



# Metro | Agenda

Meeting: Metro Council  
Date: Thursday, January 6, 2011  
Time: 2 p.m.  
Place: Metro Council Chambers

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## CALL TO ORDER AND ROLL CALL

### 1. INTRODUCTIONS

### 2. CITIZEN COMMUNICATIONS

### 3. AUDITOR COMMUNICATION

#### 3.1 FY 2010 Independent Financial Audit Results

**Jason Stanley, Audit Committee**  
**Jim Lanzarotta, Moss Adams**  
**Norton**

### 4. METRO CENTRAL STATION COMMUNITY ENHANCEMENT COMMITTEE

#### 4.1 Presentation of 2011 Slate of Projects

#### 4.2 Highlights from Past Projects Funded

### 5. COMMUNICATION: OPT IN INTERNET PANEL

**Middaugh**  
**Adam Davis, DHM Research**

### 6. CONSENT AGENDA

#### 6.1 Consideration of the Minutes for December 16, 2010

#### 6.2 **Resolution No. 11-4221**, For the Purpose of Adopting Employee Salary Savings Plan 2010.

#### 6.3 **Resolution No. 11-4224**, For the Purpose of Metro Council's Acceptance of the Results of the Independent Audit Report for Financial Activity During Fiscal Year 2009-2010.

#### 6.4 **Resolution No. 11-4225**, For the Purpose of Electing the Deputy Council President for 2011.

### 7. ORDINANCE – FIRST READING

#### 7.1 **Ordinance No. 11-1251**, For the Purpose of Amending the Metro Code in Order to Reassign the Duties of the Clerk of the Metro Council.

#### 7.2 **Ordinance No. 11-1252**, For the Purpose Amending Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan.

## 8. RESOLUTIONS

- 8.1 **Resolution No. 11-4222**, For the Purpose of Improving the Efficiency and Effectiveness of the Regional Solid Waste Management System, Protecting the Environment, and Conserving Natural Resources by Supporting Statewide Legislation to Eliminate Single-use Plastic Bags at Retail Checkout.

**Burkholder  
Craddick**

## 9. CHIEF OPERATING OFFICER COMMUNICATION

## 10. COUNCILOR COMMUNICATION

## ADJOURN

### Television schedule for January 6, 2011 Metro Council meeting

<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, Jan. 6 (Live)	<b>Portland</b> Channel 11 – 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, Jan. 9 <i>Date:</i> 2 p.m. Monday, Jan. 10
<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, Jan. 10	<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, Jan. 8 <i>Date:</i> 11 p.m. Sunday, Jan. 9 <i>Date:</i> 6 a.m. Tuesday, Jan. 11 <i>Date:</i> 4 p.m. Wednesday, Jan. 12
<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.	<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.

**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

**FY 2010 Independent Financial Audit Results**

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

Agenda Item Number 4.0

**Metro Central Station Community Enhancement Committee**

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber



Metro Central Station Community Enhancement Committee  
2011 slate of projects

Applicant	Project Summary	Project Description	Request amount	Award	Funding goals *	New Applicant
Audubon Society of Portland	Collins Sanctuary interpretive sign project	Funds for a 2'x3' interpretive sign for the Collins Sanctuary. Covers professional services (design, fabrication and installation).	\$5,000	\$1,000	1,2,3,	N
Chess for Success	After-school chess club at James John Elementary	Funds to support 75 students mtg 2x/wk for 7 months. Covers costs of personnel (program mgr, stipend for chess coach), 75 take-home chess sets, t-shirts.	\$2,000	\$2,000	6,7	Y
Forest Park Conservancy	Volunteer crew leadership training program	Funds for personnel (salaries, overhead) for asst trails & restoration mgr, volunteer coordinator, supplies for crew leaders.	\$16,700	\$13,500	2,3,4,5,6,7	N
Friendly House, Inc.	Safety & security improvement project	Funds to purchase security system (i.e., lighting, mirrors, 2-way radios, cameras, ID card system/cards, dead bolts, window, door) and labor to install.	\$18,345	\$10,000	1,3,4,6,7	N
Northwest Children's Theater and School	Ensuring access and safety for all project	Funds of capital projects at NNCC. Covers professional services (lighting, electrician), materials (permits, inspections).	\$8,000	\$3,500	3,6,7	N
Northwest Film Center	Green Visions video project	Funds for 7-mnth program for 60 seniors, teens. Covers personnel (filmmaker, assts), overhead (marketing dvd, rentals), equipment (camera, editing).	\$8,300	\$7,000	6,7	Y
Open Meadow Alternative School	Upgrades to phone system project	Funds to purchase, install, train staff to use new phone system at high school. Covers equipment, supplies (parts, installation).	\$2,000	\$2,000	1,6,7	N
Oregon Student Association	Student Alliance & Leadership project	Funds to support 45 students in a leadership development program. Covers costs for camp (food, activities, supplies), professional services (child care), stipends for 2 mentors.	\$7,100	\$7,100	3,4,6,7	Y
Portland Festival Symphony	Classical concert in Cathedral Park	Funds to pay up to 65 local professional musicians to perform a free classical concert in Cathedral Park on July 31, 2010.	\$6,000	\$4,000	3,4,6,7	N
Sauvie Island Center	Expanding farm-based opportunities for youth	Funds for 2 field trips for 45 students, 5-day camp for 15-20 youth. Covers personnel (ed mgr, asst, youth intern), overhead (field trip fees), supplies, transportation.	\$5,732	\$5,732	3,6,7	N

