columbia Ridge Landfill is a “declining block rate” — meaning that the more waste that is delivered to any landfill owned by Waste Management, the lower the per-ton cost paid by Metro. Based on projected tonnage and contract prices, allocating the uncommitted 74,181 tons to non-Waste Management landfills increases the Metro tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro customers will pay approximately \$495,000 more for disposal than if all of the uncommitted waste were to flow to Waste Management landfills. This is a conservative estimate, as it is based on the assumption that none of these tons would have been handled directly through Metro transfer stations. Had that been the case there would be additional fiscal impacts from loss of transaction revenue and higher per-ton revenue required to cover fixed costs. The practice of issuing these types of NSLs has been occurring under the Council’s direction for the past ten years.

The Metro Regional System Fee and Excise Tax will continue to be collected on all waste delivered under authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-108-10A). Therefore, the financial impact has already been factored into the budget.

### **3. RECOMMENDED ACTION**

Based on the information provided above and the analysis provided in this report, the COO recommends that the Metro Council adopt Resolution No. 10-4207. Approval of this resolution will authorize the COO to issue an NSL to Crown Point subject to the requirements listed in Metro Code Chapter 5.05; and further subject to special conditions which are incorporated into the proposed NSL attached to this resolution as Exhibit A.

TG/WJ:bjj  
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Agenda Item Number 5.4

**Resolution No. 10-4208**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Willamette Resources, Inc. for Delivery of Putrescible Waste to the Coffin Butte Landfill for Disposal.

*Consent Agenda*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A ) RESOLUTION NO. 10-4208  
RENEWED NON-SYSTEM LICENSE TO WILLAMETTE )  
RESOURCES, INC. FOR DELIVERY OF PUTRESCIBLE WASTE ) Introduced by Michael Jordan,  
TO THE COFFIN BUTTE LANDFILL FOR DISPOSAL ) Chief Operating Officer, with the  
 ) concurrence of Carlotta Collette,  
 ) Council President

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

WHEREAS, Willamette Resources, Inc. ("WRI") holds Metro Solid Waste Facility Non-System License No. N-005-10(3)A, which expires on December 31, 2010; and

WHEREAS, WRI has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Coffin Butte Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, the Metro Code Chapter provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of WRI is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to WRI a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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



**Exhibit A to Resolution No. 10-4208**

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736  
TEL 503 797 1835 FAX 503 813 7544



**METRO**

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

**No. N-005-11(3)**

<b>LICENSEE:</b>	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	
<b>CONTACT PERSON:</b>	
Carol Dion	Ray Phelps
Phone: (503) 570-0626	(503) 784-3516
Fax: (503) 570-0523	(503) 570-0523
E-Mail: <a href="mailto:CDion@republicservices.com">CDion@republicservices.com</a>	<a href="mailto:RPhelps@republicservices.com">RPhelps@republicservices.com</a>
<b>MAILING ADDRESS:</b>	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	

**ISSUED BY METRO:**

\_\_\_\_\_  
Michael Jordan, Chief Operating Officer

\_\_\_\_\_  
Date



<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	Putrescible solid waste generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with Metro Solid Waste Facility Franchise No. F-005-08.
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	<p>(a) Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 32,343 tons per calendar year of the waste described in Section 1.</p> <p>(b) By no later than November 2, 2011, Metro's Chief Operating Officer ("COO") may release additional reserve tonnage and amend this license to adjust the calendar year tonnage limitation as established by Metro Council and described in the staff report to Resolution No. 10-4208.</p> <p>(c) This license does not increase the total tonnage that the Licensee is authorized to accept under Metro Solid Waste Facility Franchise No. F-005-08.</p>
<b>3</b>	<b>NON-SYSTEM FACILITY</b>
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="padding-left: 40px;">Coffin Butte Landfill 28972 Coffin Butte Road Corvallis, OR 97330</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2011, unless terminated sooner under Section 7 of this license.



<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

<b>6</b>	<b>Record Keeping and Reporting</b>
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none"><li>i. Ticket or weight slip number from the non-system facility;</li><li>ii. Material category designating the type of material transferred to the non-system facility;</li><li>iii. Date the load was transferred to the non-system facility;</li><li>iv. Time the load was transferred to the non-system facility;</li><li>v. Net weight of the load; and</li><li>vi. Fee charged by the non-system facility</li></ul> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none"><li>i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;</li><li>ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li><li>iii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.</li></ul> <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p> <p>(d) Metro may require the Licensee to report the information required by this Section on a weekly or daily basis.</p>



<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</li><li>(b) In addition to the amendments by the COO authorized by Section 2 of this license, this license shall be subject to amendment, modification, or termination by the COO in the event that the COO determines that:<ul style="list-style-type: none"><li>i. There has been sufficient change in any circumstances under which Metro issued this license;</li><li>ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.;</li><li>iii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3; or</li><li>iv. There has been sufficient change in the amount of tonnage available for allocation during the term of the license. In the event that additional tonnage becomes available for allocation, the COO may amend Section 2(a) of this license to increase the calendar year tonnage limitation by up to five percent in addition to the reserve tonnage amount described in Section 2(b).</li></ul></li><li>(c) This license shall, in addition to subsections (b)(i) through (b)(iv), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</li><li>(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</li><li>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</li><li>(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</li><li>(g) The COO may direct the Licensee's waste flow under this non-system license to any system facility with a minimum of 24 hours written notice. Any redirection of the waste flow by the COO is effective immediately.</li><li>(h) If the Licensee exceeds the calendar year limitation set forth in Section 2 of this license, each ton or portion thereof by which the Licensee exceeds</li></ul>



	the limitation constitutes a separate violation subject to a penalty of up to \$500.
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<b>8</b>	<b>COMPLIANCE WITH LAW</b>
	Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.

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

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4208 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO THE COFFIN BUTTE LANDFILL

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November 1, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4208 will authorize the Chief Operating Officer (COO) to issue a one-year non-system license (NSL), substantially similar to the proposed license attached to this resolution as Exhibit A, to Willamette Resources, Inc. (WRI) authorizing the delivery of up to 32,343 tons of putrescible waste to the Coffin Butte Landfill (CBLF) during calendar year 2011. The applicant (WRI) and the disposal site (CBLF) are both owned by Allied Waste Industries, Inc. (Allied), a wholly owned subsidiary of Republic Waste Systems, Inc. headquartered in Phoenix, Arizona.

### 1. INTRODUCTION

#### A. Background

##### (1) Overview

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. NSLs allow Metro to closely monitor and potentially guide waste flows to authorized facilities in order to comply with the contract. This approach provides for a high level of control and fast response to changing conditions. Resolution No. 10-4208 would grant an NSL to WRI to deliver Metro-area putrescible waste to a disposal site owned by Allied located in Benton County, Oregon. That is, this NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under Metro's disposal contract. Metro Council is scheduled to consider four such NSL resolutions controlling the uncommitted ten percent. In addition to this action for WRI, Metro Council is scheduled to consider resolutions for American Sanitary Service, Inc. (Res. No. 10-4206), Arrow Sanitary Service, Inc. (Res. No. 10-4209), and Crown Point Refuse, Inc. (Res. No. 10-4207) at its meeting on November 18, 2010.

In December 2009, the Metro Council granted one-year NSLs to each of the above referenced licensees. The Council approved a maximum tonnage allocation for the calendar year which, summed across all licenses, did not exceed 9.5 percent of the total forecasted tonnage subject to the flow guarantee based on Metro's tonnage forecast for 2010. Upon issuance of the NSLs, each licensee immediately received 85 percent of its portion of the total tonnage allocation as an upfront annual limit. The remaining amount was held in reserve for the COO to "release" as available by November 2, 2010. On October 22, 2010, the COO released additional tonnage to each of the licensees, reflecting the revised, downward forecast. Table 1 illustrates the initial and adjusted annual tonnage authorizations for each licensee in 2010.

**Table 1: Summary of Annual Tonnage Authorizations for existing NSLs in 2010**

Licensee	Licensee's Portion of Allocable Tonnage for 2010 (Percent)	Initial Tonnage Authorization for 2010	Additional Tonnage Released in October 2010	Total Adjusted Tonnage Authorization for 2010
American Sanitary Service, Inc. NSL No. N-020-10A	5.9	3,848	497	4,345
Arrow Sanitary Service, Inc. NSL No. N-029-10A	43.6	28,518	3,682	32,200
Crown Point Refuse, Inc. NSL No. N-108-10A	0.4	239	31	270
Willamette Resources, Inc. NSL No. N-005-10(3)A	50.2	32,845	4,240	37,085
TOTAL	100	65,450	8,450	73,900

As discussed in the "Budget/Rate Impact" section of this staff report, the current policy of allocating the uncommitted tonnage increases Metro's tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro's transfer station customers will pay approximately \$495,000 more in calendar year 2011 than if 100 percent of the waste were delivered to a landfill owned by Waste Management. Last year, staff assumed these NSLs would be renewed and incorporated their effects into the January – June 2011 portion of the FY 2010-11 solid waste rates and budget. The financial impact of granting the proposed NSLs will be factored into the July – December 2011 portion of the FY 2011-12 solid waste rates and budget.

(2) Design of the 2011 NSLs

For the 2011 renewal period, staff is proposing the same approach for evaluating the applications and determining the annual tonnage authorizations that was used for 2010. In particular, staff recommends that the Metro Council again grant one-year NSLs allocating up to 9.5 percent of the available forecasted tonnage to those applicants that have applied to renew their existing licenses. The limitation for each NSL will be based on a share of the tonnage that is projected to be available for allocation in 2011. The available tonnage is based on the latest tonnage forecast completed in October 2010. This same forecast will be used to develop the FY 2011-12 budget and solid waste rates.

If the Metro Council allocates the full 9.5 percent as proposed, then, based on the current Code requirement to consider the impact of Metro's contractual obligations when granting NSLs, staff would recommend that the Council not allow tonnage limit increases under these licenses, except as described in this report. Furthermore, should Metro receive new applications for these types of NSLs during 2011, it would be difficult for the Council to adopt findings approving such NSLs unless additional solid waste tonnage becomes available during the year (e.g., a significant economic upturn or a current license-holder no longer using its entire tonnage allocation).

In the proposed NSLs for 2011, each licensee will initially receive 85 percent of its portion of the total tonnage allocation as an upfront annual tonnage limit. The remaining 15 percent would then be held in reserve for the COO to potentially release, as available, by no later than November 2, 2011. The COO may adjust the licensee's annual tonnage limit as necessary as described in this report without seeking further Council action. Metro would enforce the annual tonnage limit stipulated in the license.

(3) Tonnage Allocation Methodology

The tonnage allocations are based on Metro’s forecast of future waste that is subject to the flow guarantee under its disposal contract with Waste Management, and the share of such waste that each licensee controlled in the most recent 12-month period (September 2009 through August 2010). The details of the allocation are as follows:

- *Total Tonnage.* Metro forecasts that 780,855 tons will be subject to the flow guarantee in calendar year 2011. The amount of new food waste diversion expected in 2011 (5,912 tons) is accounted for in this forecast. These numbers are derived from Metro’s latest econometric forecasting model of the solid waste system. This model is used for all of Metro’s major decisions involving solid waste tonnage including budgeting, rate setting and revenue projections. The allocation numbers are based on the most recent forecast, which was completed in October 2010 and covers the period through June 2012.
- *Reservation Tonnage.* Metro reserves a portion of the total tonnage to meet its contractual obligations under the disposal contract. For these allocations, Metro reserved 90.5 percent, which is comprised of the 90 percent flow guarantee plus a management allowance of 0.5 percent for the tonnage that would flow during a 2.6 week cycle should the redirection of the waste have to be implemented. The 2.6 weeks is comprised of a 2-week reporting lag, plus four days for notification and redirection logistics.
- *Allocable Tonnage.* 74,181 tons comprise the 9.5 percent of the total tonnage (780,855 tons) that are not reserved and therefore initially available to allocate among the applicants.
- *Licensee’s Portion.* Each licensee is allocated a share of the 74,181 tons in the same proportion as the tonnage subject to the flow guarantee that the licensee controlled (as measured by actual deliveries to all solid waste facilities) during the most recent 12-month period, September 2009 through August 2010. Table 2 illustrates the amount of solid waste that each licensee delivered to all solid waste facilities during the above referenced period.

**Table 2: Amount of Solid Waste that Licensees Delivered to All Solid Waste Facilities  
(September 2009 through August 2010)**

Licensee	Tons	Percent
American Sanitary Service, Inc.	5,632	6.0
Arrow Sanitary Service, Inc.	39,597	42.4
Crown Point Refuse, Inc.	300	0.3
Willamette Resources, Inc.	47,948	51.3
<b>TOTAL</b>	<b>93,477</b>	<b>100</b>



Table 3 illustrates the proposed 2011 authorizations for each licensee based upon its share of the allocable tonnage. For WRI, the share was 51.3 percent, leading to the initial recommended license authorization of up to 32,343 tons in 2011.

**Table 3: Comparison of Proposed 2011 Allocations by NSL Applicant**

Licensee	Initial Annual Tonnage Authorization for 2011 (85%)	Tonnage Reserve for 2011 (15%)	Total Tonnage Allocation for 2011
American Sanitary Service, Inc. Res. No. 10-4206	3,799	670	4,469
Arrow Sanitary Service, Inc. Res. No. 10-4209	26,710	4,713	31,423
Crown Point Refuse, Inc. Res. No. 10-4207	202	36	238
Willamette Resources, Inc. Res. No. 10-4208	32,343	5,708	38,051
<b>TOTAL</b>	<b>63,054</b>	<b>11,127</b>	<b>74,181</b>

**B. The Applicant**

The applicant, WRI, is the owner and operator of a Metro-franchised solid waste facility located at 10295 SW Ridder Road, in Wilsonville. The applicant has been a holder of NSLs since 2000.

The term of WRI’s existing NSL No. N-005-10(3)A commenced on January 1, 2010 and is set to expire on December 31, 2010. The calendar year tonnage limitation that Metro initially established for the NSL (32,845 tons) was based on Metro’s forecast, issued October 2009, of the waste that was subject to its disposal contract with Waste Management. However, based on Metro’s most recent forecast (dated October 2010), the COO subsequently amended WRI’s NSL to release an additional 4,240 tons, resulting in a total adjusted tonnage authorization of 37,085 tons for 2010. Table 1 illustrates WRI’s initial and adjusted annual tonnage authorizations for 2010.

On August 24, 2010, WRI submitted an NSL application requesting that Metro renew its NSL in 2011 with a tonnage authorization of 45,000 tons. However, under the proposed NSL, WRI would receive an initial tonnage authorization of 32,343 tons for use in 2011 with the potential for additional tonnage to be released by the COO as explained in Section 1C of this report.

**C. Special Provisions of the NSL**

The proposed license includes several special conditions that are intended to further minimize Metro’s risk of noncompliance with its disposal contract by providing Metro with additional controls for monitoring and managing the flow guarantee against the currently declining waste tonnage in the system.

The main special conditions that are included in the proposed NSL for WRI are described below. Items (1) through (5) describe conditions that were carried forward from the existing license and are included in all of the proposed NSLs for all licensees identified in Section 1A(1) of this report.

(1) Calendar Year Tonnage Authorization

NSLs generally include a set tonnage authorization for the duration of the license. However, the proposed NSL authorizes the COO to potentially release additional tonnage to the licensee if available during the term of the license.

Section 2 of the proposed NSL authorizes WRI to initially deliver up to 32,343 tons of putrescible waste to CBLF during calendar year 2011. This annual tonnage limit is immediately available for use throughout the term of the license. The license also stipulates that, by no later than November 2, 2011, the COO may release reserved tonnage and increase the licensee's limit by up to an additional 15 percent (5,708 tons) as available. If the COO were to release the full reserve amount provided under this proposed license, then WRI's annual tonnage limit would be increased up to a total of 38,051 tons. This condition allows the COO to adjust the annual tonnage authorization as necessary to meet Metro's contractual obligations and allows the maximum use of the licensee's available tonnage. By adopting this resolution, the Metro Council authorizes the COO to release the reserve tonnage as described above.

(2) Tonnage Authorization Growth Allowance

NSLs generally do not include growth allowance provisions. However, should economic conditions improve during the upcoming calendar year and tonnage increase above the level that was forecasted by Metro, the proposed NSL includes a growth allowance provision to allow for additional allocation of the available tonnage.

Section 7 of the proposed NSL stipulates that in addition to the 15 percent reserve tonnage allocation described above, the COO may increase the annual tonnage authorization of the licensee by up to an additional five percent of its total tonnage allocation (1,902 tons) if such tonnage is available during the term of the license. If the COO were to grant the maximum growth allowance and release the licensee's full reserve amount (as described above), then WRI's annual tonnage limit could be increased up to a total of 20 percent (i.e., maximum tonnage authorization of 39,953 tons). The COO's decision whether to grant such a growth allowance will be based on Metro's forecast of waste that is subject to the flow guarantee under its disposal contract with Waste Management. This means that through the combination of the reserve tonnage and growth allowance conditions described above, the COO is authorized to increase the annual tonnage limit of the proposed license by up to 20 percent without seeking further Council action. Any tonnage increases greater than 20 percent (i.e., the combined growth allowance and reserve tonnage amounts) would require Council approval. By adopting this resolution, the Metro Council authorizes the COO to determine and allocate a growth allowance as described above.

(3) Term of License

The term of a standard NSL renewal is generally two years. However, the proposed NSL has a one-year term due to continuing economic uncertainty and other factors that could reduce the amount of tonnage available for the upcoming year. Section 4 of the proposed NSL stipulates that the license commences on January 1, 2011, and terminates on December 31, 2011.

(4) Redirection of Waste Flow

In the event of further deterioration in the tonnage situation, the proposed NSL authorizes the COO to immediately redirect the licensee's waste to any system facility if necessary to prevent a violation of the disposal contract flow guarantee.

Section 7 of the proposed NSL stipulates that the COO may redirect the licensee's waste flow with a minimum of 24 hours written notice. By adopting this resolution, the Metro Council authorizes the COO to redirect the licensee's waste, as described above, if necessary to comply with the disposal contract flow guarantee.

(5) Weekly and Daily Reporting Requirement

NSLs generally specify that required information must be transmitted to Metro on a monthly basis. However, the proposed NSL allows the COO to require the licensee to report such information to Metro on a weekly or daily basis if necessary.

Section 6 of the proposed NSL stipulates that the COO may determine when more frequent reporting is necessary. By adopting this resolution, the Metro Council authorizes the COO to immediately implement more frequent reporting requirements as needed.

**2. ANALYSIS/INFORMATION**

**A. Known Opposition**

There is no known opposition to the proposed license renewal.

**B. Legal Antecedents**

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Code Section 5.05.035(c) provides that, when determining whether or not to approve an NSL application, the Metro Council shall consider the following factors to the extent relevant to such determination.

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

The applicant (WRI) is well known to Metro regulatory staff and is owned by a major, national integrated solid waste company. The environmental risks from the use of the non-system facilities are minimal as both the transfer station and landfill destination are fully regulated by the appropriate local and state authorities.

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

Allied owns and operates both WRI and CBLF. Metro staff's investigation of Allied revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

CBLF uses operational practices and management controls that are typical of Subtitle D landfills. Staff at DEQ, the landfill's regulator, consider the operational practices and management controls in place at the landfill to be appropriate for the protection of health and the environment.

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

The proposed license covers putrescible solid waste, which currently has limited recovery potential. The one-year duration of the license puts no long-term constraint or commitment on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

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

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. This proposed NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under the disposal contract. This proposed NSL renewal is one of four similar licenses that will expire at the end of 2011. Provisions in the NSL allow Metro to monitor compliance with its disposal contract, as was covered in Section 1A of this report.

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

WRI is currently in compliance with its NSL and it has not had any significant compliance issues with regard to Metro regulations within the last two years. In addition, WRI has had no violations related to public health, safety, or environmental regulations during the term of the existing license.

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

This criterion was examined above in Sections 1A and 1C of this report.

### **C. Anticipated/Potential Effects**

This proposed NSL is one of many action items currently under consideration by Metro which is affected by potential declines in the amount of solid waste subject to the flow guarantee. Some decisions could have the effect of shrinking the pool of waste available for allocation. The forecast of waste subject to

the flow guarantee, which is the basis for the NSL tonnage authorizations in 2011, incorporates the best available information as of this writing.

#### **D. Budget/Rate Impacts**

As is generally known, the price that Metro pays for disposal at Columbia Ridge Landfill is a “declining block rate” — meaning that the more waste that is delivered to any landfill owned by Waste Management, the lower the per-ton cost paid by Metro. Based on projected tonnage and contract prices, allocating the uncommitted 74,181 tons to non-Waste Management landfills increases the Metro tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro customers will pay approximately \$495,000 more for disposal than if all of the uncommitted waste were to flow to Waste Management landfills. This is a conservative estimate, as it is based on the assumption that none of these tons would have been handled directly through Metro transfer stations. Had that been the case there would be additional fiscal impacts from loss of transaction revenue and higher per-ton revenue required to cover fixed costs. The practice of issuing these types of NSLs has been occurring under the Council’s direction for the past ten years.

The Metro Regional System Fee and Excise Tax will continue to be collected on all waste delivered under authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-005-10(3)A). Therefore, the financial impact has already been factored into the budget.

### **3. RECOMMENDED ACTION**

Based on the information provided above and the analysis provided in this report, the COO recommends that the Metro Council adopt Resolution No. 10-4208. Approval of this resolution will authorize the COO to issue an NSL to WRI subject to the requirements listed in Metro Code Chapter 5.05; and further subject to special conditions which are incorporated into the proposed NSL attached to this resolution as Exhibit A.

TG/WJ:bjl  
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Agenda Item Number 5.5

**Resolution No. 10-4209**, For the Purpose of Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Arrow Sanitary Service, Inc. for Delivery of Putrescible Waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center.