Metro Central Station Community Enhancement Committee  
2011 slate of projects

Schoolhouse Supplies	Tools for Schools at James John ES	Funds for educational materials for 500 students. Covers personnel, overhead (utilities, advertising, rent), professional services (bookkeeping), supplies (backpacks, etc).	\$7,500	\$7,500	6,7	Y
Store to Door	Grocery shopping assistance	Funds to fill and deliver 2,000 orders for 23 clients. Covers costs of personnel, overhead, supplies, transportation, insurance.	\$5,184	\$5,184	6,7,8	N
			<b>\$91,861</b>	<b>\$68,516</b>		

Please note: A project's responsiveness to funding goals as listed in this table reflects information provided by the applicant. Metro's grant program

places a priority on projects or programs that best meet the criteria and benefit the area most directly affected by Metro Central Transfer Station.

Projects will be considered that meet one or more of the following grant funding goals (the order of the list does not imply ranking or weighting):

- 1 = rehabilitation, upgrading or direct increase in the real and or personal property owned or operated by a nonprofit organization with Internal Revenue Code 501(c)(3) status;
- 2 = preservation or enhancement of wildlife, riparian (streamside) zones, wetlands, forest lands and marine areas; improved public awareness of these resources and opportunities to enjoy them;
- 3 = improvement to, or increase in, recreational areas and programs;
- 4 = improvement in the safety of the area;
- 5 = improvement of the appearance, cleanliness or environmental quality of the area neighborhood;
- 6 = benefits to youth and seniors;
- 7 = benefits to low-income persons;
- 8 = recycling opportunities.

Agenda Item Number 5.0

**Communication: Opt In Internet Panel**

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

Agenda Item Number 6.1

**Consideration of the Minutes for December 16, 2010**

*Consent Agenda*

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber



## METRO COUNCIL MEETING

Dec. 16, 2010

Metro Council Chambers

**Councilors Present:** Council President Carlotta Collette and Councilors Rod Park, Kathryn Harrington, Robert Liberty, Rex Burkholder, and Carl Hosticka

**Councilors Excused:** None

Council President Carlotta Collette convened the regular Council meeting at 2 p.m. President Collette thanked Councilor Rod Park for his service on the Metro Council.

### 1. **INTRODUCTIONS**

There were none.

### 2. **CITIZEN COMMUNICATIONS**

There were none.

### 3. **COMMUNICATION PROJECT PRESENTATION: GREEN HOLIDAYS PROMOTION**

Ms. Pam Peck and Ms. Shareefah Hoover provided a presentation on the green holidays communication initiative's goals, strategies and actions, and next steps. Their presentation included a demonstration that showcased a few of their many sustainable gift-giving ideas. For more information and/or green holiday ideas, visit the Metro web site at: [www.oregonmetro.gov/holidaytips](http://www.oregonmetro.gov/holidaytips).

Council discussion included advertising recycled paper and recycling Christmas trees.

### 4. **CONSENT AGENDA**

Councilor Rod Park requested that Resolution No. 10-4217 be removed from the consent agenda.