*Consent Agenda*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A ) RESOLUTION NO. 10-4209  
RENEWED NON-SYSTEM LICENSE TO ARROW SANITARY )  
SERVICE, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO ) Introduced by Michael Jordan,  
THE WEST VAN MATERIALS RECOVERY CENTER AND THE ) Chief Operating Officer, with the  
CENTRAL TRANSFER AND RECYCLING CENTER ) concurrence of Carlotta Collette,  
 ) Council President

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

WHEREAS, Arrow Sanitary Service, Inc. ("Arrow") holds Metro Solid Waste Facility Non-System License No. N-029-10A, which expires on December 31, 2010; and

WHEREAS, Arrow has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control;" and

WHEREAS, the Metro Code Chapter provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license renewal application of Arrow is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Arrow a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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



**METRO**

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

**No. N-029-11**

<b>LICENSEE:</b>	
Arrow Sanitary Service, Inc. 12820 NE Marx Street Portland, OR 97230	
<b>CONTACT PERSON:</b>	
Phone:	Jason Craft (503) 251-1308      Dean Large (360) 695-4858
Fax:	(503) 257-8699      (360) 695-5091
E-Mail:	<a href="mailto:jasoncr@wcnx.org">jasoncr@wcnx.org</a> <a href="mailto:deanl@wcnx.org">deanl@wcnx.org</a>
<b>MAILING ADDRESS:</b>	
Arrow Sanitary Service, Inc. 12820 NE Marx Street Portland, OR 97230	

**ISSUED BY METRO:**

\_\_\_\_\_  
Michael Jordan, Chief Operating Officer

\_\_\_\_\_  
Date





<b>1</b>	<b>NATURE OF WASTE COVERED BY LICENSE</b>
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by Arrow Sanitary Service, Inc.
<b>2</b>	<b>CALENDAR YEAR TONNAGE LIMITATION</b>
	<p>(a) Licensee is authorized to deliver to the non-system facilities described in Section 3 of this license up to 26,710 tons per calendar year of the waste described in Section 1.</p> <p>(b) By no later than November 2, 2011, Metro's Chief Operating Officer ("COO") may release additional reserve tonnage and amend this license to adjust the calendar year tonnage limitation as established by Metro Council and described in the staff report to Resolution No. 10-4209.</p>
<b>3</b>	<b>NON-SYSTEM FACILITIES</b>
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facilities:</p> <p style="padding-left: 40px;">West Van Materials Recovery Center 6601 NW Old Lower River Road Vancouver, WA 98660</p> <p style="padding-left: 40px;">Central Transfer and Recycling Center 11034 NE 117<sup>th</sup> Avenue Vancouver, WA 98661</p> <p>This license is issued on condition that the non-system facilities named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from Clark County or other appropriate regulatory authority that these non-system facilities are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
<b>4</b>	<b>TERM OF LICENSE</b>
	The term of this license will commence on January 1, 2011 and expire at midnight on December 31, 2011, unless terminated sooner under Section 7 of this license.



<b>5</b>	<b>REPORTING OF ACCIDENTS AND CITATIONS</b>
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

<b>6</b>	<b>Record Keeping and Reporting</b>
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facilities described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facilities:</p> <ul style="list-style-type: none"><li>i. Ticket or weight slip number from the non-system facility;</li><li>ii. Material category designating the type of material transferred to the non-system facility;</li><li>iii. Date the load was transferred to the non-system facility;</li><li>iv. Time the load was transferred to the non-system facility;</li><li>v. Net weight of the load; and</li><li>vi. Fee charged by the non-system facility</li></ul> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none"><li>i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;</li><li>ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; and</li><li>iii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.</li></ul> <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facilities named in Section 3, above.</p> <p>(d) Metro may require the Licensee to report the information required by this Section on a weekly or daily basis.</p>



<b>7</b>	<b>ADDITIONAL LICENSE CONDITIONS</b>
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none"><li>(a) The permissive transfer of solid waste to the non-system facilities, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</li><li>(b) In addition to the amendments by the COO authorized by Section 2 of this license, this license shall be subject to amendment, modification, or termination by the COO in the event that the COO determines that:<ul style="list-style-type: none"><li>i. There has been sufficient change in any circumstances under which Metro issued this license;</li><li>ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.;</li><li>iii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facilities listed in Section 3; or</li><li>iv. There has been sufficient change in the amount of tonnage available for allocation during the term of the license. In the event that additional tonnage becomes available for allocation, the COO may amend Section 2(a) of this license to increase the calendar year tonnage limitation by up to five percent in addition to the reserve tonnage amount described in Section 2(b).</li></ul></li><li>(c) This license shall, in addition to subsections (b)(i) through (b)(iv), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</li><li>(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</li><li>(e) This license shall terminate upon the execution of designated facility agreements with the facilities listed in Section 3 that authorizes the facilities to accept the waste described in Section 1 of this license.</li><li>(f) This license authorizes the delivery of solid waste to the facilities listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</li><li>(g) The COO may direct the Licensee's waste flow under this non-system license to Metro Central Transfer Station or Metro South Transfer Station with a minimum of 24 hours written notice. Any redirection of the waste flow by the COO is effective immediately.</li><li>(h) If the Licensee exceeds the calendar year limitation set forth in Section 2</li></ul>



	<p>of this license, each ton or portion thereof by which the Licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500. For every ton by which the licensee violates the annual tonnage limitation, Metro will assess a base penalty of \$50. This \$50 base penalty can only be contested upon issuance of this license and will be assessed in addition to any penalty calculated by Metro in the normal course of its enforcement action.</p>
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<b>8</b>	<b>COMPLIANCE WITH LAW</b>
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

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

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4209 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO ARROW SANITARY SERVICE, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER

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November 1, 2010

Prepared by: Warren Johnson

Approval of Resolution No. 10-4209 will authorize the Chief Operating Officer (COO) to issue a one-year non-system license (NSL), substantially similar to the proposed license attached to this resolution as Exhibit A, to Arrow Sanitary Service, Inc. (Arrow) authorizing the delivery of up to 26,710 tons of putrescible waste to either the West Van Materials Recovery Center (WVAN) or the Central Transfer and Recycling Center (CTRC) during calendar year 2011. The applicant (Arrow), the destination facilities (WVAN and CTRC), as well as the ultimate disposal site (Finley Buttes Landfill) are all owned by Waste Connections, Inc. (WCI), a waste management company headquartered in Folsom, California.

### 1. INTRODUCTION

#### A. Background

##### (1) Overview

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. NSLs allow Metro to closely monitor and potentially guide waste flows to authorized facilities in order to comply with the contract. This approach provides for a high level of control and fast response to changing conditions. Resolution No. 10-4209 would grant an NSL to Arrow to deliver Metro-area putrescible waste to facilities owned by WCI located in Clark County, Washington. That is, this NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under Metro's disposal contract. Metro Council is scheduled to consider four such NSL resolutions controlling the uncommitted ten percent. In addition to this action for Arrow, Metro Council is scheduled to consider resolutions for American Sanitary Service, Inc. (Res. No. 10-4206), Crown Point Refuse, Inc. (Res. No. 10-4207), and Willamette Resources, Inc. (Res. No. 10-4208) at its meeting on November 18, 2010.

In December 2009, the Metro Council granted one-year NSLs to each of the above referenced licensees. The Council approved a maximum tonnage allocation for the calendar year which, summed across all licenses, did not exceed 9.5 percent of the total forecasted tonnage subject to the flow guarantee based on Metro's tonnage forecast for 2010. Upon issuance of the NSLs, each licensee immediately received 85 percent of its portion of the total tonnage allocation as an upfront annual limit. The remaining amount was held in reserve for the COO to "release" as available by November 2, 2010. On October 22, 2010, the COO released additional tonnage to each of the licensees, reflecting the revised, downward forecast. Table 1 illustrates the initial and adjusted annual tonnage authorizations for each licensee in 2010.

**Table 1: Summary of Annual Tonnage Authorizations for existing NSLs in 2010**

Licensee	Licensee's Portion of Allocable Tonnage for 2010 (Percent)	Initial Tonnage Authorization for 2010	Additional Tonnage Released in October 2010	Total Adjusted Tonnage Authorization for 2010
American Sanitary Service, Inc. NSL No. N-020-10A	5.9	3,848	497	4,345
Arrow Sanitary Service, Inc. NSL No. N-029-10A	43.6	28,518	3,682	32,200
Crown Point Refuse, Inc. NSL No. N-108-10A	0.4	239	31	270
Willamette Resources, Inc. NSL No. N-005-10(3)A	50.2	32,845	4,240	37,085
<b>TOTAL</b>	<b>100</b>	<b>65,450</b>	<b>8,450</b>	<b>73,900</b>

As discussed in the "Budget/Rate Impact" section of this staff report, the current policy of allocating the uncommitted tonnage increases Metro's tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro's transfer station customers will pay approximately \$495,000 more in calendar year 2011 than if 100 percent of the waste were delivered to a landfill owned by Waste Management. Last year, staff assumed these NSLs would be renewed and incorporated their effects into the January – June 2011 portion of the FY 2010-11 solid waste rates and budget. The financial impact of granting the proposed NSLs will be factored into the July – December 2011 portion of the FY 2011-12 solid waste rates and budget.

(2) Design of the 2011 NSLs

For the 2011 renewal period, staff is proposing the same approach for evaluating the applications and determining the annual tonnage authorizations that was used for 2010. In particular, staff recommends that the Metro Council again grant one-year NSLs allocating up to 9.5 percent of the available forecasted tonnage to those applicants that have applied to renew their existing licenses. The limitation for each NSL will be based on a share of the tonnage that is projected to be available for allocation in 2011. The available tonnage is based on the latest tonnage forecast completed in October 2010. This same forecast will be used to develop the FY 2011-12 budget and solid waste rates.

If the Metro Council allocates the full 9.5 percent as proposed, then, based on the current Code requirement to consider the impact of Metro's contractual obligations when granting NSLs, staff would recommend that the Council not allow tonnage limit increases under these licenses, except as described in this report. Furthermore, should Metro receive new applications for these types of NSLs during 2011, it would be difficult for the Council to adopt findings approving such NSLs unless additional solid waste tonnage becomes available during the year (e.g., a significant economic upturn or a current license-holder no longer using its entire tonnage allocation).

In the proposed NSLs for 2011, each licensee will initially receive 85 percent of its portion of the total tonnage allocation as an upfront annual tonnage limit. The remaining 15 percent would then be held in reserve for the COO to potentially release, as available, by no later than November 2, 2011. The COO may adjust the licensee's annual tonnage limit as necessary as described in this report without seeking further Council action. Metro would enforce the annual tonnage limit stipulated in the license.

(3) Tonnage Allocation Methodology

The tonnage allocations are based on Metro’s forecast of future waste that is subject to the flow guarantee under its disposal contract with Waste Management, and the share of such waste that each licensee controlled in the most recent 12-month period (September 2009 through August 2010). The details of the allocation are as follows:

- *Total Tonnage.* Metro forecasts that 780,855 tons will be subject to the flow guarantee in calendar year 2011. The amount of new food waste diversion expected in 2011 (5,912 tons) is accounted for in this forecast. These numbers are derived from Metro’s latest econometric forecasting model of the solid waste system. This model is used for all of Metro’s major decisions involving solid waste tonnage including budgeting, rate setting and revenue projections. The allocation numbers are based on the most recent forecast, which was completed in October 2010 and covers the period through June 2012.
- *Reservation Tonnage.* Metro reserves a portion of the total tonnage to meet its contractual obligations under the disposal contract. For these allocations, Metro reserved 90.5 percent, which is comprised of the 90 percent flow guarantee plus a management allowance of 0.5 percent for the tonnage that would flow during a 2.6 week cycle should the redirection of the waste have to be implemented. The 2.6 weeks is comprised of a 2-week reporting lag, plus four days for notification and redirection logistics.
- *Allocable Tonnage.* 74,181 tons comprise the 9.5 percent of the total tonnage (780,855 tons) that are not reserved and therefore initially available to allocate among the applicants.
- *Licensee’s Portion.* Each licensee is allocated a share of the 74,181 tons in the same proportion as the tonnage subject to the flow guarantee that the licensee controlled (as measured by actual deliveries to all solid waste facilities) during the most recent 12-month period, September 2009 through August 2010. Table 2 illustrates the amount of solid waste that each licensee delivered to all solid waste facilities during the above referenced period.

**Table 2: Amount of Solid Waste that Licensees Delivered to All Solid Waste Facilities  
(September 2009 through August 2010)**

Licensee	Tons	Percent
American Sanitary Service, Inc.	5,632	6.0
Arrow Sanitary Service, Inc.	39,597	42.4
Crown Point Refuse, Inc.	300	0.3
Willamette Resources, Inc.	47,948	51.3
<b>TOTAL</b>	<b>93,477</b>	<b>100</b>

Table 3 illustrates the proposed 2011 authorizations for each licensee based upon its share of the allocable tonnage. For Arrow, the share was 42.4 percent, leading to the initial recommended license authorization of up to 26,710 tons in 2011.

**Table 3: Comparison of Proposed 2011 Allocations by NSL Applicant**

Licensee	Initial Annual Tonnage Authorization (85%)	Tonnage Reserve for 2011 (15%)	Total Tonnage Allocation for 2011
American Sanitary Service, Inc. Res. No. 10-4206	3,799	670	4,469
Arrow Sanitary Service, Inc. Res. No. 10-4209	26,710	4,713	31,423
Crown Point Refuse, Inc. Res. No. 10-4207	202	36	238
Willamette Resources, Inc. Res. No. 10-4208	32,343	5,708	38,051
<b>TOTAL</b>	<b>63,054</b>	<b>11,127</b>	<b>74,181</b>

**B. The Applicant**

Arrow is a solid waste hauler that is franchised to collect solid waste within the cities of Portland, Gresham, and unincorporated Clackamas County. The applicant has been a holder of NSLs since 2000.

The term of Arrow’s existing NSL No. N-029-10A commenced on January 1, 2010 and is set to expire on December 31, 2010. The calendar year tonnage limitation that Metro initially established for the NSL (28,518 tons) was based on Metro’s forecast, issued October 2009, of the waste that was subject to its disposal contract with Waste Management. However, based on Metro’s most recent forecast (dated October 2010), the COO subsequently amended Arrow’s NSL to release an additional 3,682 tons, resulting in a total adjusted tonnage authorization of 32,200 tons for 2010. Table 1 illustrates Arrow’s initial and adjusted annual tonnage authorizations for 2010.

On August 31, 2010, Arrow submitted an NSL application requesting that Metro renew its NSL in 2011 with a tonnage authorization of 39,000 tons. However, under the proposed NSL, Arrow would receive an initial tonnage authorization of 26,710 tons for use in 2011 with the potential for additional tonnage to be released by the COO as explained in Section 1C of this report.

**C. Special Provisions of the NSL**

The proposed license includes several special conditions that are intended to further minimize Metro’s risk of noncompliance with its disposal contract by providing Metro with additional controls for monitoring and managing the flow guarantee against the currently declining waste tonnage in the system and to address Arrow’s past record of noncompliance.

The main special conditions that are included in the proposed NSL for Arrow are described below. Items (1) through (5) describe conditions that were carried forward from the existing license and are included in all of the proposed NSLs for all licensees identified in Section 1A(1) of this report. Item (6) also



describes a condition that was carried forward from the existing license; however, this condition is unique to Arrow.

(1) Calendar Year Tonnage Authorization

NSLs generally include a set tonnage authorization for the duration of the license. However, the proposed NSL authorizes the COO to potentially release additional tonnage to the licensee if available during the term of the license.

Section 2 of the proposed NSL authorizes Arrow to initially deliver up to 26,710 tons of putrescible waste to WVAN and CTRC during calendar year 2011. This annual tonnage limit is immediately available for use throughout the term of the license. The license also stipulates that, by no later than November 2, 2011, the COO may release reserved tonnage and increase the licensee's limit by up to an additional 15 percent (4,713 tons) as available. If the COO were to release the full reserve amount provided under this proposed license, then Arrow's annual tonnage limit would be increased up to a total of 31,423 tons. This condition allows the COO to adjust the annual tonnage authorization as necessary to meet Metro's contractual obligations and allows the maximum use of the licensee's available tonnage. By adopting this resolution, the Metro Council authorizes the COO to release the reserve tonnage as described above.

(2) Tonnage Authorization Growth Allowance

NSLs generally do not include growth allowance provisions. However, should economic conditions improve during the upcoming calendar year and tonnage increase above the level that was forecasted by Metro, the proposed NSL includes a growth allowance provision to allow for additional allocation of the available tonnage.

Section 7 of the proposed NSL stipulates that in addition to the 15 percent reserve tonnage allocation described above, the COO may increase the annual tonnage authorization of the licensee by up to an additional five percent of its total tonnage allocation (1,571 tons) if such tonnage is available during the term of the license. If the COO were to grant the maximum growth allowance and release the licensee's full reserve amount (as described above), then Arrow's annual tonnage limit could be increased up to a total of 20 percent (i.e., maximum tonnage authorization of 32,994 tons). The COO's decision whether to grant such a growth allowance will be based on Metro's forecast of waste that is subject to the flow guarantee under its disposal contract with Waste Management. This means that through the combination of the reserve tonnage and growth allowance conditions described above, the COO is authorized to increase the annual tonnage limit of the proposed license by up to 20 percent without seeking further Council action. Any tonnage increases greater than 20 percent (i.e., the combined growth allowance and reserve tonnage amounts) would require Council approval. By adopting this resolution, the Metro Council authorizes the COO to determine and allocate a growth allowance as described above.

(3) Term of License

The term of a standard NSL renewal is generally two years. However, the proposed NSL has a one-year term due to continuing economic uncertainty and other factors that could reduce the amount of tonnage available for the upcoming year. Section 4 of the proposed NSL stipulates that the license commences on January 1, 2011, and terminates on December 31, 2011.

(4) Redirection of Waste Flow

In the event of further deterioration in the tonnage situation, the proposed NSL authorizes the COO to immediately redirect the licensee's waste to Metro Central or South Transfer Stations if necessary to prevent a violation of the disposal contract flow guarantee.

Section 7 of the proposed NSL stipulates that the COO may redirect the licensee's waste flow with a minimum of 24 hours written notice. By adopting this resolution, the Metro Council authorizes the COO to redirect the licensee's waste, as described above, if necessary to comply with the disposal contract flow guarantee.

(5) Weekly and Daily Reporting Requirement

NSLs generally specify that required information must be transmitted to Metro on a monthly basis. However, the proposed NSL allows the COO to require the licensee to report such information to Metro on a weekly or daily basis if necessary.

Section 6 of the proposed NSL stipulates that the COO may determine when more frequent reporting is necessary. By adopting this resolution, the Metro Council authorizes the COO to immediately implement more frequent reporting requirements as needed.

(6) Enforcement Penalties (Unique to Arrow)

As in the 2010 NSL, the proposed NSL carries forward the condition that, based on the licensee's past compliance record, for every ton by which the licensee violates the annual tonnage authorization stipulated in the license, Metro will assess a base penalty of \$50 for each ton in excess of the tonnage limit. This \$50 base penalty would be assessed, in addition to any penalty calculated by Metro, as part of an enforcement action. Furthermore, Arrow's opportunity to contest such a minimum penalty is only available at the time that Resolution No. 10-4209 is adopted and the license is issued.

Although Arrow has remained in compliance with its existing NSL during 2010, staff recommends that this condition be carried forward to manage potential risk due to Arrow's previous compliance record with regard to NSL tonnage limit violations. This proposed condition provides ongoing incentive for Arrow to maintain compliance with its NSL authorization in the future. A fuller discussion of the licensee's compliance record is provided in Section 2B(6) of this report.

By adopting this resolution, if Arrow exceeds its annual tonnage limit, it is immediately subject to a \$50 per ton penalty and does not have further opportunity to contest such an action by Metro. Metro also retains its right to pursue additional penalties, subject to due process, of up to \$450 per ton for such tonnage limit violations, and as informed by circumstances related to the violation.

## **2. ANALYSIS/INFORMATION**

### **A. Known Opposition**

There is no known opposition to the proposed license renewal.

## B. Legal Antecedents

Metro Code Section 5.05.025 prohibits any person from utilizing non-system facilities without an appropriate license from Metro. Additionally, Code Section 5.05.035(c) provides that, when determining whether or not to approve an NSL application, the Metro Council shall consider the following factors to the extent relevant to such determination.

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

The applicant (Arrow) is well known to Metro regulatory staff and is owned by a major, national integrated solid waste company. The environmental risks from the use of the non-system facilities are minimal as both the transfer stations and landfill destinations are fully regulated by the appropriate local and state authorities.

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

Metro staff's investigation of WCI revealed a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations.

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

WVAN and CTRC use operational practices and management controls that are typical of transfer stations and that Metro considers adequate for the protection of health and the environment. In addition, the Finley Buttes Landfill uses operational practices and management controls that are typical of Subtitle D landfills. Staff at DEQ, the landfill's regulator, consider the operational practices and management controls in place at the landfill to be appropriate for the protection of health and the environment.

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

The proposed license covers putrescible solid waste, which currently has limited recovery potential. The one-year duration of the license puts no long-term constraint or commitment on the waste should recovery alternatives emerge for the region. Thus, approval of the proposed license renewal is not expected to impact the region's recycling and waste reduction efforts.

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

NSLs are the main vehicles by which Metro manages its contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste, which is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. This proposed NSL controls a portion of the ten percent of uncommitted waste not guaranteed to Waste Management under the disposal contract. This proposed NSL renewal is one of four similar licenses that will expire at the end of 2011. Provisions

in the NSL allow Metro to monitor compliance with its disposal contract, as was covered in Section 1A of this report.

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

Since 2009, Arrow has violated the tonnage authorizations stipulated in its licenses on two occasions as described below:

Arrow exceeded its NSL tonnage limitation for the first half of calendar year 2009 by 3,269.16 tons. Metro issued a Notice of Violation (NOV) to Arrow for exceeding its tonnage authorization, imposing a penalty of \$36,891.74. In addition to the imposition of a penalty, Metro reduced Arrow's third quarter tonnage authorization by 3,269 tons. Arrow contested the penalty and the matter was brought to a hearing. The Hearings Officer subsequently found in favor of Metro.

Arrow again exceeded its NSL tonnage authorization for the third quarter of calendar year 2009 by 4,819.34 tons. Metro issued an NOV to Arrow for exceeding its tonnage authorization, imposing a penalty of \$36,851.86. Metro reduced Arrow's fourth quarter tonnage authorization by the amount that it was estimated to exceed its limit through the end of the calendar year. Arrow and Metro then agreed to settle the matter of the 2009 tonnage limit violations for the sum of \$44,500 which was approved by Council. WCI, as part of the settlement, indicated its intent to remain in compliance with future tonnage authorizations established by Metro. Arrow has since paid the settlement amount and remained in compliance with its tonnage authorizations since that time.

The applicant is currently in compliance with its Metro-issued NSL. However, as discussed in Section 1C of this report, in consideration of the applicant's past compliance record, staff recommends that a special condition be added to the proposed license in order for Metro to take sufficient and appropriate enforcement actions to manage the potential risk of Arrow exceeding its NSL tonnage authorization in the future.

With the exception of the above referenced violations, the applicant has not had any significant compliance issues with regard to Metro regulations within the last two years. Additionally, Arrow has had no violations related to public health, safety or environmental regulations during the term of the existing license.

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

This criterion was examined above in Sections 1A and 1C of this report.

### **C. Anticipated/Potential Effects**

This proposed NSL is one of many action items currently under consideration by Metro which is affected by potential declines in the amount of solid waste subject to the flow guarantee. Some decisions could have the effect of shrinking the pool of waste available for allocation. The forecast of waste subject to

the flow guarantee, which is the basis for the NSL tonnage authorizations in 2011, incorporates the best available information as of this writing.

#### **D. Budget/Rate Impacts**

As is generally known, the price that Metro pays for disposal at Columbia Ridge Landfill is a “declining block rate” — meaning that the more waste that is delivered to any landfill owned by Waste Management, the lower the per-ton cost paid by Metro. Based on projected tonnage and contract prices, allocating the uncommitted 74,181 tons to non-Waste Management landfills increases the Metro tip fee by \$0.98. At current throughput of just over 500,000 tons per year, Metro customers will pay approximately \$495,000 more for disposal than if all of the uncommitted waste were to flow to Waste Management landfills. This is a conservative estimate, as it is based on the assumption that none of these tons would have been handled directly through Metro transfer stations. Had that been the case there would be additional fiscal impacts from loss of transaction revenue and higher per-ton revenue required to cover fixed costs. The practice of issuing these types of NSLs has been occurring under the Council’s direction for the past ten years.

The Metro Regional System Fee and Excise Tax will continue to be collected on all waste delivered under authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-029-10A). Therefore, the financial impact has already been factored into the budget.

### **3. RECOMMENDED ACTION**

Based on the information provided above and the analysis provided in this report, the COO recommends that the Metro Council adopt Resolution No. 10-4209. Approval of this resolution will authorize the COO to issue an NSL to Arrow subject to the requirements listed in Metro Code Chapter 5.05; and further subject to special conditions which are incorporated into the proposed NSL attached to this resolution as Exhibit A.

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Agenda Item Number 5.6

**Resolution No. 10-4213**, For the Purpose of Amending the  
2010 Council Organizing Resolution, Resolution No. 10-4103.

*Consent Agenda*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2010 ) RESOLUTION NO. 10-4213  
COUNCIL ORGANIZING RESOLUTION, )  
RESOLUTION NO. 10-4103 ) Introduced by Council President Carlotta  
Collette

WHEREAS, the Metro Charter directs the Council to adopt an annual organizing resolution for the orderly conduct of Council business, Resolution No. 10-4103, For the Purpose of Reorganizing the Metro Council and Electing the Deputy Council President for 2010 adopted on January 7,2010; and

WHEREAS, the Metro Charter provides that the Council President nominates and the Metro Council confirms the Deputy President and all members of committees, commissions and boards; and

WHEREAS, the Metro Council has designated by resolution specific councilors to play lead and or liaison roles on council policymaking projects; and

WHEREAS, the resignation of former Metro Council President David Bragdon on September 9, 2010 and the Council appointment of former Deputy & Acting Council President Carlotta Collette as Council President until January 3, 2011 requires that the organizing resolution be amended and a new Deputy Council President be appointed until January 3, 2011; now therefore

BE IT RESOLVED that the Metro Council confirms the appointment of Councilor Rod Park as Deputy Council President until January 3, 2011.

ADOPTED by the Metro Council this 18<sup>th</sup> day of November, 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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

Agenda Item Number 5.7

**Resolution No. 10-4215**, For the Purpose of Confirming the Council President's Appointments and Reappointment to the Transportation Policy Alternatives Committee (TPAC).

*Consent Agenda*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE ) RESOLUTION NO. 10-4215  
COUNCIL PRESIDENT'S APPOINTMENTS )  
AND REAPPOINTMENT TO THE ) Introduced by Council President Carlotta  
TRANSPORTATION POLICY ) Collette  
ALTERNATIVES COMMITTEE (TPAC) )

WHEREAS, Metro Code Sections 2.19.030 (a) and (b) and 2.19.180 (b)(6), the Transportation Policy Alternatives Committee (TPAC) bylaws provided that the Metro Council President shall appoint all members of all advisory committees; and

WHEREAS, TPAC coordinates and guides the regional transportation planning program in accordance with the policy of the Metro Council; and

WHEREAS, TPAC has four seats for a citizen members currently vacant: three two-year terms and one one-year term; and

WHEREAS, the Metro Council President has made the following appointment to fill the TPAC vacancies:

**TPAC Name; New Appointment; and Terms:**

- Mara Gross a reappointment for a one-year second term,
- Marta Carrillo a new appointment for a two-year first term,
- Chris Beanes a new appointment for a two-year first term,
- Charlie Stephens a new appointment for a two-year first term;

now therefore

BE IT RESOLVED that the Metro Council hereby confirms the Metro Council President's appointments of the following citizens to serve as TPAC members as noted below:

**TPAC Name; New Appointment; and Terms:**

- Mara Gross a reappointment for a one-year second term,
- Marta Carrillo a new appointment for a two-year first term,
- Chris Beanes a new appointment for a two-year first term, and
- Charlie Stephens a new appointment for a two-year first term.

ADOPTED by the Metro Council this \_\_\_\_ day of November, 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 10-4215 FOR THE PURPOSE OF CONFIRMING THE COUNCIL PRESIDENT'S APPOINTMENTS AND REAPPOINTMENT TO THE TRANSPORTATION POLICY ALTERNATIVES COMMITTEE (TPAC)

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Date: November 10, 2010

Prepared by: Kimberly Brown  
503-797-1853

## BACKGROUND

The Transportation Policy Alternatives Committee (TPAC) provides technical input to the Joint Policy Advisory Committee on Transportation (JPACT) on transportation planning and funding priorities for the Portland metropolitan region. TPAC's 21 members consist of technical staff from the same governments and agencies as JPACT, plus six community representatives appointed by the Metro Council.

Currently TPAC has four vacant community seats including one one-year and three two-year terms. Metro advertised these citizen openings via a news release to media and bloggers, web postings to the agency's web site, e-mails to stakeholder group leaders and notices to JPACT and TPAC e-mail lists. Each notice included application procedures and the deadline for applications and that information was included in postings on oregonlive.com, bikeportland.org, portlandtransport.org and portlandonline.com. Metro received 40 applications and interviewed 7 new applicants and 2 incumbent members who reapplied.

## ANALYSIS/INFORMATION

1. **Known Opposition** There is no known opposition to this resolution.
2. **Legal Antecedents** Metro Code Sections 2.19.030 (a) and (b) and 2.19.180 (b)(6) states that community representatives be nominated through a public application process, appointed by the Metro President and confirmed by the Metro Council.
3. **Anticipated Effects** Approval fills vacancies for community representatives on TPAC.
4. **Budget Impacts** None known at this time

## RECOMMENDED ACTION

Staff recommends adoption of Resolution 10-4215.

Agenda Item Number 6.1

**Ordinance No. 10-1249**, For the Purpose of Amending the FY 2010-11 Budget and Appropriations Schedule and the FY 2010-11 Through 2014-15 Capital Improvement Plan, and Declaring an Emergency.

*Second Reading*

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

AMENDING THE FY 2010-11 BUDGET AND ) ORDINANCE NO. 10-1249  
APPROPRIATIONS SCHEDULE AND THE FY )  
2010-11 THROUGH 2014-15 CAPITAL ) Introduced by Michael Jordan, Chief  
IMPROVEMENT PLAN, AND DECLARING AN ) Operating Officer, with the concurrence of  
EMERGENCY ) Council President David Bragdon

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

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

WHEREAS, the need for the increase of appropriation has been justified; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 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 for the purpose of recognizing new government contributions and transferring appropriations to provide for a change in operations.
2. That the FY 2010-11 through FY 2014-15 Capital Improvement Plan is hereby amended to include the projects shown in Exhibit C to this Ordinance.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Kelsey Newell, Recording Secretary

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

**Exhibit A**  
**Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Total Resources</b>							
<b>Resources</b>							
BEGBAL	<i>Beginning Fund Balance</i>						
3500	Beginning Fund Balance						
	* Undesignated		5,706,490		0		5,706,490
	* Prior period adjustment: TOD		4,758,727		0		4,758,727
	* Project Carryover		1,299,085		0		1,299,085
	* Reserved for Local Gov't Grants (CET)		2,840,000		0		2,840,000
	* Reserve for Future Debt Service		2,846,099		0		2,846,099
	* Tibbets Flower Account		212		0		212
	* Reserved for Climate Change Project		47,500		0		47,500
	* Reserved for Regional Investment Strategy		2,821,907		0		2,821,907
	* Restricted Parks Reserve (Multnomah County)		44,000		0		44,000
	* Reserved for Future Planning Needs		565,306		0		565,306
	* Reserved for Future Election Costs		183,411		0		183,411
	* Reserved for Nature in Neighborhood Grants		501,660		0		501,660
	* Reserved for Active Transportation Partnerships		176,100		0		176,100
	* Reserve for Future Natural Areas Operations		804,460		0		804,460
	* Prior year PERS Reserve		3,759,384		0		3,759,384
	<i>Subtotal Beginning Fund Balance</i>		<i>26,354,341</i>		<i>0</i>		<i>26,354,341</i>
<b>General Revenues</b>							
EXCISE	<i>Excise Tax</i>						
4050	Excise Taxes		14,903,937		0		14,903,937
4055	Construction Excise Tax		1,300,000		0		1,300,000
RPTAX	<i>Real Property Taxes</i>						
4010	Real Property Taxes-Current Yr		11,040,190		0		11,040,190
4015	Real Property Taxes-Prior Yrs		254,000		0		254,000
INTRST	<i>Interest Earnings</i>						
4700	Interest on Investments		235,000		0		235,000
	<i>Subtotal General Revenues</i>		<i>27,733,127</i>		<i>0</i>		<i>27,733,127</i>
<b>Department Revenues</b>							
GRANTS	<i>Grants</i>						
4100	Federal Grants - Direct		2,409,736		0		2,409,736
4105	Federal Grants - Indirect		8,665,816		0		8,665,816
4110	State Grants - Direct		278,582		0		278,582
4120	Local Grants - Direct		351,580		0		351,580
LGSHRE	<i>Local Gov't Share Revenues</i>						
4135	Marine Board Fuel Tax		114,000		0		114,000
4139	Other Local Govt Shared Rev.		457,000		0		457,000
GVCNTB	<i>Contributions from Governments</i>						
4145	Government Contributions		1,604,464		185,863		1,790,327
LICPER	<i>Licenses and Permits</i>						
4150	Contractor's Business License		406,000		0		406,000
CHGSVC	<i>Charges for Service</i>						
4165	Boat Launch Fees		154,272		0		154,272
4180	Contract & Professional Service		374,733		0		374,733
4230	Product Sales		81,664		0		81,664
4280	Grave Openings		175,000		0		175,000

**Exhibit A**  
**Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Total Resources</b>							
4285	Grave Sales		134,000		0		134,000
4500	Admission Fees		8,590,338		0		8,590,338
4501	Conservation Surcharge		146,726		0		146,726
4510	Rentals		815,000		0		815,000
4550	Food Service Revenue		5,459,700		0		5,459,700
4560	Retail Sales		2,272,300		0		2,272,300
4580	Utility Services		2,000		0		2,000
4610	Contract Revenue		902,163		0		902,163
4620	Parking Fees		879,000		0		879,000
4630	Tuition and Lectures		1,111,955		0		1,111,955
4635	Exhibit Shows		636,400		0		636,400
4640	Railroad Rides		960,000		0		960,000
4645	Reimbursed Services		198,000		0		198,000
4650	Miscellaneous Charges for Service		14,662		0		14,662
4760	Sponsorships		10,000		0		10,000
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		1,054,600		0		1,054,600
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		25,000		0		25,000
4890	Miscellaneous Revenue		113,500		0		113,500
4891	Reimbursements		1,414,472		0		1,414,472
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from Renewal & Replacement Fund		128,000		0		128,000
<i>INDTRV</i>	<i>Interfund Reimbursements</i>						
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,993,186		0		1,993,186
	* from Zoo Bond Fund		188,084		0		188,084
	* from Natural Areas Fund		877,851		0		877,851
	* from Solid Waste Revenue Fund		4,212,029		0		4,212,029
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4980	Transfer for Direct Costs						
	* from Zoo Bond Fund		104,637		0		104,637
	* from Natural Areas Fund		618,595		0		618,595
	* from Smith & Bybee Lakes Fund		111,379		0		111,379
	* from Solid Waste Revenue Fund		2,194,243		0		2,194,243
	<i>Subtotal Department Revenues</i>		<i>50,240,667</i>		<i>185,863</i>		<i>50,426,530</i>
<b>TOTAL RESOURCES</b>			<b>\$104,328,135</b>		<b>\$185,863</b>		<b>\$104,513,998</b>

**Exhibit A**  
**Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Communications</b>							
<b>Total Personal Services</b>		<b>22.00</b>	<b>\$2,220,057</b>	<b>0.00</b>	<b>\$0</b>	<b>22.00</b>	<b>\$2,220,057</b>
<b><i>Materials &amp; Services</i></b>							
<i>GOODS Goods</i>							
	5201 Office Supplies		25,302		0		25,302
	5205 Operating Supplies		4,458		0		4,458
	5210 Subscriptions and Dues		2,834		0		2,834
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		169,564		0		169,564
	5246 Sponsorships		22,054		0		22,054
	5251 Utility Services		2,866		0		2,866
	5260 Maintenance & Repair Services		5,501		0		5,501
	5280 Other Purchased Services		44,889		1,121		46,010
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		2,000		0		2,000
	5455 Staff Development		7,617		0		7,617
	5490 Miscellaneous Expenditures		7,533		0		7,533
<b>Total Materials &amp; Services</b>			<b>\$294,618</b>		<b>\$1,121</b>		<b>\$295,739</b>
<b>TOTAL REQUIREMENTS</b>		<b>22.00</b>	<b>\$2,514,675</b>	<b>0.00</b>	<b>\$1,121</b>	<b>22.00</b>	<b>\$2,515,796</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Council Office</b>							
<i>Personal Services</i>							
<i>SALWGE</i>	<i>Salaries &amp; Wages</i>						
5000	Elected Official Salaries						
	Council President	1.00	114,468	-	0	1.00	114,468
	Councilor	6.00	228,936	-	0	6.00	228,936
5010	Reg Employees-Full Time-Exempt						
	Assistant to the Council President	1.00	86,832	-	0	1.00	86,832
	Chief Operating Officer	1.00	174,239	-	0	1.00	174,239
	Council President Policy Coordinator	1.00	48,657	-	0	1.00	48,657
	Council Policy Analyst	3.00	162,037	-	0	3.00	162,037
	CRC Project Director	0.25	48,750	0.75	146,250	1.00	195,000
	Deputy Chief Operating Officer	1.00	155,652	-	0	1.00	155,652
	Policy Advisor II	2.00	264,270	-	0	2.00	264,270
	Program Analyst I	3.25	164,080	-	0	3.25	164,080
	Program Analyst II	2.00	104,678	-	0	2.00	104,678
	Program Analyst IV	1.00	66,305	-	0	1.00	66,305
	Program Analyst V	1.00	83,600	-	0	1.00	83,600
	Program Director	1.00	102,294	-	0	1.00	102,294
5030	Temporary Employees		91,229		0		91,229
5080	Overtime		5,000		0		5,000
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		43,842		0		43,842
	Other Adjustments (non-represented)		7,307		0		7,307
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		638,382		35,225		673,607
5190	PERS Bond Recovery		55,828		4,388		60,216
<b>Total Personal Services</b>		<b>24.50</b>	<b>\$2,646,386</b>	<b>0.75</b>	<b>\$185,863</b>	<b>25.25</b>	<b>\$2,832,249</b>
<i>Materials &amp; Services</i>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		123,222		0		123,222
5205	Operating Supplies		2,119		0		2,119
5210	Subscriptions and Dues		2,638		0		2,638
<i>SVCS</i>	<i>Services</i>						
5240	Contracted Professional Svcs		645,500		0		645,500
5251	Utility Services		7,043		0		7,043
5260	Maintenance & Repair Services		1,091		0		1,091
5265	Rentals		848		0		848
5280	Other Purchased Services		11,297		18,348		29,645
<i>OTHEXP</i>	<i>Other Expenditures</i>						
5450	Travel		19,766		0		19,766
5455	Staff Development		11,547		0		11,547
5470	Council Costs		21,000		0		21,000
5490	Miscellaneous Expenditures		4,456		0		4,456
<b>Total Materials &amp; Services</b>			<b>\$850,527</b>		<b>\$18,348</b>		<b>\$868,875</b>
<b>TOTAL REQUIREMENTS</b>		<b>24.50</b>	<b>\$3,496,913</b>	<b>0.75</b>	<b>\$204,211</b>	<b>25.25</b>	<b>\$3,701,124</b>



**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Finance &amp; Regulatory Services</b>							
<b>Total Personal Services</b>		<b>27.90</b>	<b>\$2,844,146</b>	<b>0.00</b>	<b>\$0</b>	<b>27.90</b>	<b>\$2,844,146</b>
<b><u>Materials &amp; Services</u></b>							
<i>GOODS Goods</i>							
	5201 Office Supplies		23,609		0		23,609
	5210 Subscriptions and Dues		10,835		0		10,835
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		19,603		0		19,603
	5246 Sponsorships		7,000		0		7,000
	5260 Maintenance & Repair Services		1,377		0		1,377
	5280 Other Purchased Services		78,493		5,920		84,413
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		317,000		0		317,000
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		27,638		0		27,638
	5455 Staff Development		25,450		0		25,450
	5490 Miscellaneous Expenditures		3,266		0		3,266
<b>Total Materials &amp; Services</b>			<b>\$514,271</b>		<b>\$5,920</b>		<b>\$520,191</b>
<b>TOTAL REQUIREMENTS</b>		<b>27.90</b>	<b>\$3,358,417</b>	<b>0.00</b>	<b>\$5,920</b>	<b>27.90</b>	<b>\$3,364,337</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Human Resources</b>							
<b>Total Personal Services</b>		<b>16.50</b>	<b>\$1,505,090</b>	<b>0.00</b>	<b>\$0</b>	<b>16.50</b>	<b>\$1,505,090</b>
<b><i>Materials &amp; Services</i></b>							
<i>GOODS Goods</i>							
	5201 Office Supplies		17,680		0		17,680
	5205 Operating Supplies		9,238		0		9,238
	5210 Subscriptions and Dues		5,318		0		5,318
	5215 Maintenance & Repairs Supplies		667		0		667
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		57,822		0		57,822
	5260 Maintenance & Repair Services		4,746		0		4,746
	5280 Other Purchased Services		45,327		6,081		51,408
<i>OTHEXP Other Expenditures</i>							
	5440 Program Purchases		149,740		0		149,740
	5455 Staff Development		33,614		0		33,614
<b>Total Materials &amp; Services</b>			<b>\$331,717</b>		<b>\$6,081</b>		<b>\$337,798</b>
<b>TOTAL REQUIREMENTS</b>		<b>16.50</b>	<b>\$1,836,807</b>	<b>0.00</b>	<b>\$6,081</b>	<b>16.50</b>	<b>\$1,842,888</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Information Services</b>							
<b>Total Personal Services</b>		<b>23.50</b>	<b>\$2,306,829</b>	<b>0.00</b>	<b>\$0</b>	<b>23.50</b>	<b>\$2,306,829</b>
<b><i>Materials &amp; Services</i></b>							
<i>GOODS Goods</i>							
	5201 Office Supplies		48,427		0		48,427
	5210 Subscriptions and Dues		762		0		762
	5215 Maintenance & Repairs Supplies		14,500		0		14,500
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		160,398		0		160,398
	5251 Utility Services		16,142		0		16,142
	5260 Maintenance & Repair Services		445,459		0		445,459
	5280 Other Purchased Services		0		214		214
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		19,632		0		19,632
	5455 Staff Development		46,231		0		46,231
<b>Total Materials &amp; Services</b>			<b>\$751,551</b>		<b>\$214</b>		<b>\$751,765</b>
<b>TOTAL REQUIREMENTS</b>		<b>23.50</b>	<b>\$3,058,380</b>	<b>0.00</b>	<b>\$214</b>	<b>23.50</b>	<b>\$3,058,594</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Office of Metro Attorney</b>							
<b>Total Personal Services</b>		<b>15.50</b>	<b>\$1,951,684</b>	<b>0.00</b>	<b>\$0</b>	<b>15.50</b>	<b>\$1,951,684</b>
<b><i>Materials &amp; Services</i></b>							
<i>GOODS Goods</i>							
	5201 Office Supplies		12,207		0		12,207
	5205 Operating Supplies		4,873		0		4,873
	5210 Subscriptions and Dues		27,278		0		27,278
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		423		0		423
	5280 Other Purchased Services		7,099		939		8,038
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		529		0		529
	5455 Staff Development		6,568		0		6,568
	5490 Miscellaneous Expenditures		2,225		0		2,225
<b>Total Materials &amp; Services</b>			<b>\$61,202</b>		<b>\$939</b>		<b>\$62,141</b>
<b>TOTAL REQUIREMENTS</b>		<b>15.50</b>	<b>\$2,012,886</b>	<b>0.00</b>	<b>\$939</b>	<b>15.50</b>	<b>\$2,013,825</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Office of the Auditor</b>							
<b>Total Personal Services</b>		<b>6.00</b>	<b>\$632,082</b>	<b>0.00</b>	<b>\$0</b>	<b>6.00</b>	<b>\$632,082</b>
<b><i>Materials &amp; Services</i></b>							
<i>GOODS Goods</i>							
	5201 Office Supplies		9,960		0		9,960
	5205 Operating Supplies		1,650		0		1,650
	5210 Subscriptions and Dues		2,000		0		2,000
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		15,000		0		15,000
	5251 Utility Services		350		0		350
	5280 Other Purchased Services		0		645		645
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		5,559		0		5,559
	5455 Staff Development		4,832		0		4,832
<b>Total Materials &amp; Services</b>			<b>\$39,351</b>		<b>\$645</b>		<b>\$39,996</b>
<b>TOTAL REQUIREMENTS</b>		<b>6.00</b>	<b>\$671,433</b>	<b>0.00</b>	<b>\$645</b>	<b>6.00</b>	<b>\$672,078</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Oregon Zoo</b>							
<b>Total Personal Services</b>		<b>149.73</b>	<b>\$16,255,128</b>	<b>0.00</b>	<b>\$0</b>	<b>149.73</b>	<b>\$16,255,128</b>
<b>Materials &amp; Services</b>							
<i>GOODS 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 Services</i>							
	5245 Marketing		6,125		0		6,125
	5240 Contracted Professional Svcs		1,370,952		0		1,370,952
	5251 Utility Services		2,262,620		0		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		19,989		924,798
	5290 Operations Contracts		1,835,709		0		1,835,709
<i>CAPMNT Capital Maintenance</i>							
	5262 Capital Maintenance - Non-CIP		327,000		0		327,000
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		83,535		0		83,535
	5315 Grants to Other Governments		26,000		0		26,000
<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
<b>Total Materials &amp; Services</b>			<b>\$10,949,064</b>		<b>\$19,989</b>		<b>\$10,969,053</b>
<b>TOTAL REQUIREMENTS</b>		<b>149.73</b>	<b>\$27,204,192</b>	<b>0.00</b>	<b>\$19,989</b>	<b>149.73</b>	<b>\$27,224,181</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Planning &amp; Development</b>							
<i><b>Personal Services</b></i>							
<i>SALWGE</i>	<i>Salaries &amp; Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Administrative Specialist IV	1.00	44,773	-	0	1.00	44,773
	Assistant Management Analyst	1.00	57,096	-	0	1.00	57,096
	Assistant Regional Planner	2.00	110,670	-	0	2.00	110,670
	Associate Public Affairs Specialist	1.00	57,096	-	0	1.00	57,096
	Associate Regional Planner	3.00	195,953	-	0	3.00	195,953
	Associate Trans. Planner	4.00	258,307	-	0	4.00	258,307
	Director I	1.00	140,969	-	0	1.00	140,969
	Deputy Director	2.00	236,216	-	0	2.00	236,216
	Manager I	2.00	190,022	-	0	2.00	190,022
	Manager II	3.00	295,521	-	0	3.00	295,521
	Principal Regional Planner	5.00	437,901	-	0	5.00	437,901
	Principal Transportation Planner	6.00	514,342	-	0	6.00	514,342
	Program Supervisor I	1.00	64,792	-	0	1.00	64,792
	Senior Management Analyst	5.00	337,566	-	0	5.00	337,566
	Senior Regional Planner	2.00	142,497	-	0	2.00	142,497
	Senior Transportation Planner	7.00	536,990	-	0	7.00	536,990
	Transit Project Manager I	1.00	99,603	-	0	1.00	99,603
	Transit Project Manager II	1.00	100,472	-	0	1.00	100,472
	Transportation Engineer	1.00	88,419	-	0	1.00	88,419
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Specialist II	3.00	120,206	-	0	3.00	120,206
	Administrative Specialist III	1.00	44,767	-	0	1.00	44,767
	Program Assistant 3	2.00	103,585	-	0	2.00	103,585
	Principal Regional Planner	0.80	70,735	-	0	0.80	70,735
	Program Analyst IV	-	0	0.90	65,165	0.90	65,165
	Records & Information Analyst	0.50	23,510	-	0	0.50	23,510
5025	Reg Employees-Part Time-Non-Exempt						
5030	Temporary Employees	-	88,721		0	-	88,721
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		33,828		0		33,828
	Step Increases (AFSCME)		34,917		0		34,917
	COLA (represented employees)		47,614		0		47,614
	Other Adjustments (non-represented)		5,638		0		5,638
	Other Adjustments (AFSCME)		15,871		0		15,871
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		1,453,624		19,871		1,473,495
5190	PERS Bond Recovery		134,958		1,970		136,928
<b>Total Personal Services</b>		<b>56.30</b>	<b>\$6,087,179</b>	<b>0.90</b>	<b>\$87,006</b>	<b>57.20</b>	<b>\$6,174,185</b>
<i><b>Materials &amp; Services</b></i>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		132,490		0		132,490
5205	Operating Supplies		83,100		0		83,100
5210	Subscriptions and Dues		25,450		0		25,450
<i>SVCS</i>	<i>Services</i>						
5240	Contracted Professional Svcs		1,740,520		9,337		1,749,857
5251	Utility Services		7,100		0		7,100
5260	Maintenance & Repair Services		39,167		0		39,167
5265	Rentals		7,500		0		7,500
5280	Other Purchased Services		299,840		51,916		351,756