Motion:	Councilor Robert Liberty moved to adopt the consent agenda: <ul style="list-style-type: none"><li>• The regular Council meeting minutes for December 9, 2010</li><li>• Resolution No. 10-4219, For the Purpose of Approving Contract Amendments for the MRC Third Floor Conference Room Project</li><li>• Resolution No. 10-4220, For the Purpose of Approving a Contract Amendment for the Veterinary Medical Center Project at the Oregon Zoo</li></ul>
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Vote:	Council President Collette and Councilors Burkholder, Harrington, Park, Liberty and Hosticka voted in support of the motion. The vote was 6 aye, the motion <u>passed</u> .
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Motion:	Councilor Park moved to adopt Resolution No. 10-4217.
Second:	Councilor Kathryn Harrington seconded the motion.

Mr. Chris Erickson thanked the Council for their consideration of his reappointment to the Metropolitan Exposition Recreation Commission.

Vote:	Council President Collette and Councilors Burkholder, Harrington, Park, Liberty and Hosticka voted in support of the motion. The vote was 6 aye, the motion <u>passed</u> .
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## 5. **ORDINANCES – SECOND READING**

5.1 **Ordinance No. 10-1244**, For the Purpose of Making the Greatest Place and Providing Capacity for Housing and Employment to the Year 2030; Amending the Regional Framework Plan and the Metro Code; and Declaring an Emergency.

The below motion was carried over from the December 9, 2010 Metro Council meeting:

Motion:	Councilor Carl Hosticka moved to adopt Ordinance No. 10-1244A.
Second:	Councilor Kathryn Harrington seconded the motion.

Mr. Ted Reid, with assistance from Dick Benner of Metro, provided a brief overview of Ordinance No. 10-1244A which addresses five main components:

- Recommendations for residential capacity;
- Recommendations for employment capacity;
- Recommendations for the Regional Framework Plan;
- Recommendations for the Urban Growth Management Functional Plan; and
- Recommendations for a series of maps including the 2040 Growth Concept, Title 4: *Industrial and Other Employment Areas*, and Title 6: *Centers, Corridors, Station Communities, and Main Streets, Adopted Boundaries*.

Council President Collette opened a public hearing for Ordinance No. 10-1244a:

- Darise Weller, 9259 NW Gremantown Rd., Portland: Ms. Weller believed that environmental justice and health risks are a large component and should be added to the ordinance; especially as it pertains to establishing industrial sites and freight corridors in residential areas. She was concerned with the health risks – physical and mental – associated with pollution caused by industrial areas, and the impacts to local residents.

Council discussion included the importance of sharing the benefits and burdens equitably across the region and continued discussions on environmental justice.

- Mara Gross, Coalition for a Livable Future: Ms. Gross addressed potential criteria for the designation of regional centers; she used the Tanasbourne/AmberGlenn redesignation request as an example. Ms. Gross recommended that cities provide a 6 month update on their progress on addressing strategies – such as housing choices. In addition she spoke to CLF's outreach to member organizations regarding refining Metro's 6 desired outcomes and

the potential for increased community participation. She recommended an MPAC subcommittee be established to address this issue.

Council discussion included presentations of cities' aspirations for centers and corridors, and housing requirements for centers, corridors, station communities, and main streets.

- Dave Nielsen, Home Builders Association of Metropolitan Portland: Mr. Nielsen expressed HBA's support for affordable housing and his appreciation for work done to revise Title 11 language so that its intentions show the region's aspirations and encourage housing for a wide range of incomes are better stated. However, he was concerned that while the new language softens the "mandate" feel of earlier proposed drafts, the new language has not received input from the private housing market and that the ramifications of this policy are huge – especially related to financial investments needed to provide some of the housing ranges suggested. He encouraged the Council to delay voting on Title 11 changes. (Written testimony included as part of the meeting record.)
- Jane Leo, Portland Metropolitan Association of Realtors: Ms. Leo encouraged the Council to delay action on the proposed Title 11 changes. She was concerned that the use of the word "shall" in Title 11 – specifically related to concept planning – denoted an involuntary action on the part of the municipality and therefore violated Oregon State Law which prohibits a city, county or metropolitan service district from establishing housing sale prices or designating the class of buyer. She also stated that the language in Title 11 contradicts with Exhibit A, Regional Framework Plan. (Written testimony included as part of the meeting record.)
- Elizabeth Graser-Lindsey, 21341 S. Ferguson Rd., Beavercreek: Ms. Lindsey questioned that if stated in the COO report (referenced Volume I, Page 15) a need for large lot industrial land, why the Council would reduce the amount of large lot land in this decision. (Written testimony included as part of the meeting record.)

Seeing no further public comments, Council President Collette closed the public hearing.