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Planning &amp; Development</b>							
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		683,346		0		683,346
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5440 Program Purchases		5,500,000		0		5,500,000
	5445 Grants and Loans		714,377		0		714,377
	5450 Travel		84,860		0		84,860
	5455 Staff Development		9,300		0		9,300
	<b>Total Materials &amp; Services</b>		<b>\$9,327,050</b>		<b>\$61,253</b>		<b>\$9,388,303</b>
<b>TOTAL REQUIREMENTS</b>		<b>56.30</b>	<b>\$15,414,229</b>	<b>0.90</b>	<b>\$148,259</b>	<b>57.20</b>	<b>\$15,562,488</b>



**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Research Center (formerly budgeted in Planning &amp; Development)</b>							
<i>Personal Services</i>							
SALWGE	<i>Salaries &amp; Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Assistant GIS Specialist	1.00	49,329	-	0	1.00	49,329
	Administrative Specialist IV	1.00	47,021	-	0	1.00	47,021
	Assistant Regional Planner	1.00	54,419	-	0	1.00	54,419
	Associate GIS Specialist	1.00	72,800	-	0	1.00	72,800
	Associate Transportation Modeler	5.00	306,867	-	0	5.00	306,867
	Manager I	1.00	90,593	-	0	1.00	90,593
	Manager II	2.00	180,333	-	0	2.00	180,333
	Principal GIS Specialist	2.00	176,838	-	0	2.00	176,838
	Principal Regional Planner	1.00	88,419	-	0	1.00	88,419
	Principal Transportation Modeler	3.00	265,257	-	0	3.00	265,257
	Program Director II	1.00	131,785	-	0	1.00	131,785
	Program Supervisor II	2.00	180,511	-	0	2.00	180,511
	Senior GIS Specialist	6.00	435,957	-	0	6.00	435,957
	Senior Transportation Modeler	2.00	168,450	-	0	2.00	168,450
5020	Reg Emp-Part Time-Exempt						
	Assistant GIS Specialist	0.60	35,397	-	0	0.60	35,397
	Associate GIS Specialist	0.50	36,400	-	0	0.50	36,400
	Principal Regional Planner	0.47	41,557	0.33	29,616	0.80	71,173
5025	Reg Employees-Part Time-Non-Exempt						
	GIS Technician	1.34	54,420	-	0	1.34	54,420
5030	Temporary Employees	-	30,224		0	-	30,224
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		17,497		0		17,497
	Step Increases (AFSCME)		20,107		0		20,107
	COLA (represented employees)		27,419		0		27,419
	Other Adjustments (non-represented)		2,916		0		2,916
	Other Adjustments (AFSCME)		9,140		0		9,140
FRINGE	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		827,268		9,803		837,071
5190	PERS Bond Recovery		74,648		888		75,536
<b>Total Personal Services</b>		<b>31.91</b>	<b>\$3,425,572</b>	<b>0.33</b>	<b>\$40,307</b>	<b>32.24</b>	<b>\$3,465,879</b>
<b>Total Materials &amp; Services</b>			<b>\$1,206,173</b>		<b>\$0</b>		<b>\$1,206,173</b>
<b>TOTAL REQUIREMENTS</b>		<b>31.91</b>	<b>\$4,631,745</b>	<b>0.33</b>	<b>\$40,307</b>	<b>32.24</b>	<b>\$4,672,052</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Parks &amp; Environmental Services</b>							
<i>Personal Services</i>							
<i>SALWGE Salaries &amp; Wages</i>							
5010	Reg Employees-Full Time-Exempt	-	0	-	0	-	0
	Administrative Specialist IV	1.00	49,130	-	0	1.00	49,130
	Assistant Management Analyst	6.00	340,933	-	0	6.00	340,933
	Director	1.00	123,773	-	0	1.00	123,773
	Manager I	5.00	431,779	-	0	5.00	431,779
	Principal Regional Planner	1.00	88,419	-	0	1.00	88,419
	Program Director	1.00	102,294	-	0	1.00	102,294
	Program Supervisor I	1.00	60,838	-	0	1.00	60,838
	Property Management Specialist	0.80	58,240	-	0	0.80	58,240
	Senior Management Analyst	1.00	72,800	-	0	1.00	72,800
	Service Supervisor III	1.00	52,000	-	0	1.00	52,000
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Specialist II	2.00	79,020	-	0	2.00	79,020
	Arborist	1.00	55,660	-	0	1.00	55,660
	Building Service Worker	1.00	44,595	-	0	1.00	44,595
	Building Services Technician	1.00	59,732	-	0	1.00	59,732
	Maintenance Worker 2	1.00	52,208	-	0	1.00	52,208
	Park Ranger	7.00	336,779	1.00	49,088	8.00	385,867
	Park Ranger Lead	1.00	55,660	-	0	1.00	55,660
	Printing/Mail Services Clerk	1.00	42,536	-	0	1.00	42,536
	Program Assistant 3	1.00	46,862	-	0	1.00	46,862
	Safety and Security Officer	2.00	80,912	-	0	2.00	80,912
	Assistant Management Analyst	0.75	37,029	-	0	0.75	37,029
5025	Reg Employees-Part Time-Non-Exempt						
	Administrative Specialist I	1.00	38,577	-	0	1.00	38,577
	Program Assistant 1	1.05	45,682	-	0	1.05	45,682
5030	Temporary Employees		305,716		0		305,716
5080	Overtime		31,953		0		31,953
	Merit Adjustment Pool (non-represented)		23,122		0		23,122
	Merit Adjustment Pool (LIUNA)		3,001		0		3,001
	Step Increases (AFSCME)		15,643		0		15,643
	COLA (represented employees)		26,337		0		26,337
	Other Adjustments (non-represented)		3,854		0		3,854
	Other Adjustments (AFSCME)		7,109		0		7,109
	Other Adjustments (Class & Comp Study)		17,515		0		17,515
<i>FRINGE Fringe Benefits</i>							
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		1,017,644		24,964		1,042,608
5190	PERS Bond Recovery		74,520		1,548		76,068
<b>Total Personal Services</b>		<b>39.60</b>	<b>\$3,881,872</b>	<b>1.00</b>	<b>\$75,600</b>	<b>40.60</b>	<b>\$3,957,472</b>
<i>Materials &amp; Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		76,715		(3,659)		73,056
	5205 Operating Supplies		117,781		(21,257)		96,524
	5210 Subscriptions and Dues		5,701		(107)		5,594
	5214 Fuels and Lubricants		2,135		0		2,135
	5215 Maintenance & Repairs Supplies		203,983		(7,966)		196,017
	5225 Retail		9,316		0		9,316
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		480,151		(68,288)		411,863
	5250 Contracted Property Services		181,213		(32,932)		148,281

**Exhibit A  
Ordinance No. 10-1249**

<b>ACCT</b>	<b>DESCRIPTION</b>	<b>Current</b>		<b>Revision</b>		<b>Amended</b>	
		<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>	<b>FTE</b>	<b>Amount</b>
<b>General Fund</b>							
<b>Parks &amp; Environmental Services</b>							
	5251 Utility Services		443,898		(4,375)		439,523
	5255 Cleaning Services		197,281		0		197,281
	5260 Maintenance & Repair Services		357,930		(51,253)		306,677
	5265 Rentals		51,238		(283)		50,955
	5280 Other Purchased Services		24,052		20,296		44,348
	<i>CAPMNT Capital Maintenance</i>						
	5261 Capital Maintenance - CIP		160,000		0		160,000
	<i>IGEXP Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		452,677		(44,311)		408,366
	5310 Taxes (Non-Payroll)		259,779		(2,231)		257,548
	<i>OTHEXP Other Expenditures</i>						
	5450 Travel		5,839		(549)		5,290
	5455 Staff Development		30,744		(1,576)		29,168
	<b>Total Materials &amp; Services</b>		<b>\$3,060,433</b>		<b>(\$218,491)</b>		<b>\$2,841,942</b>
	<b>TOTAL REQUIREMENTS</b>	<b>39.60</b>	<b>\$6,942,305</b>	<b>1.00</b>	<b>(\$142,891)</b>	<b>40.60</b>	<b>\$6,799,414</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Sustainability Center</b>							
<b><i>Personal Services</i></b>							
<i>SALWGE Salaries &amp; Wages</i>							
5010	Reg Employees-Full Time-Exempt						
	Administrative Specialist IV	1.00	51,804	-	0	1.00	51,804
	Director	1.00	140,970	-	0	1.00	140,970
	Education Coordinator II	1.00	59,938	-	0	1.00	59,938
	Manager I	0.70	54,461	-	0	0.70	54,461
	Manager II	1.70	161,457	-	0	1.70	161,457
	Policy Advisor II	1.00	123,771	-	0	1.00	123,771
	Principal Regional Planner	3.00	248,903	-	0	3.00	248,903
	Program Analyst IV	0.90	65,165	(0.90)	(65,165)	-	0
	Program Supervisor II	2.10	159,087	-	0	2.10	159,087
	Senior Management Analyst	1.00	57,096	-	0	1.00	57,096
	Senior Natural Resource Scientist	4.00	322,043	-	0	4.00	322,043
	Senior Public Affairs Specialist	0.20	12,590	-	0	0.20	12,590
	Senior Regional Planner	3.00	225,912	-	0	3.00	225,912
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Specialist II	1.00	44,663	-	0	1.00	44,663
	Natural Resource Technician	5.00	245,440	(1.00)	(49,088)	4.00	196,352
	Program Assistant 2	2.00	89,341	-	0	2.00	89,341
	Program Assistant 3	3.00	133,921	-	0	3.00	133,921
	Volunteer Coordinator I	0.80	41,251	-	0	0.80	41,251
5020	Reg Emp-Part Time-Exempt						
	Education Coordinator II	0.80	39,498	-	0	0.80	39,498
	Senior Regional Planner	1.00	80,337	-	0	1.00	80,337
5025	Reg Employees-Part Time-Non-Exempt						
	Volunteer Coordinator I	1.00	51,586	-	0	1.00	51,586
5030	Temporary Employees		50,469		0		50,469
5080	Overtime		3,530		0		3,530
	Merit Adjustment Pool (non-represented)		21,148		0		21,148
	Merit Adjustment Pool (LIUNA)		1,475		0		1,475
	Step Increases (AFSCME)		16,639		0		16,639
	COLA (represented employees)		25,145		0		25,145
	Other Adjustments (non-represented)		3,524		0		3,524
	Other Adjustments (AFSCME)		7,559		0		7,559
	Other Adjustments (Class & Comp Study)		8,590		0		8,590
<i>FRINGE Fringe Benefits</i>							
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		870,494		(44,835)		825,659
5190	PERS Bond Recovery		74,905		(3,518)		71,387
<b>Total Personal Services</b>		<b>35.20</b>	<b>\$3,492,712</b>	<b>(1.90)</b>	<b>(\$162,606)</b>	<b>33.30</b>	<b>\$3,330,106</b>
<b><i>Materials &amp; Services</i></b>							
<i>GOODS Goods</i>							
5201	Office Supplies		51,704		1,823		53,527
5205	Operating Supplies		34,429		2,757		37,186
5210	Subscriptions and Dues		5,492		0		5,492
5214	Fuels and Lubricants		200		0		200
5215	Maintenance & Repairs Supplies		10,782		7,966		18,748
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		985,350		(4,419)		980,931
5246	Sponsorships		10,500		0		10,500
5250	Contracted Property Services		647,287		32,932		680,219
5251	Utility Services		7,441		4,375		11,816

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>Sustainability Center</b>							
	5260 Maintenance & Repair Services		1,108		1,139		2,247
	5265 Rentals		1,570		283		1,853
	5280 Other Purchased Services		46,318		6,086		52,404
	<i>IGEXP Intergov't Expenditures</i>						
	5300 Payments to Other Agencies		51,423		44,311		95,734
	5310 Taxes (Non-Payroll)		0		2,231		2,231
	5315 Grants to Other Governments		95,000		0		95,000
	<i>OTHEXP Other Expenditures</i>						
	5450 Travel		8,037		0		8,037
	5455 Staff Development		21,441		1,576		23,017
	<b>Total Materials &amp; Services</b>		<b>\$1,978,082</b>		<b>\$101,060</b>		<b>\$2,079,142</b>
	<b>TOTAL REQUIREMENTS</b>	<b>35.20</b>	<b>\$5,470,794</b>	<b>(1.90)</b>	<b>(\$61,546)</b>	<b>33.30</b>	<b>\$5,409,248</b>

**Exhibit A**  
**Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>General Fund</b>							
<b>General Expenses</b>							
<b>Total Interfund Transfers</b>			<b>\$4,313,554</b>		<b>\$0</b>		<b>\$4,313,554</b>
<i><b>Contingency &amp; Unappropriated Balance</b></i>							
CONT	Contingency						
5999	Contingency						
	* Contingency		3,086,261		(37,386)		3,048,875
	* Reserved for Nature in Neigh Grants		326,660		0		326,660
	* Reserved for Active Transportation Partnerships		65,725		0		65,725
UNAPP	Unappropriated Fund Balance						
5990	Unappropriated Fund Balance						
	* Stabilization Reserve		2,400,000		0		2,400,000
	* PERS Reserve		4,738,650		0		4,738,650
	* Computer Replacement Reserve (Planning)		90,000		0		90,000
	* Tibbets Flower Account		62		0		62
	* Recovery Rate Stabilization reserve		802,918		0		802,918
	* Reserved for Regional Investment Strategy		1,846,000		0		1,846,000
	* Reserved for Future Natural Areas Operations		504,460		0		504,460
	* Reserved for Future Planning Needs		22,761		0		22,761
	* Reserve for Future Debt Service		2,787,099		0		2,787,099
<b>Total Contingency &amp; Unappropriated Balance</b>			<b>\$16,670,596</b>		<b>(\$37,386)</b>		<b>\$16,633,210</b>
<b>TOTAL REQUIREMENTS</b>		<b>448.64</b>	<b>\$104,328,135</b>	<b>1.08</b>	<b>\$185,863</b>	<b>449.72</b>	<b>\$104,513,998</b>

**Exhibit A  
Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Exposition Recreation Commission Fund</b>							
<b>MERC Fund</b>							
<i><b>Resources</b></i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
	* Undesignated		17,513,857		0		17,513,857
	* Renewal & Replacement Reserve		2,255,000		0		2,255,000
	* Transient Lodging Tax Capital Reserve		640,310		0		640,310
	* Aramark Contract Capital Investment Reserve		1,625,000		0		1,625,000
	* PERS Reserve		1,631,545		0		1,631,545
	* Expo Phase 3 Reserve		1,185,232		0		1,185,232
<i>GRANTS</i>	<i>Grants</i>						
	4105 Federal Grants - Indirect		235,063		0		235,063
	4110 State Grant - Direct		259,500		0		259,500
	4115 State Grant - Indirect		131,728		26,301		158,029
	4120 Local Grant - Direct		26,925		0		26,925
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
	4130 Hotel/Motel Tax		10,558,553		0		10,558,553
	4142 Intergovernment Misc. Revenue		43,955		0		43,955
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
	4145 Government Contributions		756,907		0		756,907
<i>CHGSVC</i>	<i>Charges for Service</i>						
	4500 Admission Fees		1,700,500		0		1,700,500
	4510 Rentals		7,420,586		0		7,420,586
	4550 Food Service Revenue		11,813,716		0		11,813,716
	4560 Retail Sales		5,000		0		5,000
	4570 Merchandising		13,000		0		13,000
	4575 Advertising		15,000		0		15,000
	4580 Utility Services		1,598,360		0		1,598,360
	4590 Commissions		1,135,000		0		1,135,000
	4620 Parking Fees		2,838,899		0		2,838,899
	4645 Reimbursed Services		2,688,825		0		2,688,825
	4647 Reimbursed Services - Contract		486,142		0		486,142
	4650 Miscellaneous Charges for Svc		302,230		0		302,230
<i>INTRST</i>	<i>Interest Earnings</i>						
	4700 Interest on Investments		235,523		0		235,523
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
	4750 Donations and Bequests		442,000		0		442,000
	4760 Sponsorship Revenue		143,500		0		143,500
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
	4170 Fine & Forfeitures		2,000		0		2,000
	4805 Financing Transaction		82,372		0		82,372
	4890 Miscellaneous Revenue		34,825		0		34,825
	4891 Refunds and Reimbursements		4,000		0		4,000
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
	4970 Transfer of Resources						
	* from General Fund		475,000		0		475,000
<b>TOTAL RESOURCES</b>			<b>\$68,300,053</b>		<b>\$26,301</b>		<b>\$68,326,354</b>

**Exhibit A**  
**Ordinance No. 10-1249**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
<b>Metro Exposition Recreation Commission Fund</b>							
<b>MERC Fund</b>							
<b>Total Personal Services</b>		<b>190.00</b>	<b>\$17,989,676</b>	<b>0.00</b>	<b>\$0</b>	<b>190.00</b>	<b>\$17,989,676</b>
<b>Total Materials &amp; Services</b>			<b>\$20,580,326</b>		<b>\$0</b>		<b>\$20,580,326</b>
<b>Capital Outlay</b>							
<i>CAPCIP</i>	<i>Capital Outlay (CIP Projects)</i>						
5710	Improve-Oth thn Bldg		690,000		0		690,000
5720	Buildings & Related		3,881,105		200,000		4,081,105
5740	Equipment & Vehicles		426,000		0		426,000
5750	Office Furniture & Equip		102,000		0		102,000
<b>Total Capital Outlay</b>			<b>\$5,099,105</b>		<b>\$200,000</b>		<b>\$5,299,105</b>
<b>Interfund Transfers</b>							
<i>INDTEX</i>	<i>Interfund Reimbursements</i>						
5800	Transfer for Indirect Costs						
	* to General Fund-Support Services		1,870,208		0		1,870,208
	* to General Fund		122,978		0		122,978
	* to Risk Management Fund - Liability		386,429		0		386,429
	* to Risk Management Fund - Workers Comp.		112,883		0		112,883
<i>EQTCHG</i>	<i>Fund Equity Transfers</i>						
5810	Transfer of Resources						
	* to General Revenue Bond Fund		1,189,132		0		1,189,132
<b>Total Interfund Transfers</b>			<b>\$3,681,630</b>	<b>0.00</b>	<b>\$0</b>		<b>\$3,681,630</b>
<b>Contingency and Ending Balance</b>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		1,913,463		0		1,913,463
	* Renewal and Replacement		470,000		(200,000)		270,000
	* Contingency for Capital (TL TAX)		269,310		0		269,310
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Restricted Fund Balance (User Fees)		1,237,232		0		1,237,232
	* Ending Balance		13,282,489		26,301		13,308,790
	* Renewal & Replacement		1,785,000		0		1,785,000
	* Current Year PERS Reserve		360,277		0		360,277
	* Prior Year PERS Reserve		1,631,545		0		1,631,545
<b>Total Contingency and Ending Balance</b>			<b>\$20,949,316</b>		<b>(\$173,699)</b>		<b>\$20,775,617</b>
<b>TOTAL REQUIREMENTS</b>		<b>190.00</b>	<b>\$68,300,053</b>	<b>0.00</b>	<b>\$26,301</b>	<b>190.00</b>	<b>\$68,326,354</b>



**Exhibit B**  
**Ordinance 10-1249**  
**Schedule of Appropriations**

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Revised</u> <u>Appropriation</u>
<b>GENERAL FUND</b>			
Communications	2,514,675	1,121	2,515,796
Council Office (includes COO & Strategy Center)	3,496,913	204,211	3,701,124
Finance & Regulatory Services	3,358,417	5,920	3,364,337
Human Resources	1,836,807	6,081	1,842,888
Information Services	3,058,380	214	3,058,594
Metro Auditor	671,433	645	672,078
Office of Metro Attorney	2,012,886	939	2,013,825
Oregon Zoo	27,204,192	19,989	27,224,181
Parks & Environmental Services	6,942,305	(142,891)	6,799,414
Planning and Development	15,414,229	148,259	15,562,488
Research Center	4,631,745	40,307	4,672,052
Sustainability Center	5,470,794	(61,546)	5,409,248
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	(37,386)	3,441,260
Unappropriated Balance	13,191,950	0	13,191,950
<b>Total Fund Requirements</b>	<b>\$104,328,135</b>	<b>\$185,863</b>	<b>\$104,513,998</b>
<b>MERC FUND</b>			
MERC	43,669,107	200,000	43,869,107
Non-Departmental			
Debt Service	0	0	0
Interfund Transfers	3,681,630	0	3,681,630
Contingency	2,652,773	(200,000)	2,452,773
Unappropriated Balance	18,296,543	26,301	18,322,844
<b>Total Fund Requirements</b>	<b>\$68,300,053</b>	<b>\$26,301</b>	<b>\$68,326,354</b>

*All other appropriations remain as previously adopted*

EXHIBIT C  
Ordinance 10-1249

Capital Project Request - Project Detail

Project Title:  Fund:

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

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

Source Of Estim:  Source:  Start Date:  Date:  Cost Type:

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

Project Estimates	Actual	Budget/Est	Prior						
Capital Cost:	Expend	2009-2010	Years	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	Total
Equipment/Furnishings	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000
<b>Total:</b>	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000

Funding Source:	Actual	Budget/Est	Prior						
	Expend	2009-2010	Years	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	Total
Friends of PCPA	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000
<b>Total:</b>	\$0	\$0	\$0	\$289,000	\$0	\$0	\$0	\$0	\$289,000

Annual Operating Budget Impact

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

Purchase and Install a new Chiller at the Hatfile Hall The current chiller is experiencing failures with the potential that it may suffer a catastrophic failure during the summer event season. Chiller replacement is scheduled per the 20 Year Capital Plan.