**AMENDMENT #1:**

Motion:	<p>Councilor Hosticka moved to amend Ordinance No. 10-1244A to:</p> <ul style="list-style-type: none"><li>• Amend the "METRO COUNCIL ORDAINS AS FOLLOWS" #13 to read:  The urban growth boundary (UGB), as shown on the attached Exhibit M, is hereby adopted by this ordinance as the official depiction of the UGB and part of Title 14 of the Urban Growth Management Functional Plan (UGMFP). The Council intends to amend the UGB in 2011 to add approximately 310 acres of land suitable for industrial development in order to accommodate the demand identified in the 2009 UGR for large sites, <u>and to add land to accommodate any remaining need for residential capacity not provided by the actions taken by the ordinance.</u></li><li>• Amend the "METRO COUNCIL ORDAINS AS FOLLOWS" #16 to read:  <i>The Urban Growth Report 2009-2030 and the 20 and 50 Year Regional Population and Employment Range Forecasts</i>, approved by the Metro Council by Resolution No. 09-4094 on December 17, 2009, <u>and the Staff Report dated November 19, 2010</u>, are adopted to support the decisions made by this ordinance. The Council determines that, for the reasons set forth in the 2010 Growth Management Assessment, August 2010, it will</li></ul>
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	<p>direct its capacity decisions to a point between the low end and the high end of the middle third of the forecast range.</p> <ul style="list-style-type: none"> <li>To add a new “METRO COUNCIL ORDAINS AS FOLLOWS” as #17 that reads:</li> </ul> <p><u>The Council adopts the Community Investment Strategy recommended by the Chief Operating Officer in the 2010 Growth Management Assessment, August 10, 2010, including the investments set forth at pages 8-21 of the Introduction to Volume 1; Assessment, pages 18-20; Appendix 1 of the Assessment, page 32-22; and Appendix 3 to the Assessment, as a component of its overall strategy to increase the capacity of land inside the UGB by using land more efficiently.</u></p>
Second:	Councilor Park seconded the motion.

Council briefly recessed to review the proposed amendments – especially those related to the COO’s CIS recommendation, *2010 Growth Management Assessment*. Council discussion included possible budget impacts, an updated report on the Exhibit P, *Findings*, and Metro tagline.

Vote:	Council President Collette and Councilors Burkholder, Harrington, Park, Liberty and Hosticka voted in support of the motion. The vote was 6 aye, the motion (Amendment #1) <u>passed</u> .
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**AMENDMENT #2:**

Motion:	Councilor Harrington moved to amend Ordinance No. 1244A to return the language of Exhibit J, Title 11, to current law, with revisions to conform current Title 11 to amendments being made to other titles by the ordinance, thereby removing the affordable housing language from Exhibit J, to be addressed in a separate ordinance at a later date.
Second:	Councilor Park seconded the motion.

Councilor Harrington expressed her concern with the lack of transparency and access for the public on Ordinance No. 10-1244A –specifically Exhibit J, Title 11 amendments proposed by Councilor Liberty and amended into the draft ordinance by the Council on the December 9. The revised legislation was not included as part of the online December 16 meeting packet. The purpose of her amendment was to provide Metro stakeholders (including the MPAC) and public sufficient time to review and show support for the Title 11 changes.

Councilor Liberty was not in support of the amendment; stating that he spoke with each subcommittee member and all had expressed their full support for the Title 11 changes. Additionally he noted that all subcommittee meetings were open to the public. Councilor Liberty addressed specific concerns raised by the PMAR and HBA testimonies – specifically the use of the word “shall,” the 80, 50, 30 median family income percentages as mandates, and the general approach to the concept planning phase.

Vote:	Council President Collette and Councilors Burkholder, Harrington and Hosticka voted in support of the motion. Councilors Liberty and Park voted in opposition. The vote was 4 aye, 2 nay, the motion (Amendment #2) <u>passed</u> .
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Council expressed their support for the ordinance. Discussion included large lot industrial site aggregation, importance of a united region on issues such as brownfields or incentives, distributing



the benefits and burdens of growth and change equitably, public and private innovation to address regional issues (i.e. housing), Community Investment Strategy, and the ordinance's primary focus on investments that will be made within the existing UGB to meet the region's need for the next 20 years. Council thanked staff for their work.

Vote: Council President Collette and Councilors Burkholder, Harrington, Park, Liberty and Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.

- 5.2 **Ordinance No. 10-1250**, For the Purpose of Amending the FY 2010-11 Budget and Appropriations Schedule to Establish a Joint Limited Duration Associate Planner Position Within the Research Center and Sustainability Center to Assist on Key Metro Climate Change Initiatives and Declaring an Emergency.