**EXHIBIT D  
Ordinance 10-1249**

**METROPOLITAN EXPOSITION RECREATION COMMISSION**

**Resolution No. 10-18**

For the purpose of approving Capital Projects for fiscal year 2010-2011 for the Portland Metropolitan Exposition Center (Expo) and Portland Center for Performing Arts (PCPA)

**WHEREAS**, Section III(a)(b) of the Metropolitan Exposition Recreation Commission (MERC) Capital Asset Management Policy requires Commission approval of capital projects \$100,000 and greater; and

**WHEREAS**, The MERC adopted budget capital improvement plan included \$325,000 for the Portland Expo Center and \$325,000 for the Portland Center for the Performing Arts but did not specifically describe the Capital Projects proposed for these expenditures; and

**WHEREAS**, Expo and PCPA in collaboration with Aramark/Giacometti Joint Venture Partnership (Aramark) have proposed capital projects for Expo and PCPA as described in the attached staff report and request that MERC approve these capital projects in accordance with the Capital Asset Management Policy.

**BE IT THEREFORE RESOLVED**, that the Metropolitan Exposition Recreation Commission approves the Capital Projects as described in the attached staff report for the fiscal year beginning July 1, 2010 and ending June 30, 2011.

Passed by the Commission on September 1, 2010.

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

By:   
Nathan A. Schwartz Sykes, Senior Attorney

  
Chair

  
Secretary/Treasurer

**EXHIBIT D  
Ordinance 10-1249**

**MERC Staff Report**

**Agenda Item/Issue:**

For the purpose of approving Capital Projects for fiscal year 2010-2011 for the Portland Metropolitan Exposition Center (Expo) and Portland Center for Performing Arts (PCPA)

**Resolution No:** 10-18

**Presented By:** Cynthia Hill

**Date:** September 1, 2010

**Background and Analysis:**

Upon signing a new food and beverage operations agreement, Aramark/Giacometti Joint Venture transferred to MERC Venues \$2,000,000 for capital investment.

Oregon Convention Center (OCC)	\$1,350,000
Portland Metropolitan Exposition Center (Expo)	325,000
<u>Portland Center for Performing Arts (PCPA)</u>	<u>325,000</u>
Total Capital Investment	\$2,000,000

Funds were received in FY 2009-10 and the estimated carry over was included in the FY 2010-11 budget planning process. The MERC Capital Improvement Plan includes the project detail for OCC, however the Expo Center and PCPA had not determined specific projects at the time the capital budget was submitted. The placeholder "Food & Beverage Capital Investment – New Contract" was listed on the Capital Improvement Plan for both projects.

MERC Capital Asset Management Policy requires the Commission approve all projects \$100,000 and greater. This resolution is requesting approval of the following proposed projects at the Expo Center and PCPA.

**Expo Center** – Convert Meeting Room D-103 into a lounge and café serving a selected menu featuring food, alcoholic and nonalcoholic beverages. The total estimated project cost is \$339,200. The additional \$14,200 is included in the adopted budget funded from food and beverage operating funds, referred to as the contract reserve for capital.

**PCPA Keller Auditorium** – Total renovation of south, orchestra level concession stand plus construction of two portable concession stands and realign the entrance to the women's restroom. The total estimated cost is \$325,000.

**Fiscal Impact:**

The capital contribution from Aramark/Giacometti Joint Venture at contract signing was received in FY 2009-10. \$325,000 for PCPA and \$325,000 for Expo is included in the FY 2010-11 adopted budget.

**Attachments to Resolution and/or Staff Report:**

Capital Project Requests

**Recommendation:**

Staff recommends that the Metropolitan Exposition Recreation Commission adopt Resolution 10-18.

**EXHIBIT D  
Ordinance 10-1249**

**Hall D Lounge**

**Project Cost    \$339,200**

**Describe Project**

Converting Meeting Room D-103 into a lounge and café serving a selected menu featuring food, alcoholic and non-alcoholic beverages.

**Cost Justify the Investment**

Food & Beverage revenue is strongly associated with the number of points of sale and the convenience of customer consumption (readily available tables/seating). Within this context, currently permanent points of sale are limited and customer seating can rarely be provided. Reflecting upon the success of PCPA's "Art Bar" and OCC's "Stir", the notion of advantaging Capital Investment funds provided by our Food & Beverage service provider toward adding a point of sale and providing customer seating is considered advantageous to growing food and beverage revenues. The additional point of sale and provision of customer seating will increase revenue as well as provide a comfortable, relaxing atmosphere for exhibitors and attendees.

**Source of Funds**

\$325,000 Food & Beverage Capital Investment provided by Food & Beverage Service provider.

\$14,200 Expo Center Food & Beverage Contract Reserve

The total budget of \$339,200 includes a 15% contingency in excess of \$44,000.

**Impact on operating results ( current year and future years)**

The original Capital Investment of \$325,000 from Aramark proposed that these funds be allocated to enhancing the visual appeal of concession stands in Halls D & E, purchasing a new espresso kiosk, purchasing a new portable espresso machine, purchasing portable furniture and new uniforms. Two of these items can be considered revenue producing while the balance of items most likely would not. As suggested earlier, the notion of providing a lounge and cafe serves two primary purposes; 1) an additional point of sale and convenience for the customer. 2) It is anticipated that the ROI will generate approximately \$17,500 to \$20,000 in year one.

**Risk or Consequence of not doing this project**

Failing to advantage this timely revenue producing opportunity by adding a point of sale, increasing customer convenience and anticipated dissatisfaction by the funds provider in not moving forward with their investment.

**EXHIBIT D**  
**Ordinance 10-1249**

**Keller Concession Remodel**

**Project Cost    \$325,000**

**Describe Project**

Total renovation of south, orchestra level concession stand plus construction of two portable concession stands on orchestra level and realign entrance to women's restroom. This includes removing the existing counters and fixtures in the south lobby concession stand and replacing with a more easily accessible and attractive counter that will allow better and more efficient usage of the space.

**Cost Justify the Investment**

South stand has a very poor design and does not allow quick points of sale during intermission. Portable stands will replace very old, dated stands. Will improve access to points of sale, improve the appearance of this concession area and allow more seating for patrons to enjoy their food and beverages. This project is being done as a patron service amenity.

**Source of Funds**

\$325,000 Food & Beverage Capital Investment provided by Food & Beverage Service provider.

**Impact on operating results ( current year and future years)**

Only slight increase in revenues through improved access to points of sale.

**Risk or Consequence of not doing this project**

Poor customer service to patrons wanting food and beverage during intermissions.

## **STAFF REPORT**

### **FOR THE PURPOSE OF AMENDING THE FY 2010-11 BUDGET AND APPROPRIATIONS SCHEDULE AND THE FY 2010-11 THROUGH 2014-15 CAPITAL IMPROVEMENT PLAN, AND DECLARING AN EMERGENCY**

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Date: October 11, 2010

Presented by: Kathy Rutkowski, 503-797-1630

## **BACKGROUND**

Since the adoption of the budget several items have been identified that necessitate amendment to the budget. Each action is discussed separately below.

### *Active Transportation Partnership*

This amendment transfers the Active Transportation Program Analyst position (0.90 FTE) and related Materials and Services from the Sustainability Center to Planning and Development. The FY 2010-11 adopted budget implemented the transfer of this position from the Strategy Center to the Parks Planning and Development in the Sustainability Center. The transfer of this position to Planning and Development improves Metro's approach to multidisciplinary and collaborative efforts. With so much of the Active Transportation program needing to interface with corridor planning staff, the Regional Transportation Plan development, the Regional Transportation Options program and transportation funding, a closer tie to Planning and Development will create effective synergies. It also increases the support efforts to the Community Investment Strategy.

### *Natural Areas Management*

In order to increase Metro's capacity to manage its growing portfolio of properties the FY 2010-11 adopted budget transferred 5.00 FTE Natural Resource Technicians from Parks and Environmental Services to the Natural Areas Management in the Sustainability Center. Due to an oversight, 1.00 FTE Park Ranger in Parks and Environmental Services was transferred to Natural Areas Management as a Natural Resource Technician. This amendment corrects this oversight and transfers this position back to Parks and Environmental Services as a Park Ranger. In addition, this amendment transfers Materials and Services associated with Natural Areas Management from Parks and Environmental Services to Natural Areas Management. These Materials & Services were not fully transferred in the FY 2010-11 adopted budget.

### *Regional Indicators*

The Research Center is collaborating with the PSU Institute of Metropolitan Studies (IMS), local governments, and other agencies and organizations interested in triple bottom-line regional indicators. The Project timeline calls for a first set of indicators to be completed by June 2011. A five-year business and financial plan for maintaining the indicators will be presented along with the Regional Indicators. It's anticipated that long-term funding will include a combination of government, foundation, and private sources, including an anticipated share from Metro.

The Council initially approved a project manager position in November 2009 as a limited duration position in the General Fund through January 31, 2011. This ordinance would extend funding for the Metro project manager from February 1, 2011 through June 30, 2011. This would allow for the

completion of the first set of indicators and the five-year business and financial strategies for maintaining the indicators.

The limited duration project manager, housed at Metro, will work through the end of the fiscal year to ensure project elements are delivered through a collaborative, open process. The project manager is be solely assigned to the indicator's project and fills a 0.8 FTE position. The need for continuation of the position will be further reviewed through the FY 2011-12 budget process.

The approximate cost (salary and fringe) of the 0.8 FTE Principal Planner position for the five-month period would be \$40,307. Metro's total combined investment of just over \$150,000 for this project will leverage an additional \$300,000-plus of work outside Metro toward indicator research and development.

This position oversees a collaborative, comprehensive process to develop, populate, analyze and systematically report on a longitudinal set of indicators for the Metro region. This limited duration Principal Planner provides project management to the indicators effort, oversees project work teams, staff policy and steering committees, produce key reports and communications, ensures product delivery and maintains the project budget. The Principal Planner will report directly to the Metro Research Director and coordinate with PSU's Director of the Institute of Metropolitan Studies.

#### Columbia River Crossing Project Director

The loaned executive agreement between Metro and the Oregon Department of Transportation regarding the Columbia River Crossing Project Director has been extended from September 30, 2010 through September 30, 2011. The FY 2010-11 adopted budget currently shows this position as funded only through the first three months of this fiscal year. With the extension of the intergovernmental agreement the position will now be funded through the full fiscal year. This action increases the FTE for the position from .25 FTE to 1.0 FTE and increases salary and fringe benefits accordingly. The cost will be fully funded from governmental sources outside of Metro.

#### Infrastructure Finance Manager position status

During the development of the FY 2010-11 budget it was the intent of management to convert the Infrastructure Finance Manager position from a limited duration position to a position with regular status. Instead, it was inadvertently carried forward as a limited duration position with an expiration date of December 31, 2012. This amendment rectifies the oversight and reflects the understanding that a focus on investment will be critical to Metro's and the region's long-term success at realizing the vision of the 2040 Growth Concept. The impact of this action is to add a permanent, full-time position to the budget beyond the original December 31, 2012 expiration date at an estimated annual cost of approximately \$142,000.

#### Printing Costs

The materials & services expense for the costs of the print shop/copy center remained in the Parks and Environmental Services budget pending full implementation of the outside printing contract. With the completion of that agreement, centers are now paying directly for printing/copying jobs. This action reallocates the appropriation authority for printing/copying expenses formerly paid centrally by Parks and Environmental Services to the offices and centers, which are now paying directly. The final cost allocation plan for FY 2010-11, to be run in the fall of 2011 after audit completion, will also implement this change. Interfund transfers to central services will be reduced accordingly at that time. The net budgetary impact of this change is zero.



### MERC Capital Projects

The adopted budget includes \$89,000 to replace the chiller at the Antoinette Hatfield Hall. The existing chiller, which was installed as part of the original building in 1984, has experienced many failures and has been repaired several times in the last few years, and has now come to the end of its useful life expectancy.

This budget amendment is requesting an additional \$200,000 from the Renewal and Replacement contingency in the MERC Fund to fund the project cost of \$287,500 based on the current low bid. The fiscal impact will be offset by an incentive offer rebate from the Energy Trust of Oregon (ETO) in the amount of \$26,301. Staff will apply for an energy rebate of \$26,301.

The original total project budget in the Capital Improvement Plan was \$426,000 and included \$89,000 for FY 2010-11. It appears that the \$89,000 cost came from using a document from the Energy Trust of Oregon (ETO) to calculate energy rebates. The ETO has a line item cost for a chiller replacement of \$89,000, however this cost does not include all system costs and labor for a complete chiller installation and is an "internal calculation" used by ETO to determine a rebate cost. The ETO analysis should not have been the only source document used in generating a project estimate.

Two bids were received for this project. In review of these bids, staff has determined that the low bid of \$287,500 is in line with current chiller replacement costs and considered accurate for the work involved. It should also be noted that MERC paid \$261,000 in 2005 for the same specified chiller at the Keller Auditorium.

The Capital Improvement Plan for the FY 2010-11 through FY 2014-15 will also be amended to reflect the revised budget (Exhibit C), eliminating \$377,000 planned in FY 2011-12 and increasing the FY 2010-11 amount by \$198,500 for a revised total project cost of \$287,500. In addition, MERC Resolution 10-18 approving capital projects for the Expo Center and PCPA has been attached for the Council's information (Exhibit D). These projects were included as a placeholder in the FY 2010-11 through FY 2014-15 Capital Improvement Plan. The MERC action provides detail for each of the projects.

### **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 provides for changes in operations as described above; recognizes new governmental contributions from the Oregon Department of Transportation; extends two limited duration positions through the remainder of the fiscal year; fully implements the closure of the print shop; and amends the FY 2010-11 through FY 2014-15 Capital Improvement Plan.
4. **Budget Impacts:** This action has the following impact on the FY 2010-11 budget:
  - Recognizes approximately \$186,000 in governmental contributions from the Oregon Department of Transportation to fund the extension of the Columbia River Crossing Project Director position (loaned executive) through the end of the fiscal year. An increase from 0.25 FTE to 1.0 FTE.

- Transfers 0.90 FTE Program Analyst IV from the Sustainability Center to Planning & Development to provide greater integration of the Active Transportation Partnership program with the Regional Transportation plan development and the Regional Transportation Options program.
- Corrects an error in the FY 2010-11 adopted budget and returns 1.0 FTE Natural Resource Technician from Natural Areas Management back to Parks and Environmental Services as a Park Ranger. Also, corrects an oversight in the FY 2010-11 adopted budget and transfers approximately \$106,000 in materials & services related to Natural Areas Management from Parks & Environmental Services to the Sustainability Center.
- Extends the 0.80 FTE limited duration Principal Regional Planner assigned to the Regional Indicators Project through the remainder of the fiscal year. The position was originally identified to end January 31, 2011. The increased cost of \$40,307 will be funded by a transfer of General Fund contingency pending discussions with our regional partners on shared funding opportunities.
- Increases a capital project for the Portland Center for the Performing Arts from \$89,000 to \$289,000. Funding will be provided by a transfer from the renewal & replacement contingency in the MERC Fund.
- Fully implements the closure of the print shop by reallocating \$137,688 in former print shop/copy center budget appropriation authority to the offices and centers, which are now paying directly for these services.
- Converts the status of the Infrastructure Finance Manager position from limited duration with an expiration date of 12/31/12 to regular. The impact of this action is to add a permanent, full-time position to the budget beyond the original expiration date. The estimated additional annual cost of this position (salary and benefits) in FY 2012-13 is approximately \$142,000.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of this Ordinance.

Agenda Item Number 7.1

**Resolution No. 10-4201**, For the Purpose of Amending the  
2008-11 Metropolitan Transportation Improvement Program  
(MTIP) to Include the Funding of Land Acquisition,  
Construction and Related Costs to Complete the Portland-  
Milwaukie Light Rail Project.

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2010-	)	RESOLUTION NO. 10-4201
13 METROPOLITAN TRANSPORTATION	)	
IMPROVEMENT PROGRAM (MTIP) TO	)	Introduced by Councilor Robert Liberty
INCLUDE FUNDING OF INITIAL LAND	)	
ACQUISITION, CONSTRUCTION AND	)	
RELATED COSTS FOR THE PORTLAND-	)	
MILWAUKIE LIGHT RAIL PROJECT	)	

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 or significantly change the scope of existing projects in the MTIP; and

WHEREAS, the JPACT and the Metro Council approved the 2010-13 MTIP on September 16, 2010; and

WHEREAS, the JPACT and Metro Council awarded \$72 million of funding authority to TriMet to perform preliminary engineering and complete the environmental impact statement for the Locally Preferred Alternative, a 7.3 mile light rail project from Park Avenue in Clackamas County to downtown Portland approved by the Metro Council July 2008; and

WHEREAS, the awarding of these funds is adopted in the 2010-13 MTIP as Programming Table 3.1.3; and

WHEREAS, preliminary engineering has been completed and application made to the Federal Transit Administration for permission to enter final design work; and

WHEREAS, Metro, working with TriMet has completed a draft Final Environmental Impact Statement and submitted this document to the Federal Transit Administration for approval and to complete all of the requirements of the National Environmental Policy Act, other federal environmental regulations and policies and; and

WHEREAS, the Project team, working with its local partners, have designed a capital revenue package of likely local and federal sources that is sufficient to complete the Project, and this information will be published as a part of the Final Environmental Impact Statement for the Project; and

WHEREAS, in order to maintain schedule and minimize costs, the Portland-Milwaukie Light Rail Project needs to demonstrate that initial acquisition, construction and related costs associated with the Project are included in the MTIP in order to be grant eligible; and

WHEREAS, likely federal and local funding sources and Project design have now been suitably defined in order to align one with the other; now, therefore,

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to modify the Programming Table, Section 3.1.3, of the 2010-13 Metropolitan Transportation Improvement

Program to add the land acquisition, construction and related costs to initiate right-of-way acquisition and construction associated with the Project, as set forth in Exhibit A to this resolution.

ADOPTED by the Metro Council this \_\_\_ day of \_\_\_\_\_ 2010.

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Carlotta Collette , Acting Council President

Approved as to Form:

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Alison Kean Campbell, Deputy Metro Attorney

**Exhibit A**

**2010-13 Metropolitan Transportation Improvement Program  
Table 3.1.3 amendments**

**South Corridor Phase 2 (Portland to Milwaukie)**

Current Programming

Top of Form

Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total
<b>Other (explain)</b>	<b>2010</b>			<b>\$0</b>	<b>\$300,000</b>	<b>\$300,000</b>
		STATE-GEN		\$0	\$300,000	\$300,000
<b>Preliminary engineering</b>	<b>2010</b>		<b>\$177,468</b>	<b>\$20,312</b>	<b>\$71,771,091</b>	<b>\$71,968,871</b>
		CMAQ	\$177,468	\$20,312	\$3,771,091	\$3,968,871
		STATE LOTTERY	\$0	\$0	\$68,000,000	\$68,000,000
<b>Totals &gt;&gt;</b>			<b>\$177,468</b>	<b>\$20,312</b>	<b>\$72,071,091</b>	<b>\$72,268,871</b>

Bottom of Form

### Amended Programming

Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total
<b>Preliminary Engineering</b>	<b>2010</b>		\$	\$	\$	\$
		CMAQ	\$ 177,468	\$20,312	\$	\$197,780
		CMAQ	\$10,000,000	\$1,144,545	\$	\$11,144,545
		STATE LOTTERY	\$	\$	\$68,000,000	\$68,000,000
<b>Final Design, ROW, Construction and Related (e.g.vehicles)</b>	<b>2011</b>		\$	\$	\$	\$
		STATE LOTTERY	\$	\$	\$182,000,000	\$182,000,000
	<b>2012</b>	GARVEE BOND (CMAQ/STP)	\$99,753,000	\$11,417,000	\$	\$111,170,000
<b>Totals &gt;&gt;</b>			<b>\$109,930,468</b>	<b>\$12,581,857</b>	<b>\$250,000,000</b>	<b>\$372,512,325</b>

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 10-4201, FOR THE PURPOSE OF AMENDING THE 2010-13 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO INCLUDE FUNDING OF INITIAL LAND ACQUISITION, CONSTRUCTION AND RELATED COSTS FOR THE PORTLAND-MILWAUKIE LIGHT RAIL PROJECT

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Date: September 24, 2010

Prepared by: Mark Turpel

## BACKGROUND

On July 24, 2008 the Metro Council approved Resolution No. 08-3959, For the Purpose of Approving the 2008 Portland-Milwaukie Light Rail Project Locally Preferred Alternative and Finding Consistency with the Metro 2035 Regional Transportation Plan. This action set into motion additional tasks to advance the Portland-Milwaukie LRT (PMLR) Project (“Project”) including preliminary engineering and a Final Environmental Impact Statement (FEIS).

TriMet, in coordination with its project partners, Clackamas County, the cities of Milwaukie and Portland and Metro, has now completed preliminary engineering. Based on the preliminary engineering, Metro and Trimet completed a FEIS and have submitted it to the Federal Transit Administration (FTA) for approval. Further, likely federal and local funding sources and Project design have now been suitably defined in order to align one with the other and is included in the FEIS. The application to enter final design has also been submitted to the FTA.

In order to minimize costs, qualify for Section 5309 New Starts grant eligibility and maintain the schedule, including meeting the July to October in-water work window for a 2015 opening, TriMet has requested that the FY 2010-13 Metropolitan Transportation Improvement Program (MTIP) be amended to reflect the funding of the initial right-of-way acquisition, construction and related costs. This Resolution would amend the MTIP so that available funding sources for some right-of-way acquisition and some initial construction steps is authorized for the Project. Exhibit A to the resolution includes both the current Project programming as well as the proposed amended funding and is consistent with previous Project funding policies approved by JPACT and Metro Council. Assuming that in the future the Federal Transit Administration approves a New Starts funding for the Project, an additional future MTIP amendment will be needed. However, waiting for this action would preclude the key right-of-way acquisition and initial construction steps that are vital to maintaining schedule and minimizing Project costs.

The air quality conformity analysis that was completed and approved by the Metro Council on June 10, 2010 for the Metro Regional Transportation Plan included the PMLR Project. Accordingly, the requirement to demonstrate conformity of the Project with the Clean Air Act for this Project has already been satisfied.

## ANALYSIS/INFORMATION

- 1. Known Opposition** This 7.3 mile Project has been assessed for potential impacts and, where needed, mitigation proposed to address such impacts. However, there are a number of individuals who have expressed continuing concerns about the Project with regard to potential impacts such as traffic,



parking, noise, visual, safety and navigation impacts. Efforts will continue in final design to examine whether further methods can be deployed to address such concerns. That said, the Project is forecast to provide reduced travel times for over 22,000 new weekday transit riders between Park Avenue and PSU, as well as improved connections for walkers and bicyclists.

- 2. Legal Antecedents.** Resolution No 1-4185, For the Purpose of Approving a Supplemental Multi-Year Commitment of Regional Flexible Funding for the Years 2015-2027, Funding the Portland-Milwaukie Light Rail Transit Project, and Project Development for the Portland – Lake Oswego Transit Project, and the Southwest Corridor and Authorizing Execution of an Amendment to the Existing Intergovernmental Agreement with Trimet Regarding the Multi-Year Commitment of Regional Flexible Funds is pending before Council. This Resolution, if approved, would expand and extend the multi-year stream of regional flexible funds currently committed to TriMet to support three regional high capacity transit priority projects, including the Portland-Milwaukie Light Rail Project. Resolution No. 08-3942 established a multi-year commitment to TriMet of regional flexible funds for the purpose of providing a \$72.5 million to the Portland-Milwaukie Light Rail Project (“PMLRT”) and \$13.3 million for the Commuter Rail Project. On July 24, 2008 the Metro Council approved Resolution No. 08-3959, For the Purpose of Approving the 2008 Portland-Milwaukie Light Rail Project Locally Preferred Alternative and Finding Consistency with the Metro 2035 Regional Transportation Plan. Resolution No. 10-4133 authorized execution of an intergovernmental agreement between Metro and TriMet regarding the multi-year commitment of funds approved by Resolution No. 08-3942. The 2004 Regional Transportation Plan (RTP) prioritized preparation of a high capacity transit plan for the Lake Oswego-Portland corridor and Resolution No. 07-3887A adopted the Lake Oswego-Portland corridor high capacity transit alternatives to be evaluated in a Draft Environmental Impact Statement. Resolution No. 10-4179 funded the Southwest Corridor Refinement Plan as part of a larger Southwest Corridor Plan that includes the preparation of Alternatives Analysis, Preliminary Engineering, and Environmental Impact studies for the Southwest Corridor. Resolution No. 10-4160 established a policy framework for the 2014-2015 allocation of regional flexible funds. Further, Resolution No. 04-3498 endorsed the supplemental multi-year funding commitment of MTIP funds for the I-205/Mall project is an earlier example of reserving a portion for future flexible funding for specific high capacity transit projects.
- 3. Anticipated Effects** Adoption of this resolution will allow the Portland-Milwaukie Light Rail Project to advance into pre-construction and construction work and maintain a year 2015 completion and opening.
- 4. Budget Impacts** No Metro funds are obligation by this resolution.

## **RECOMMENDED ACTION**

Metro staff recommends the approval of Resolution No. 10-4201.

Agenda Item Number 7.2

**Resolution No. 10-4210**, For the Purpose of Amending the 2010-13 Metropolitan Transportation Improvement Program (MTIP) to Transfer Funds from the Greenburg Road: Tiedeman to Hwy 217 Project to the Walnut Street: Tiedeman To 116th Project.

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2010-	)	RESOLUTION NO. 10-4210
13 METROPOLITAN TRANSPORTATION	)	
IMPROVEMENT PROGRAM (MTIP) TO	)	Introduced by Councilor Carl Hosticka
DELETE THE GREENBURG ROAD:	)	
TIEDEMAN TO HWY 217 PROJECT AND	)	
SUBSTITUTE THE WALNUT STREET:	)	
TIEDEMAN TO 116TH PROJECT	)	

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 or significantly change the scope to existing projects in the MTIP; and

WHEREAS, the JPACT and the Metro Council approved the 2010-13 MTIP on September 16, 2010; and

WHEREAS, the JPACT and Metro Council awarded \$1.66 million of Regional STP funding authority from the 2004-07 Regional Flexible Fund Allocation process to widen Greenburg Road from Tiedeman to Hwy 217;and

WHEREAS, the awarding of these funds is adopted in the 2010-13 MTIP as Programming Table 3.1.1; and

WHEREAS, the “Greenburg: Tiedeman to Hwy 217” project is no longer feasible at the estimated cost due to the discovery of previously unidentified environmental issues; and

WHEREAS, the City of Tigard has proposed to apply the unutilized funds from the Greenburg: Tiedeman to Hwy 217 to the Walnut Street: 116<sup>th</sup> to Tiedeman project; and

WHEREAS, the City Tigard and Metro have concurred the original project is no longer feasible; and

WHEREAS, the Oregon Department of Transportation (ODOT) has been consulted and concurs that the original project is no longer feasible; and

WHEREAS, Section 1.7 of the 2010-2013 MTIP states that the MTIP shall be amended by Metro/JPACT Resolution where an adjustment will significantly change the project scope, whose definition includes “more than 50% of the project area outside of the original project area scope.” under which this change qualifies; NOW THEREFORE

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to delete the “Greenburg Road: Tiedeman to Hwy 217” Project and substitute the “Walnut Street: Tiedeman to 116<sup>th</sup>” Project, and to modify the Programming Table, Section 3.1.1, of the 2010-13 Metropolitan Transportation Improvement Program as provided in Exhibit A to this resolution.

ADOPTED by the Metro Council this \_\_\_\_ day of November 2010.

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Carlotta Colette, Acting Council President

Approved as to Form:

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Alison Kean Campbell, Deputy Metro Attorney

**Exhibit A to Resolution No. 10-4210**

**2010-13 Metropolitan Transportation Improvement Plan Table 3.1.1 amendment**

**Action:** Transfer funds from the Greenburg Road project to the Walnut Street project.

Existing Programming

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Min. Local Match	Other Funds	Total Funding
SW Greenburg Road: Washington Square to Tiedeman	Project would widen the existing three lanes on Greenburg Rd. from Shady Lane to Tiedeman Ave to provide a five lane facility with bike lanes and sidewalks on both sides.	11436	Tigard	\$1,849,994	PE	STP	2010	\$660,000	\$75,540	\$0	\$735,540
					Cons	STP	2011	\$1,000,000	\$114,454	\$0	\$1,114,454

**Exhibit A to Resolution No. 10-4210**

Amended Programming

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local Match	Other Funding	Total Funding
SW Walnut Street: Tiedeman to 116th	Add sidewalks, ped crossings, bike lanes and turn pockets within existing ROW.	11436	Tigard	\$1,830,482	PE	STP	2011	\$400,000	\$41,080	\$0	\$445,782
					Cons	STP	2012	\$1,260,000	\$129,402	\$0	\$1,404,213

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4210, FOR THE PURPOSE OF AMENDING THE 2010-13 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO DELETE THE GREENBURG ROAD: TIEDEMAN TO HWY 217 PROJECT AND SUBSTITUTE THE WALNUT STREET: TIEDEMAN TO 116TH PROJECT

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Date: November 18, 2010

Prepared by: Amy Rose, 503-797-1776

## BACKGROUND

The Greenburg Road project in Tigard has received multiple allocations of Regional Flexible Transportation funding totaling \$1.66 million over the last several years. The project was to widen Greenburg Road from Tiedeman to Hwy 217 to five lanes.

During initial development of the project, the City of Tigard discovered that the addition of vehicle lanes would require widening of a bridge structure and result in previously unidentified environmental impacts that make construction of the project at the estimated cost infeasible. The Tigard City Council, Metro staff and ODOT staff concur that building the project is not feasible with the amount of funding currently available.

Having concluded that the project was not affordable, the Tigard City Council has directed that the best use of the funds is to apply them to the Walnut Street: 116<sup>th</sup> to Tiedeman project. This project will construct sidewalks, bike lanes, planter strips and other improvements on an arterial that provides access to Downtown Tigard, the Washington Square regional center and Fowler middle school. The cost of the Walnut Street project is estimated to be \$1,530,000.

In considering the transfer of funds from one project to another, Metro staff has reviewed the Walnut Street project for consistency with the policies and criteria from the 2006-09 regional flexible fund allocation process to determine whether the project meets the intent of the original allocation made to the Greenburg Road widening project. Walnut Street meets many of the criteria that were used to evaluate projects that competed for funding for FFY 2008-09. While the Walnut Street project has lower traffic volumes and is not in a Regional Center like Greenburg, the project does achieve filling in a gap in the bike and pedestrian system in Tigard and provides a link to Washington Square regional center and Downtown Tigard. Walnut Street is a lower intensity facility than Greenburg, but is a street improvement that brings a country road up to an urban standard by providing multi-modal elements where they don't currently exist, making safety improvements near a school, and providing access to two centers making it consistent with the projects submitted for consideration in the 2006-09 funding cycle for which Greenburg was awarded funds.

The City of Tigard seeks JPACT and Metro Council approval to transfer funds from the Greenburg Road project to the Walnut Street project as described. The proposed change in the scope of the project warrants a resolution per section 1.7 in the 2010-13 MTIP.

## ANALYSIS/INFORMATION

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

- 2. Legal Antecedents** Section 1.7 of the 2010-2013 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 10-4186 on September 16, 2010 (For the Purpose of Approving the 2010-13 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area) (“2010-13 MTIP”). MTIP provides that it may be amended by Metro/JPACT Resolution where an adjustment will significantly change a project scope, defined as “the deletion of a modal element described in the original project scope . . . or if . . .the proposed change in scope would have significantly altered the technical evaluation of a project during the project prioritization process;” Proposed resolution will amend the Programming Table 3.1.1 of the 2010-13 MTIP. Changes scope of project originally awarded funding authority by Resolution No. 99-2791 (For the purpose of approving the FY 2000 MTIP Modernization Program developed through the Priorities 2000 process), Resolution No. 01-3098 (For the purpose of amending the Metropolitan Transportation Improvement Program to allocate FY 2004-05 Congestion Mitigation/Air Quality (CMAQ) and Surface Transportation Program (STP), and Resolution No. 05-3529A (For the purpose of allocating \$62.2 million of Transportation Priorities funding for the years 2008 and 2009, pending air quality conformity determination.
- 3. Anticipated Effects** Adoption of this resolution will allow City of Tigard to proceed with construction of improvements to Walnut Street.
- 4. Budget Impacts** No Metro funds are obligated by this agreement.

#### **RECOMMENDED ACTION**

Metro staff recommends the approval of Resolution No. 10-4210.



Agenda Item Number 7.3

**Resolution No. 10-4211**, For the Purpose of Amending the  
2010-13 Metropolitan Transportation Improvement Program  
(MTIP) to Delete the Washington Square Regional Center Trail:  
Hall to Greenburg Project and Substitute the Fanno Creek Trail:  
Main to Hall Project.

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2010-	)	RESOLUTION NO. 10-4211
13 METROPOLITAN TRANSPORTATION	)	
IMPROVEMENT PROGRAM (MTIP) TO	)	Introduced by Councilor Carl Hosticka
DELETE THE WASHINGTON SQUARE	)	
REGIONAL CENTER TRAIL: HALL TO	)	
GREENBURG PROJECT AND SUBSTITUTE	)	
THE FANNO CREEK TRAIL: MAIN TO HALL	)	
PROJECT		

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 or significantly change the scope to existing projects in the MTIP; and

WHEREAS, the JPACT and the Metro Council approved the 2010-13 MTIP on September 16, 2010; and

WHEREAS, the JPACT and Metro Council awarded \$386,000 of Regional STP funding authority from the 2004-07 Regional Flexible Fund Allocation process to the City of Tigard to design a multi-use trail project in the Washington Square regional center area; and

WHEREAS, the awarding of these funds is adopted in the 2010-13 MTIP as Programming Table 3.1.1; and

WHEREAS, the “Washington Square Regional Center Trail: Hall to Greenburg” Project is no longer feasible due to the discovery of previously unidentified environmental and right-of-way impact issues that make construction of the trail at the estimated cost infeasible; and

WHEREAS, the City of Tigard has proposed to apply the funds from the “Washington Square Regional Center Trail: Hall to Greenburg” Project to “Fanno Creek Trail: Main to Hall” Project; and

WHEREAS, the City Tigard and Metro have concurred the original project is no longer feasible; and

WHEREAS, the Oregon Department of Transportation (ODOT) has been consulted and concurs that the original project is no longer feasible; and

WHEREAS, Section 1.7 of the 2010-2013 MTIP states that the MTIP shall be amended by Metro/JPACT Resolution where an adjustment will significantly change the project scope, whose definition includes “more than 50% of the project area outside of the original project area scope,” under which this change qualifies; NOW THEREFORE

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to delete the “Washington Square Regional Center Trail: Hall to Greenburg” Project and substitute the “Fanno Creek Trail: Main to Hall” Project, and to modify the Programming Table, Section 3.1.1, of the 2010-13 Metropolitan Transportation Improvement Program as provided in Exhibit A to this resolution.

ADOPTED by the Metro Council this \_\_\_\_ day of November 2010.

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Carlotta Colette, Acting Council President

Approved as to Form:

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Alison Kean Campbell, Deputy Metro Attorney

**Exhibit A to Resolution No. 10-4211**

**2010-13 Metropolitan Transportation Improvement Plan Table 3.1.1 amendment**

**Action:** Transfer funds from the Washington Regional Center Trail project to the Fanno Creek Trail project.

Existing Programming

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local Match	Other Funds	Total Funding
Washington Square RC Trail: Hall - Greenburg	Construct a multi-use trail	13527	Tigard	\$429,734	Cons	STP	2011	\$134,929	\$15,443	\$279,808	\$430,180

Amended Programming

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local Match	Other Funds	Total Funding
Washington Square RC Trail: Hall - Greenburg	Construct a multi-use trail	13527	Tigard	\$0	Cons	STP	2011	\$0	\$0	\$0	\$0

Project Name	Project Description	ODOT Key #	Lead Agency	Estimated Total Project Cost	Project Phase	Fund Type	Program Year	Federal Funding	Minimum Local Match	Other Funds	Total Funding
Fanno Creek Trail: Main - Hall	Construct a multi-use trail	TBD	Tigard	N/A	Cons	STP	2011	\$0	\$0	\$430,180	\$430,180

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 10-4211, FOR THE PURPOSE OF AMENDING THE 2010-13 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO DELETE THE WASHINGTON SQUARE REGIONAL CENTER TRAIL: HALL TO GREENBURG PROJECT AND SUBSTITUTE THE FANNO CREEK TRAIL: MAIN TO HALL PROJECT

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Date: November 18, 2010

Prepared by: Amy Rose 503-797-1776

### **BACKGROUND**

In 2003, a Regional Flexible Transportation funding award of \$386,000 was made to the City of Tigard to design a multi-use trail project in the Washington Square Regional Center area from Hall Blvd to Greenburg Road and acquire right-of-way and construct the project between Hall Blvd. and Highway 217.

During initial development of the Washington Square Regional Center Trail project, the City of Tigard discovered that previously unidentified environmental and right-of-way impact issues that make the construction of the trail at the estimated cost infeasible. The Tigard City Council, Metro staff and ODOT staff concur that building the project is not feasible with the amount of funding currently available.

Through a Memorandum of Understanding with Metro, Attachment 1 to the staff report, the City of Tigard has agreed to construct the Fanno Creek Trail in the Tigard Town Center area between Main Street and Hall Blvd. with a minimum of \$430,180 of local funds if the federal funding on the Washington Square Regional Center Trail project can be redeployed to other existing Tigard managed federal aid projects.

In considering the transfer of funds from one project to another, Metro staff has reviewed the Fanno Creek Trail project for consistency with the policies and criteria from the 2004-07 regional flexible fund allocation process to determine whether the project meets the intent of the original allocation made to the Washington Square Regional Center Trail project. The Fanno Creek Trail project has many of the same characteristics as Washington Square Regional Center Trail. Fanno Creek trail is in a Center; it completes a gap in the bikeway system and improves safety for bikes and pedestrians in an area that has roadways that are a deterrent to walking and biking. The project is consistent with the projects submitted for consideration in the 2004-07 funding cycle for which Washington Square Regional Center Trail was awarded funds.

To accomplish this substitution of projects from the Washington Square Regional Center Trail to the Fanno Creek Trail, Metro proposes to allocate the federal funding authority remaining on the project to existing federal aid projects already managed by the City of Tigard. This includes a transfer previously executed to exchange federal funds on the Washington Square trail project for local funds on the Tualatin River Bridge trail project and an exchange of the remaining federal funds from the Washington Square Trail project for local funds budgeted to the Tigard Main Street project. A total of \$134,929 in Regional STP funding authority will be transferred to the Main Street project. Tigard's obligation to locally fund the Washington Square Regional Center trail project would then be transferred to an obligation to locally fund the Fanno Creek Trail project in an equal or greater amount of the original allocation to the Washington Square regional center trail. The purpose of transferring federal funds to the other federal aid projects managed by Tigard and making the Fanno Creek trail project locally funded is to increase efficiency and save project costs.

The City of Tigard seeks JPACT and Metro Council approval to delete the Washington Square Regional Center Trail project funding from the MTIP and replace that project with the Fanno Creek Trail project as described. The proposed change in the scope of the project warrants a resolution per section 1.7 in the 2010-13 MTIP.

## **ANALYSIS/INFORMATION**

- 1. Known Opposition** None known at this time.
- 2. Legal Antecedents** Section 1.7 of the 2010-2013 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 10-4186 on September 16, 2010 (For the Purpose of Approving the 2010-13 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area) (“2010-13 MTIP”). MTIP provides that it may be amended by Metro/JPACT Resolution where an adjustment will significantly change a project scope, defined as “the deletion of a modal element described in the original project scope . . . or if . . .the proposed change in scope would have significantly altered the technical evaluation of a project during the project prioritization process;” Proposed resolution will amend the Programming Table 3.1.1 of the 2010-13 MTIP. Changes scope of project originally awarded funding authority by Resolution No.03-3335 (For the purpose of allocating \$53.75 million of Transportation Priorities funding for the years 2006-07, pending air quality conformity determination).
- 3. Anticipated Effects** Adoption of this resolution will allow City of Tigard to apply additional funds to the Main Street project in Downtown Tigard.
- 4. Budget Impacts** No Metro funds are obligated by this agreement.

## **RECOMMENDED ACTION**

Metro staff recommends the approval of Resolution No. 10-4211.

**Attachment 1**

MEMORANDUM OF UNDERSTANDING  
BETWEEN METRO AND  
CITY OF TIGARD  
FOR  
WASHINGTON SQUARE REGIONAL CENTER TRAIL

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into by and between METRO, the Portland Urbanized Area Metropolitan Planning Organization ("MPO"), acting by and through its elected officials, hereinafter referred to as "METRO," and CITY OF TIGARD, hereinafter referred to as "TIGARD," collectively referred to as the "Parties."

WHEREAS, by authority granted in ORS 190.100 and 283.110, units of local government or state agencies may enter into agreements for the performance of any or all functions and activities that parties to the agreement, or their officers or agents, have the authority to perform, and

WHEREAS, METRO and TIGARD are interested in establishing and maintaining a collaborative partnership for the development of the Washington Square Regional Center Trail Project: Hall to Greenberg, hereinafter referred to as "PROJECT"; and

WHEREAS, TIGARD was awarded \$386,000 in Regional STP funding authority from the 2004-07 Regional Flexible Fund Allocation process to design a multi-use trail project in the Washington Square regional center area from Hall to Greenberg and acquire right-of-way and construct the PROJECT between Hall and Highway 217, and

WHEREAS, in initial development of the PROJECT, TIGARD has discovered previously unidentified environmental and right-of-way impact issues that make construction of the trail at the estimated cost infeasible, and

WHEREAS, the PROJECT is currently programmed in federal fiscal year 2011 of the 2008-11 MTIP and STIP under ODOT Key #13527, and

WHEREAS, TIGARD proposes to construct the Fanno Creek trail in the Tigard town center area between Main Street and Hall Boulevard with at least \$430,180 of local funds if the federal funding on the Washington Square regional center trail project can be redeployed to other Tigard managed federal aid projects, and

WHEREAS, TIGARD has also received Transportation Enhancement funding for the Tualatin River Bridge project that utilized \$251,071 in Regional STP funding authority from the Washington Square Regional Center Trail project in exchange for a commitment of local funding to the Trial project, and

WHEREAS, TIGARD has also received \$2,540,000 in Regional STP fund authority for the Main Street: 99W to Railroad project that can utilize the remaining balance of \$134,929 in Regional STP funding authority from the Washington Square Regional Center Trail project, and

NOW THEREFORE, the premises being in general as stated in the foregoing, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. Pursuant to the authority cited above, TIGARD agrees to carry out the Fanno Creek Trail Project, as described in this MOU and in the terms and conditions of Intergovernmental Agreements (IGAs) that may be entered into by the Parties.
2. This MOU is effective October 1, 2009 through September 30, 2014. Either Party may terminate this MOU at any time by providing written notice of such termination to the other Party.
3. This MOU may be revisited and modified as needed, when the Parties so determine. Any modification to this MOU shall not be effective unless it is in writing and signed by both Parties.

4. This MOU in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, or individuals.
5. This MOU is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the Parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be outlined in a separate written IGA(s) between the Parties and shall be independently authorized by appropriate statutory authority. This MOU does not provide such authority.
6. The principal contacts for this MOU are:

Ted Leybold  
 MTIP Manager  
 Metro  
 600 NE Grand Avenue  
 Portland, OR 97232  
 Phone: (503) 797-1759  
 Fax: (503) 797-1911

Kim McMillan  
 Project Manger  
 City of Tigard  
 13125 SW Hall Blvd  
 Tigard, OR 97223-8187  
 Phone: (503) 718-2642

**METRO AGREES TO:**


1. Amend the MTIP/STIP to eliminate programming of \$251,071 of local funding and reprogram \$134,929 of STP funding from the Washington Square Regional Center Trail project to the Tigard Main Street project.
2. Amend the MTIP/STIP to program \$430,180 of local funding on the Fanno Creek Trail: Hall to Main Street project.

**TIGARD AGREES TO:**

1. Design and build the Fanno Creek Trail project between Hall Boulevard and Main Street using a minimum of \$430,180 in local funding (the original \$386,000 of Regional STP funding plus required local match of 10.27% of total project cost).
2. Provide periodic reporting to Metro on the progress in executing this project and request any significant changes in scope or schedule to the work program for approval by the Principal Contact for Metro.
3. If TIGARD does not adequately complete the project deliverables described above, \$386,000 of Regional STP funding authority or an amount up to \$386,000 as determined by the MPO governing board: the Joint Policy Advisory Committee on Transportation (JPACT), will be reprogrammed from the Tigard Main Street project to the Washington Square Regional Center Trail project. If no funding authority remains on the Tigard Main Street project at the time the JPACT decides to reprogram Regional STP authority to the Washington Square Regional Center Trail project, future Regional funding authority may be withheld from TIGARD until such time as JPACT determines that the obligation to develop the Washington Square Regional Center Trail project is met.

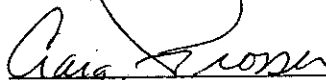
IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their seals as of the day and year written above.

**METRO**

  
 \_\_\_\_\_  
 Robin McArthur  
 Director of Planning & Development

Date 9/27/10  
 \_\_\_\_\_

**CITY OF TIGARD**

  
 \_\_\_\_\_  
 Craig Prosser  
 City Manager

Date 9/17/10  
 \_\_\_\_\_



Agenda Item Number 7.4

**Resolution No. 10-4214**, For the Purpose of Adopting Metro's  
MWESB Contracting Recommendations and Authorizing the  
Metro Chief Operating Officer to Implement the  
Recommendations.

Metro Council Meeting  
Thursday, Nov. 18, 2010  
Metro Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING METRO'S	)	RESOLUTION NO. 10- 4214
MWESB CONTRACTING	)	
RECOMMENDATIONS AND AUTHORIZING	)	Introduced by Chief Operating Officer
THE METRO CHIEF OPERATING OFFICER TO	)	Michael Jordan with the concurrence of
IMPLEMENT THE RECOMMENDATIONS	)	Council President Carlotta Collette.

WHEREAS, Metro Code 2.04.100 through 2.04.190 establishes agency policies for maximizing opportunities for minority, women and emerging small businesses (MWESB) in the contracting process; and

WHEREAS, the Metro Council has determined that participation by MWESB firms in the contracting and procurement process is vital to the local economy and is in the best interest of Metro and the community; and

WHEREAS, on April 22, 2010 the Metro Council adopted Ordinance No. 10-1240, For the Purpose of Strengthening Metro's MWESB Program and increasing the sheltered market program and informal MWESB bidding threshold to \$50,000; and

WHEREAS, in Attachment A to this Resolution, Metro management staff have identified eleven specific recommendations that will strengthen the agency's MWESB program; and

WHEREAS, the recommendations are consistent with Metro goals and represent best practices in the public procurement process; now therefore,

BE IT RESOLVED that the Metro Council hereby adopts the MWESB contracting recommendations and authorizes the Metro Chief Operating Officer to implement the recommendations in the manner that the Chief Operating Officer deems necessary.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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

**Exhibit A to Resolution No. 10-4214  
MWESB Program Recommendations**

**Include an MWESB goal in all formal agency bids**

Metro should follow the practice employed by other area agencies (Portland Development Commission, City of Portland, TriMet, etc.) and include a numeric goal for MWESB subcontractor participation in all formal bids. Currently the agency requires a documented “good faith effort” of all prime bidders, but does not establish a firm target. We believe that a goal of 15 percent of contract dollars being awarded to MWESB firms is realistic. This approach has recently been used on a lighting project for the Oregon Convention Center, and will also be used on the Veterinary Medical Center project at the Oregon Zoo. This recommendation includes formal bids as well as request for proposals (RFP).

**Increase reporting requirements for prime contractors**

Our current rules require prime contractors to identify which subcontractors (including MWESBs) they intend to use. Metro should require additional reporting during contract performance to assure that the MWESB subs actually receive the amount of work promised. Reporting could also serve to identify additional opportunities for replacement subcontractors, should the need arise during the course of the project.

**Package construction projects to fit within our sheltered market program**

We believe that small construction projects can be planned better so that they fall within our sheltered market program (up to \$50,000). Departments should consider this in their annual contracts planning and even consider pulling out pieces of larger contracts to make them more attractive for small business. Local minority business representatives cite this continually as a key approach to providing opportunity to MWESBs.

**Include diversity as an evaluation criteria in all agency RFP’s**

Metro has used the criteria of Diversity in Employment and Contracting in its selection of major RFPs for services. Recent examples include the transfer station operation, zoo master planning and food distribution. However, we feel that this should become standard criteria for all agency RFPs, even when a specific service area does not have strong MWESB capacity. It still sends the right message for Metro and promotes diversity in the workplace.

**Increase the MWESB training program throughout the agency**

Training on our MWESB program is currently provided once a year, and this needs to be increased. The committee suggests that MWESB program training be offered at least twice a year and that all program, project and procurement staff throughout the agency be required to attend. As has been done in the past, the Office of Metro Attorney will participate with Procurement Services in hosting these classes.

**Better coordinate MWESB and FOTA programs**

The MWESB and First Opportunity Target Area (FOTA) programs historically have operated independently. These programs should be coordinated more closely, and bids and RFPs issued by the MERC venues should include appropriate language for both programs. Additionally, the annual reporting to the Metro Council should include utilization data for MWESB and FOTA.

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**Expand agency outreach to other minority business groups**

Metro is highly involved with some minority business associations and has had minimal involvement with others. For example, the agency has been active with the Oregon Association of Minority Entrepreneurs (OAME) and the National Association of Minority Contractors of Oregon (NAMCO), but has not given other organizations adequate time and resources. We feel Metro could benefit by becoming more involved in the Asian, Native American and Hispanic business communities. This includes attendance, participation and sponsorship (when practical) of their minority business events, and communication with each group on current contracting opportunities.

**Provide a forum for agency project managers to network with MWESB's**

In order to do a better job of reaching out to local MWESBs, Metro should host a minimum of two "meet and greet" events each year. This will provide certified firms the opportunity to network with agency project and program managers, learn more about how Metro does business and become more aware of future contracting opportunities. Metro procurement staff has attended minority business forums consistently (OAME, NAMCO, etc.), but the committee believes that the added presence of project managers at these events would be beneficial.

**Actively engage Metro legal counsel in order to maximize MWESB activity**

In order for Metro to promote the use of MWESB firms, and stay in full compliance with state and local laws, it is imperative that the Office of Metro Attorney (OMA) be involved. It is recommended that OMA collaborate with the legal counsels of other public agencies to determine what MWESB practices are legally permissible and enforceable. This will allow Metro management to determine the most appropriate level of risk for the agency in strengthening the MWESB program.

**Create an electronic notification system for MWESB's**

The committee believes that an electronic notification system should be developed that provides automated notice to MWESBs on upcoming bids and RFPs. Other area agencies (TriMet, City of Portland, Port of Portland) are currently utilizing such systems with success. Procurement Services should work with Information Services to develop and implement an online registration and notification system.

**Include employee compensation in the selection of contractors**

Metro has used employee wages and benefits as a factor in evaluating responses to select RFPs (i.e. waste transfer stations operation), and the committee feels that this criteria should be included in all RFP solicitations. This method allows for best value selection, in that both cost and non-cost factors are used in determining the top ranked contractor. This provides local employment opportunities that include competitive wages and benefits, and also rewards responsible contractors who have established high labor standards.

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## **STAFF REPORT**

### **FOR THE PURPOSE OF ADOPTING METRO'S MWESB CONTRACTING RECOMMENDATIONS AND AUTHORIZING THE METRO CHIEF OPERATING OFFICER TO IMPLEMENT THE RECOMMENDATIONS**

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Date: November 8, 2010

Prepared by: Darin Matthews  
Procurement Officer  
797-1626

## **BACKGROUND**

The agency's contracting policies on the use of minority-owned, women-owned and emerging small businesses (MWESB) are set out in Metro Code 2.04.100 to 2.04.190. These policies were originally established as a result of the regional disparity study conducted by state and local governments in 1996.

Like other local governments, Metro found that the opportunity for MWESB firms to participate in the public procurement process was vital to the local economy. It also determined that historical patterns of exclusion and discrimination warranted the need for a program that supported MWESB firms.

### **Recent Code Changes**

In April of this year, the Metro Council adopted resolution 10-1240 in an order to strengthen the MWESB program. The thresholds for the agency's sheltered market program and informal purchasing increased from \$25,000 to \$50,000. All construction related projects up to \$50,000 fall within the sheltered market program and are bid only among qualified MWESB contractors. Additionally, for all other types of purchases up to \$50,000 the agency must contact one MBE, one WBE and one ESB to provide a quote. These changes became effective July 21, 2010.

### **Senior Leadership Committee**

At the request of the Metro Council and the Chief Operating Officer, a committee of senior managers was convened in order to recommend improvements to the agency's MWESB program. This was in part due to Metro's low utilization of MWESB's during the last two fiscal years (6% of contract dollars awarded in both 2008 and 2009), as well as recent criticism of our program from the small business community. The senior management team included the following representatives: Margo Norton, Dan Cooper, Teri Dresler, Cheryl Twete, Marv Fjordbeck, Jim Desmond and Darin Matthews.

The committee evaluated current Metro rules, as well as the programs of other local agencies. These included City of Portland, Multnomah County, Port of Portland, Portland Development Commission, and Housing Authority of Portland. Based on identified best practices in the region, the committee brought forth several recommendations that sought to improve the MWESB program at Metro.

The Metro Code grants authority to the COO to implement additional measures that the COO deems appropriate. These program improvements can be made without additional revisions to the Metro Code and can be implemented promptly. Through the active participation of the Office of Metro Attorney (OMA) on the committee, it was determined that all recommendations are in compliance with state and local rules on competitive bidding.

There has also been recent attention given to Metro's selection of contractors and how wages and benefits are factored into the contract decision. The senior leadership committee believes that this issue should be addressed in our contracting improvements. This step represents equity and fairness in the contracting process.

The recently published annual report of MWESB utilization noted an increase in both the amount of contracts awarded to MWESB contractors, and the dollar amounts of those contracts. Agency utilization increased from 6% (fiscal years 2008 and 2009) to 18% (fiscal year 2010). The hope is that the recent Code changes by the Metro Council and the implementation of these recommendations will allow the agency to continue on this track.

#### **ANALYSIS/INFORMATION**

1. **Known Opposition** None known.
2. **Legal Antecedents** Metro Code 2.04.100 through 2.04.190, ORS 279A.100
3. **Anticipated Effects** Additional contracting opportunities will be provided to MWESB's; program roles and responsibilities will be clarified.
4. **Budget Impacts** None.

#### **RECOMMENDED ACTION**

Metro Council approves and supports the attached program recommendations to the agency's MWESB procurement program.

Materials following this page were distributed at the meeting.

# Light rail concerns hardly old or tired

I have more than 30 years experience with land use and the politics that affect both public and private property. In the past I have supported light rail projects, but many specifics of the Milwaukie project were not adequately covered in the submission from Lisa Batey (Arguments against light rail are 'poor' and 'tired,' Sept. 15).

Aside from the typical political attacks on anyone who questions spending 1.515 billion borrowed dollars at this time, other major issues were dismissed by the writer in a cavalier fashion. Perhaps the Review will interview County Sheriff Roberts about his opposition to this project based solely on the crime issue. After carefully studying the 57 percent increase in crime at Town Center since the I-205 line opened, county commission candidate Paul Savas understandably has chosen to oppose the project.

The Aug. 31 Milwaukie City Council meeting was held because there was never enough money to extend the line across Kellogg Lake to Oak

## Community Soapbox

by Les Poole

Grove in the first place. Now promoters are scrambling to come up with another \$300 million by diverting money that could be better spent elsewhere. How can anyone claim that the issues I am covering are old and tired?

For more than 17 years the greater Milwaukie area has been torn apart by committing its future to light rail. The recall of a mayor and two councilors in 1998, and the 2005 plan to convert Kronberg (Kellogg Lake Park) into a five-story transit center are prime examples. There are many more, including "dumping" the cars and associated negative impacts at Park Street outside of Milwaukie.

Ms. Batey pointed out that like her neighbor, Representative Carolyn Tomei, she expects to receive a financial gain if the project is ever built.

Since she is a member of the



file photo by L.E. Baskow

Several letter writers took issue with a Soapbox written about light rail.

Milwaukie Planning Commission, I question her ability to be objective when the matter is ready for a vote by that entity. Speaking of voting, at no time has the public been allowed to vote on this huge project, a fact that is the most troubling of all. By pointing out that some of the opponents do not live directly on the line, the writer is insinuating that they are outsiders who should have no say in this massive regional investment.

In 2005 I voted against the oddly named "Clearwater"

sewer project, one that required citizens outside of Milwaukie to subsidize upgrades and spend \$600 million to move the treatment plant from the waterfront. (A good idea, however one that is not affordable at this time.) As a trusted board member of the Oak Lodge Sanitary District, Paul Savas has worked tirelessly for the citizens, and in the end their voices were heard. During the five years since the "Clearwater" failure, my neighbors are grateful that our rates are stable, and we know we can trust Paul in the future.

Before we go any further with another light rail project I suggest that my fellow citizens, including Ms. Batey, take a ride on the new I-205 line at 10 p.m. some evening. The crime and uneasiness on the almost empty trains are an example of what we are really getting for our money, and why the arguments for this line are "old and tired."

Les Poole is an Oak Grove resident.

## Letters

### Batey's parting shot at Savas 'unfair'

To the Editor:

I read Lisa Batey's rant (Arguments against light rail are 'poor' and 'tired,' Sept. 15) against those who question whether or not this is the time for the region to commit to subsidizing the building an ongoing operation of another TriMet light rail project.

While she does a wonderful job of articulating the talking points of its proponents - and vilifying its opponents - one only has to think about the substance of those points and look at the "success" (or lack thereof?) of other recent TriMet rail projects to get the sense that something doesn't smell right - either to the residents of Milwaukie, or to the rest of us living in Clackamas County.

Her arguments for this project seem rather shallow and self-serving given the enormous cost to area residents. For example, Lisa's last and most important and selfish point - the new train line will raise her property values. If that were true, (and I doubt it is), what does she plan to do with this new and higher valued property? Sell it for a big profit? Develop it with high-rise apartments? What is driving her wanting the light rail so badly that she is willing to throw financial prudence and caution out in favor of political momentum that may fizzle like a balloon this November?

Speaking of November, what is behind Lisa's parting and very cheap shot at Paul Savas, a non-partisan candidate for Clackamas County Commissioner? To my knowledge, Paul is the only candidate who has studied this issue thoroughly and understands the burden this project would place on county (and Milwaukie) residents. But Lisa, in her effort to vilify Paul, admitted that he hadn't said a word at the hearings yet, so without determining why he might be questioning this project, leaps directly to character assassination and attempts to smear him as the "prime mover behind the 2005 Oak Grove ballot measure that brought the Clear Water Project to an end (he wasn't). That is so like someone who cannot support their arguments with facts. The facts were, just as they are now on the light rail issue, that Milwaukie committed only \$5 million of the \$50 million, it would have taken to decommission the Kellogg sewer plant and nothing toward replacing that treatment capacity estimated to cost another \$350 million.

I know, I was vice chair of the Citizen Advisory Council tasked with studying the Kellogg issue.

Where was Lisa on Clearwater? She was all for it! Oddly enough, Milwaukie's financial commitment was, and still is, limited to only \$5 million. Whether it is hundreds of millions for moving a treatment plant or hundreds of millions for a light rail project, the common denominator is still only \$5 million dollars - coincidence or politics?

I'm putting my money on Paul Savas this November.

Eric R. Hofeld, CPA  
Clackamas County

# Thyroid Problems?

Presented by the Metro Doctors Speakers Bureau  
Speaker: Dr. Geoffrey Skelton D.C.

## FREE WORKSHOP on: Thyroid Disorders

Tuesday October 5th at 7 pm

(At The Sunnyside Courtyard Marriot Hotel)

### Topics to be discussed:

Why you are taking thyroid hormones and still feel lousy.

The six different patterns to thyroid problems and only one requires hormone replacement.

Why doctors don't run complete thyroid blood tests...and should.

Why your doctor says that your lab tests are normal when they may not be.

Why Hashimoto's Thyroiditis is really not a problem in your thyroid

### Natural solutions to correct your thyroid problems.

If you or a loved one is suffering from a Thyroid Condition,

Then you MUST attend this FREE WORKSHOP on Tuesday night at 7pm  
Seats are limited! Reserve yours now! Call (503)-656-1680

# Spirits of Historic Oregon City

Visit with notable "Spirits" of the 1800's from Historic Oregon City. Ride on a motor coach to several historic home sites and take a guided walk through the Pioneer Cemetery by living historians dressed in period clothing.

2010 Tour Includes:



P 1

I moved to the Oak Grove neighborhood in 1992, the same year that the City of Milwaukie obtained approximately 5 acres from Dena Swanson (formerly Kronberg) and approximately 2 acres from my family. The contiguous properties are bordered on the north by a small triangular shaped Greenspace lot purchased with funds provided by METRO. To the south is the historic Berkemier home, once owned by Monroe Sweetland.

On the last day of 1991 the Dena Swanson signed a notarized contract to donate half of the value of her property to the City, and be paid in cash for the remaining value. In addition, the property would be a park named in honor of her late husband, Robert Kronberg. (See Exhibit "B")

In the Summer of 1992 the city of Milwaukie joined the North Clackamas Parks & Recreation District and was awarded approximately \$600,000.00 for purchasing land for parks and "open spaces". The Parks District began maintaining the City's properties when the agreement was formalized, while ownership of the properties was retained by Milwaukie. Enclosed is a copy of the first few pages of that agreement. (Exhibit "B")

Prior to joining the NCPRD the City was in negotiations to purchase the adjacent 2 acres from my family. Our property was critical to the equation because it provided the only safe access to the area via a signalized intersection. I remember my father pointing out at the time that he was the last private property owner in the area, and there was no way to create local access without going through one of our two lots. The City must have been aware of the situation prior to the Swanson purchase because it's concept at the time was to create *Kellogg Lake Park* by combining 2 tax lots from both the Swanson and Poole purchases into a 3.5 acre entity. (See Exhibits "C" and "D")

In September of 1992 I moved to the quiet unincorporated Oak Grove neighborhood and soon became aware that TRI-MET was planning on converting the abandoned trolley alignment between Milwaukie and Gladstone into a light rail line. During the Summer of 1993 local citizens rallied strongly against the concept, and the plan was quickly dropped. Soon the idea of converting the old rail alignment into a trail was introduced, and the "Trolley Trail" was born..

After the initial failure in Oak Grove, TRI-MET continued to plan a rail line for the South Corridor, and a new route that bypassed downtown Milwaukie, following Hwy 224 to Clackamas town Center was proposed. Milwaukie leaders including Mayor Craig Lomaneki and Councilor Carolyn Tomeii then proposed running the line into downtown via McLoughlin Blvd,

ATTN: METRO/TRI-MET

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EXCERPTS FROM LETTER TO ATTORNEY ON  
SEPT. 30, 2010.

# KELLOGG LAKE PARK: N. CLACKAMAS PARKS AND RECREATION DISTRICT "MASTER PLAN"

"Master Plan for the Parks District". On the shelf beside it was a copy of another new publication, the "Trolley Trail Master Plan". Repeated references to "Kellogg Lake Park" are found in both documents, and the City Planning Director at the time, John Gessner is acknowledged as a contributor to both plans. (Exhibits "L" and "M")

Sometime in early October of 2005 the Mayor received a phone call from Dena Swanson questioning as to why the long ignored park site was going to become a transit center. Mayor Bernard referred her to Mike Swanson, the City Manager.

The November 1, 2005 Council Session opened with Mike Swanson announcing he had found the overlooked documents in the property file, **exactly where they should have been**. How could John Gessner or others have previously overlooked them? The answer in my mind is that they didn't. The property file documents were apparently reviewed by the author(s) of the February 21, 2004 Planning Commission recommendation for approving Option 2.5, and it's likely that the report was compiled by John Gessner and/or Alice Royer. (How timely that both Gessner and Royer resigned shortly after Mayor Bernard changed his vote November 8<sup>th</sup> at the height of the crisis.) *SEE MINUTES OR VIDEO ON CITY WEBSITE.*

During that same brief testimony the City Manager, Mike Swanson went on to say that he had gone thru the 1.5" thick property file and had located a **Deed** after contacting the Parks District, and "*the named used on that instrument was Kellogg Lake Park..... He knew, of course that the name had remained unaltered throughout the transit center process.*" He stated on camera that he knew the name of the park through the entire process... I struggle to interpret any other meaning to that statement except that it was a subliminal confession. (Exhibit "N")

Apparently confused as we all were, he assumed that the newly discovered Park included only the property purchased from Dena Swanson, and that the name *Kellogg Lake Park* would have to be eventually changed. That evening he mentioned that the name of a park can only be changed by a vote of the Council, something that is yet to happen in this case. (I don't believe it's possible without condemning a portion of *Kellogg Lake Park*, or merging the two properties.)

While some participants including Councilor Barnes were more visible, the lobbying effort on Dena Swanson, as evidenced by the e-mails, was obviously done at the will of State Representative Carolyn Tomeii. That effort conveniently focused only on revealing Phase 1 of the project Dena, failing to include any information about Phase II, the construction of a multistory 550 space Parking structure. The video included Planning Commission and Council Sessions from as early as February of 2004, the time when I made my first visit to City Hall.

In October of that year the Light Rail issue was placed on the Council agenda because Howard Dietrich proposed a Walmart on the former Goodwill Store property adjacent to Tacoma St. That key property provides the only viable route for constructing a light rail line, and a 600 car park and ride was also planned for that location.

flawed deed from 1991 was on file, along with restrictions that were recorded in January of 2006. I do not pretend to have a law degree, but shouldn't a new deed for *Kronberg Park* have been created? In October I composed a 3 page letter to the City demanding that all of the lots obtained from Dena Swanson be included in *Kronberg Park*. (Exhibit "T")

When the latest concept was released in March of 2007 featuring the Tillamook Alignment and a termination at Lake Road I couldn't help but notice the lack of parking. Where were they going to put the 600 cars that were needed to make the project numbers work? That Summer I attended an open house held at the former Clackamas ESD building. As a result of my follow up on the deed issue, the possibility of an alignment crossing through *Kronberg Park* was greatly diminished. Suddenly a new dark line had appeared on the maps. It ran across Kellogg Lake and paralleled the *Trolley Trail* alignment along Hwy 99E. The planners had discovered Park Street. Once again the Transit Center was on its way south, this time landing outside of the City limits. After all of my efforts to preserve the environment and traffic flow in the area, the result was a poor location at the edge of the Oak Grove neighborhood. (Exhibit "U")

I studied the proposed extension for about 10 minutes and realized the planners were only in the concept phase. Maps distributed at the Open House had a disclaimer about the extension to Park Street being subject to further study. The alignment featured some parking options for downtown and a double width track that is still a major issue; referring to the alignment's close proximity to the Waldorf School. At first glance it appeared as though the 600 cars missing from the earlier plan to terminate at Lake Road had reappeared in Park St. in Clackamas County.

✓ Included in the material handed out at the Open House was a notation that the "Tillamook Alignment" was a recommendation by the "Working Group". I got the impression the NYMBY "Working Group" would be given credit for a job well done when the public record clearly indicates the opposite is true. → SEE MINUTES OF PROCESS (2004)

The new concept did not didn't sit well with the Waldorf School, and that drew Ed Parecki much deeper into the Light Rail process. He soon proposed that Hwy 99E be considered, or possibly it was time to reconsider Main Street. (Main Street is not suited for Rail and would be too encumbered to promote safe traffic flow, however, I believe that the other option has potential that was not adequately considered before being dismissed.)

As Summer began to wind down in August of 2007 there was little on the Council Agenda. With nothing of significance scheduled, what better time could there be for Mayor Bernard to attack Councilor Stone. After all, "*civility may no longer be an option with this woman*".

As the over-valued condominium balloon was ready to burst, Tom Kemper, the developer of Main Street, was well on his way to withdrawing from the Town Center Project. (Town Center is planned for the block where the Farmer's Market is held.) At that point Howard Dietrich got Councilor Stone's attention by submitting an offer to buy the property for a dollar more than what METRO and the City had invested in the two tax lots. She knew the project was going to isolate City Hall from the riverfront and eliminate precious parking and trees. The property

Bernard was a key player, given that the Session was being held in order for him to reverse his November 1<sup>st</sup> vote. (Exhibit "Q") (NOV 8, 2005 COUNCIL MTG)

In spite of the headaches I had experienced thru the convoluted "Option 2.5 process, by the Spring of 2006 I felt that all the long hours and stress had paid off, and that a better process could result in a solution for locating the Transit Center, possibly at the ODOT site.

I decided that when I had the time I'd compose a small book titled *The History of Kellogg Lake Park*. I planned on the first part being about the founding of Milwaukie at Kellogg Lake by Lot Whitcomb and Joseph Kellogg. The second part of that unfinished work is called "Lost in the Bureaucracy" for obvious reasons..

One day I was assembling information for "Lost in the Bureaucracy" and came across the staff report for the February 24, 2004 Planning Commission meeting. I noticed errors that I had previously underlined, attributing them to sloppiness. The property was described as encompassing 2.5 acres when 3.5 acres was the actual total. I soon noticed some wording that hadn't seemed to matter previously because I thought the reference was to the portion of the site (approximately 1 acre) obtained from my family. The site was described as follows:

***"The property was donated to the City in the 80's. There are no known restrictions on the property in relation to the donation"***

On a Sunday evening after attending the 2005 "Riverfest" I decided to Google the name "Kellogg Creek Park". With no results were found, I tried "Kellogg Lake Park" and was astonished as the North Clackamas Parks and Recreation District map appeared before my eyes. Several days later I was at the Ledding Library and stumbled across the newly published "Master Plan for the Parks District". On the shelf beside it was a copy of another new publication, the "Trolley Trail Master Plan". Repeated references to "Kellogg Lake Park" are found in both documents, and the City Planning Director at the time, John Gessner is acknowledged as a contributor to both plans.

Over 5 months had passed before *Kronberg Park* finally was placed on the Agenda for June 6, 2006, the anniversary of D-Day. I received a concerned phone call from Councilor Stone that afternoon. She wondered why only one lot was to be included in the plan, and needed help verifying the difference between Dena's former property and *Kellogg Lake Park*. I spent at least half an hour discussing the details with her, mentioning that the glaring oversight would leave the door open to constructing tracks across the north side of the park in order to access the 5 acres recently purchased as surplus from Clackamas County. With the lake drained, that property could easily have been used as a Transit Center location, accessible via the signalized intersection at River Road and HWY 99E.

and watersheds mentioned above. Then I commented at how Councilor Barnes had behaved during the effort to place the Transit Center at Kellogg Lake, and that I have no confidence in the current light rail process. After I referenced one of Councilor Barnes e-mails from November of 2005 Barnes quickly asked Mayor Ferguson to stop the self described "personal attack". I interjected that I was simply reading from the Public Record, pertinent to Light Rail.

Many of my key statements including the two e-mails I quoted were not entered into the written record, but my suggestion that Councilor Barnes should resign was clearly preserved. Ironically, my last comment that night was included in the minutes, but wasn't discernable on the televised video. As I walked away I looked towards the staff and firmly said, "*I don't expect to have to wait 3 month's for the minutes to be released*". After previously bringing up the subject in a Citizen Communication, I was frustrated having to ask once again. I followed up with a letter referencing the meeting that was published in the "*Review*".

✓ Late in 2009 I accessed the city's home page one evening to review the complete Agenda for the February 24, 2004 Planning Commission hearing. Amazingly I could not find any reference to that February evening's Agenda and Minutes. I tried again recently without success.

✓ **I find it nearly impossible to believe that access to the official City documents that were the basis for recommending Option 2.5, and the current proposed Light Rail alignment, has been deleted from the website by accident.**

Before I conclude I wish to confirm that I am doing my best to be objective at this time. I have labored for 11 hours composing this letter, and have many friends and customers in Milwaukie. I do not believe that everyone involved with the light rail process since the formation of the "Working Group" is corrupt. I strongly believe that the September 20, 2004 Council vote, decided by Mayor Bernard's participation, would have resulted in a different outcome if the status of the land purchased from Dena Swanson (Kronberg) was known at the time. **Certainly a tremendous amount of pain, waste, and uncertainty experienced by my family and our community could have been avoided.**

Furthermore, these 15 pages are not intended to cover all of the history or issues that have arisen since early 2004. I believe that a pattern of deception by overzealous representatives of the City has occurred, and the deception is clearly documented in the public record. I can't imagine that the City Council would have voted for "Option 2.5" in September of 2004 had they been aware of the property restrictions at Kellogg Lake, and that the City had no legal justification to approach Dena Swanson 14 years later in November of 2005.

✓ If my observations are validated in a courtroom or by other legal means, TRI-MET may prove to be the biggest victim of all. (By now Phil Selinger and Dave Unsworth must be quite tired of dealing with Milwaukie. One more embarrassing venture into the Milwaukie morass is probably all they can take, especially in light of the current financial situation.)

JUNE 6, 2006

At 6:45 on that June evening an elegant woman walked into the room who was obviously Dena Swanson. She approached me and introduced herself as though she knew me. (It took a few seconds for me to realize she had already seen me on the video clips.) As a tribute to June 6, 1944 the local Boy Scouts presented the colors. I thought how ironic it was that I should view such a noble display prior to another convoluted City of Milwaukie hearing. It was upsetting but necessary for me to be there. I knew without asking that the Parks District had uncovered a small problem known as *Kellogg Lake Park*, and the issue was bound to overheat in front of me.

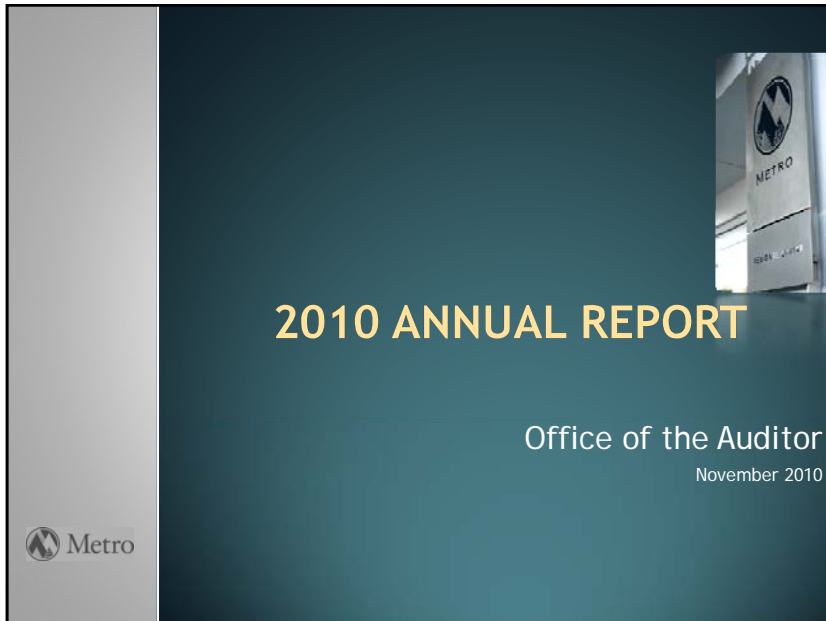
The hearing was conducted by JoAnne Herrigel who gave an ambiguous response as to why only one of the tax lots was to be included in that evening's naming. Councilor Stone raised some issues and was informed by Mike Swanson they could be handled at a later date since Dena was in attendance, and the "naming" of the park needed to be completed. When Sue mentioned that Mr. Poole was in the audience and could help clear up the confusion, Mr. Swanson interjected that there would be no Public Testimony taken that evening. He explained that the requirement for public input was met when the Neighborhoods Associations discussed the issue in their monthly meetings. (Island Station, Lake Road and Milwaukie Historic were the only neighborhoods who had the "naming" issue on their Agendas.)

Denying my input during that meeting was an attempt to prevent me from articulating in front of Dena what was obvious. Even though I wasn't able to speak, the experience reinforced my ongoing opinion. I came home with a grainy inaccurate black and white copy of an aerial map provided of the site. (Exhibit "R") On it someone had obviously attempted to blur the boundaries of the tax lots that were under discussion, giving the appearance that two lots were simply one. After hearing her words I thought, *"Jo Anne isn't the lying type. How desperate must they be?"*

Coincidentally in 2006 the 5 acres (under water) adjacent to Dena's former property was purchased as surplus property from Clackamas County. I considered purchasing it but discovered that the City had first right of refusal.

I testified during the hearing on the evening in which the Council voted to approve the purchase. Included in my comments was a request that the city place a small deed restriction on the property. That simple request was denied on the spot. A few days later I phoned John Mantay at the County and left him a pleading voicemail requesting that he amend the deed he was preparing in order to protect the property. Unknown to me at the time, he honored the request. (In the future if Milwaukie fails to maintain the area as riparian habitat the ownership will revert back to Clackamas County.) (Exhibit "S")

During the last half of 2006 much of the focus in Milwaukie was on the sewer, North Main, the Town Center Block, and reconstructing Hwy 99E through Downtown. As other issues replaced Kellogg Lake on the Agenda I wondered when Dena would receive a new deed. I had promised her that I would watch over the situation so she and her family didn't have to worry about it. One day I was looking up some property records in Oregon City and on a whim decided to look up the new deed park to see how the language was worded. To my surprise only the original



The cover of the 2010 Annual Report features a dark teal background. In the top right corner, there is a small photograph of a Metro sign. The text "2010 ANNUAL REPORT" is prominently displayed in the center in a bold, yellow font. Below this, the text "Office of the Auditor" and "November 2010" is written in a white, sans-serif font. The Metro logo is located in the bottom left corner.

**2010 ANNUAL REPORT**

Office of the Auditor  
November 2010

Metro



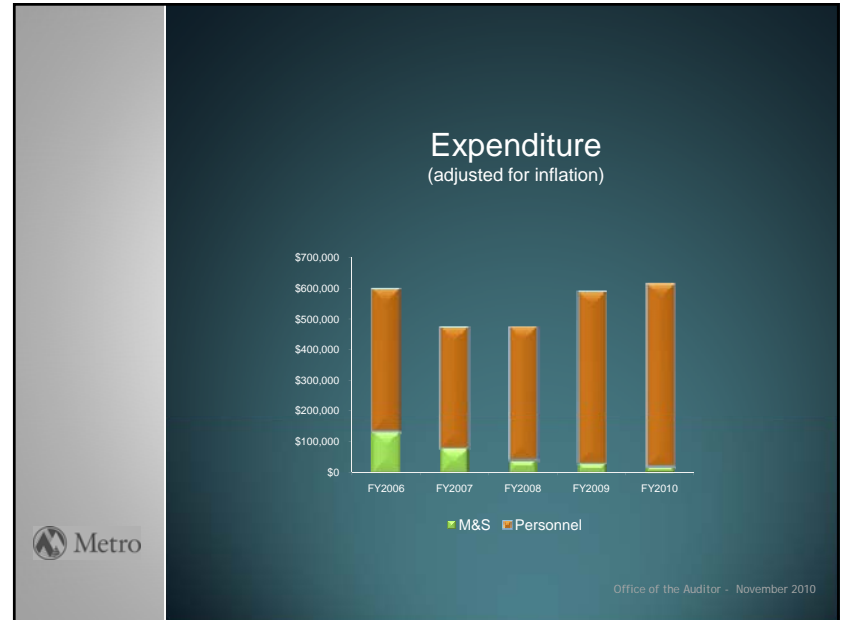
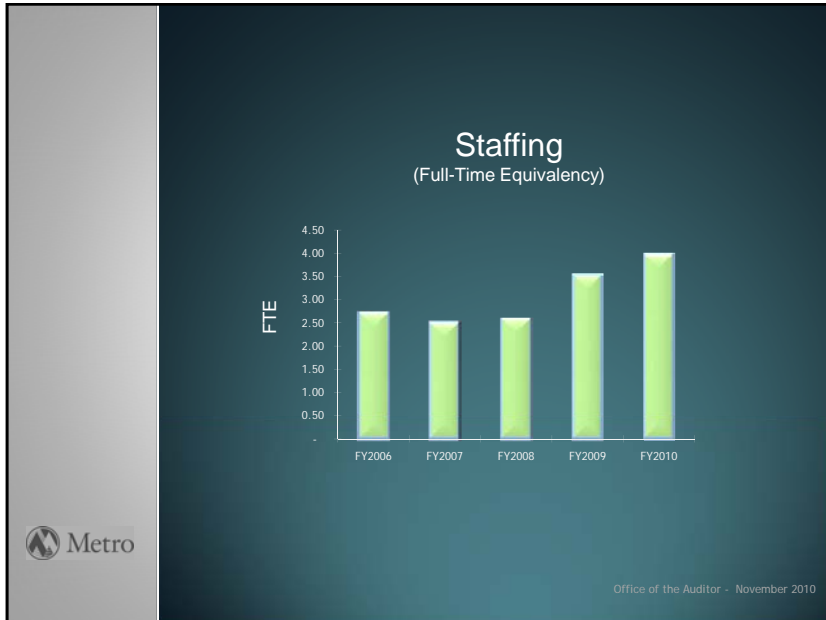
The Accomplishments slide has a dark teal background. The title "Accomplishments" is centered at the top, underlined in white. Below the title is a list of four accomplishments, each preceded by a yellow checkmark. The Metro logo is in the bottom left corner, and the text "Office of the Auditor - November 2010" is in the bottom right corner.

Accomplishments

- ✓ Completed six audits
- ✓ Won national recognition for Oregon Zoo Construction Audit
- ✓ The first formal audit follow-ups were completed
- ✓ Peer review conducted in November 2009 was successful

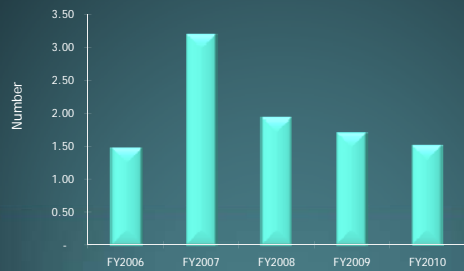
Metro

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### Audits per FTE

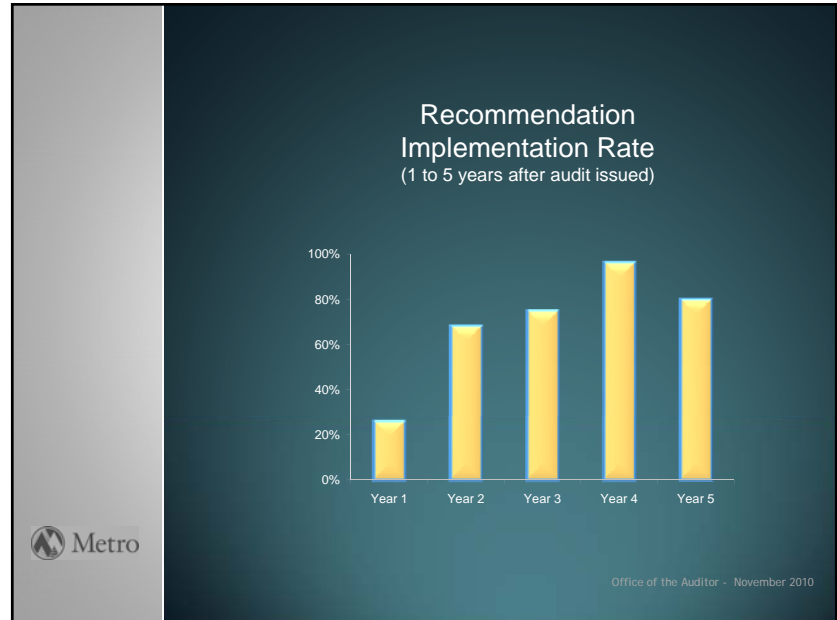
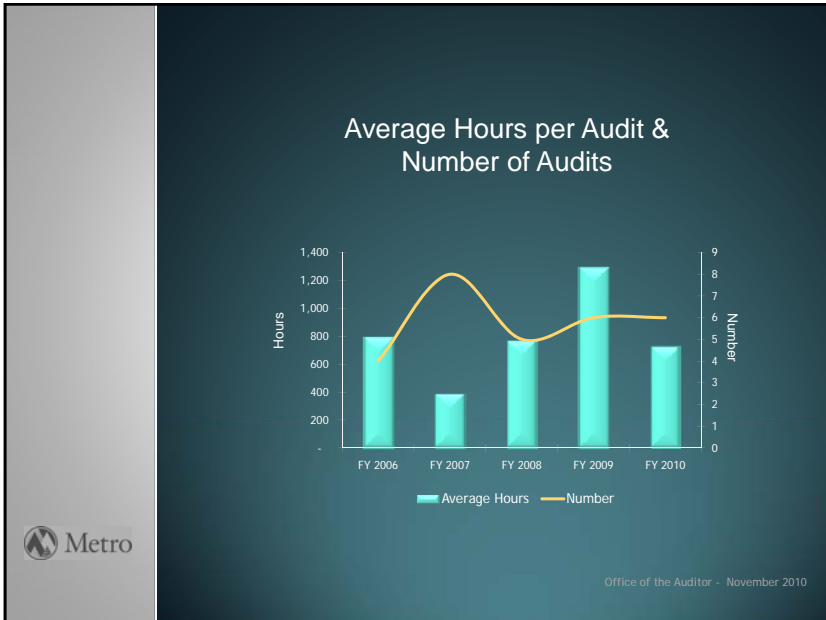


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### Audit hours by Department



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### Audits Underway

Audit Title	Expected Completion
Construction Excise Tax Grants	Feb 2011
Administration/Management of Large Contracts	March 2011



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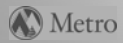
### Future Audits

Audit Title	Start Date	Expected Completion
Zoo Bond Program Audit Follow-up	April 2011	June 2011
Maintenance of Natural Areas	March 2011	Oct 2011
Transportation Outcomes Case Study Audit	March 2011	Oct 2011



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# ETHICS LINE REPORT



## Highlights

- ✓ The Ethics Line went live three years ago, November 2007.
- ✓ A decision matrix was created to determine the level of response, based on the quality of information and seriousness of incident received from the reporter.
- ✓ Window stickers were applied at points of service to customers.
- ✓ Average case closure time reduced from 40 to 24 days.






### Number of Reports

Fiscal Year	Number of Reports
2007-08	12
2008-09	6
2009-10	23
<b>Total</b>	<b>41</b>

### Concerns Reported

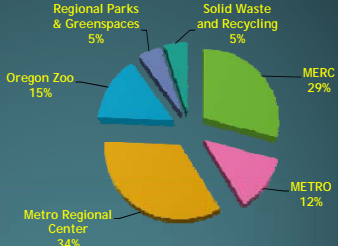
Case Type FY2008-10	Total
Violation of policy	7
Waste, abuse or misuse of resources	7
Misconduct or inappropriate behavior	5
Confidentiality and misappropriation	3
Time abuse	3
Accounting, auditing and internal financial controls	2
Conflict of interest	2
Improper supplier or contractor activity	2
Unsafe working conditions	2
Environmental protection, health or safety law	1
Other	7
<b>Total</b>	<b>41</b>

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### Location of Incident FY2007-08 to FY2009-10

Reports to the Ethics Line can choose a specific location where the incident occurred, or the general location of Metro. In most cases (88%), a specific location other than Metro was reported.



Location	Percentage
Metro Regional Center	34%
MERC	29%
Oregon Zoo	15%
METRO	12%
Regional Parks & Greenspaces	5%
Solid Waste and Recycling	5%

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### Action Taken

In 85% of the cases, a successful investigation was completed. There were 12 cases in which no action was taken, due to the following reasons:

- an audit was conducted instead,
- unable to verify facts,
- withdrawn by reporter, and
- not in Metro jurisdiction.

In the remaining cases, some action was taken, from specific employee discipline to improving policies and procedures

Action Taken FY2008-10 to FY2010	Total
Employee action taken	6
Improvements in policy or communication	6
Referred to appropriate agency	1
Criticism noted	3
Management to make changes	4
Reporter notified of results	9
No action taken	12
<b>Total</b>	<b>41</b>


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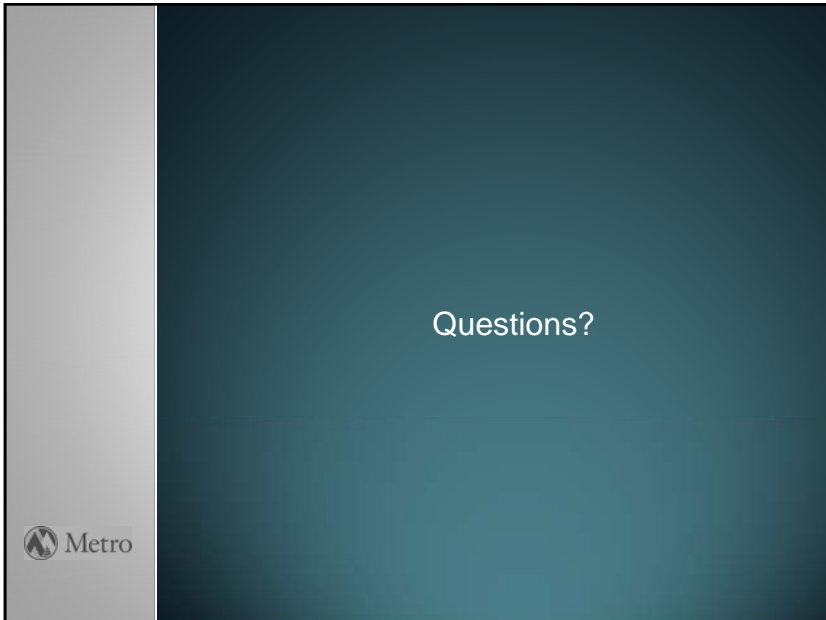
### Average Days to Close

The average time to close an Ethics Line report has decreased from 40 days in FY2007-08 to 24 days in FY2009-10.



Fiscal Year	Average Days to Close
FY2007-08	40
FY2008-09	40
FY2009-10	24


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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2010 ) RESOLUTION NO. 10-4213  
COUNCIL ORGANIZING RESOLUTION, )  
RESOLUTION NO. 10-4103 ) Introduced by Council President Carlotta  
Collette

WHEREAS, the Metro Charter directs the Council to adopt an annual organizing resolution for the orderly conduct of Council business, Resolution No. 10-4103, *For the Purpose of Reorganizing the Metro Council and Electing the Deputy Council President for 2010* adopted on January 7, 2010; and

WHEREAS, the Metro Charter provides that the Council President nominates and the Metro Council confirms the Deputy President and all members of committees, commissions and boards; and

WHEREAS, the Metro Council has designated by resolution specific councilors to play lead and or liaison roles on Council committees, commissions and boards; and

WHEREAS, the resignation of former Metro Council President David Bragdon on September 9, 2010 and the Council appointment of former Deputy & Acting Council President Carlotta Collette as Council President until January 3, 2011 requires that the organizing resolution be amended and a new Deputy Council President be appointed until January 3, 2011; now therefore

BE IT RESOLVED that the Metro Council confirms the appointment of Councilor Rod Park as Deputy Council President until January 3, 2011.

ADOPTED by the Metro Council this 18<sup>th</sup> day of November, 2010.

\_\_\_\_\_  
Carlotta Collette, Council President

Approved as to Form:

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