Motion:	Councilor Rex Burkholder moved to adopt Ordinance No. 10-1250.
Second:	Councilor Park seconded the motion.

Council Burkholder introduced Ordinance No. 10-1250. If approved, the ordinance would authorize a full-time limited duration Associate Planner position through June 30, 2011 to assist programmatic efforts related to the Climate Smart Communities Scenarios project and Resource Conservation and Recycling Division materials and food waste performance measures. Funds for the position are contained within the FY 2010-11 budget as part of the House Bill 2001 Oregon Department of Transportation and Metro intergovernmental agreement and within the RCRD budget.

Council President Collette opened a public hearing on Ordinance No. 10-1250. Seeing no citizen comment, the hearing was closed.

Vote: Council President Collette and Councilors Burkholder, Harrington, Park, Liberty and Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.

## 7. **CHIEF OPERATING OFFICER COMMUNICATION**

Chief Operating Officer Michael Jordan announced that Metro was awarded \$2 million from the USDOT to proceed with the SW Corridor alternatives analysis. Additional announcements included a brief update on the Jan. 4 Council inauguration and the two-part council retreat scheduled for Jan. 5 and 12.

## 8. **COUNCILOR COMMUNICATION**

Council discussion included the Greenlight Greater Portland and Portland Vancouver Regional Partners merger, First Stop Portland, and scheduling a MPAC Housing Planning Subcommittee meeting prior to Jan. 12 to review the propose Title 11 amendments.

Councilor Park thanked Council and staff and provided closing comments on his final term.

9. **ADJOURN**

There being no further business, Council President Collette adjourned the meeting at 4:23 p.m. The Metro Council will reconvene for the next regular council meeting is scheduled on Thursday, Jan. 6, 2011 at 2 p.m. at the Metro Council Chambers.

Prepared by,

A handwritten signature in black ink, appearing to read 'K. Newell', written in a cursive style.

Kelsey Newell, Regional Engagement Coordinator

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF DECEMBER 16, 2010**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
4.1	Minutes	12/9/10	Council minutes for December 9, 2010	121610c-01
5.1	Exhibit	N/A	Revised Ordinance No. 1244A, Exhibit P	121610c-02
5.1	Exhibit	N/A	Ordinance No. 10-1244A, Exhibit J (Redline)	121610c-03
5.1	Exhibit	N/A	Ordinance No. 10-1244B, Exhibit J (Clean)	121610c-04
5.1	Testimony	12/16/10	Written testimony submitted by David Nielsen	121610c-05
5.1	Testimony	12/16/10	Written testimony submitted by Jane Leo	121610c-06
5.1	Testimony	9/15/10	Written testimony submitted by Elizabeth Graser-Lindsey	121610c-07
5.1	Testimony	12/16/10	Written testimony provided by Jim Emmerson	121610c-08

Agenda Item Number 6.2

**Resolution No. 11-4221**, For the Purpose of Adopting  
Employee Salary Savings Plan 2010.

*Consent Agenda*

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE	)	RESOLUTION NO. 11-4221
METRO EMPLOYEE SALARY SAVINGS PLAN	)	
2010 RESTATEMENT	)	Introduced by Michael Jordan, Chief
	)	Operating Officer, with the Consent of the
	)	Council President

WHEREAS, Metro, under its former name, the Metropolitan Service District, has established and maintained an Employee Salary Savings Plan (the "401K Plan") for the exclusive benefit of eligible employees; and

WHEREAS, from time to time it is necessary to amend the 401K Plan to reflect changes in applicable law and to provide for changes in administration of the plan; and

WHEREAS, the 401K Plan was last restated effective January 1, 2002, and was last amended effective March 28, 2005; and

WHEREAS, the Metro Employee Salary Savings Plan 2010 Restatement ("the Plan") is necessary to address numerous technical modifications to the 401K Plan and comply with Pension Protection Act of 2006, §401 of the Internal Revenue Code of 1986, as amended, and applicable laws and regulations; and

WHEREAS the Plan was prepared by outside counsel in conjunction with the Office of Metro Attorney, now therefore,

BE IT RESOLVED

1. That the Metro Council adopts the Metro Employee Salary Savings Plan 2010 Restatement, attached as Exhibit "A" to this Resolution.
2. That the Chief Operating Office is authorized and directed to execute the Plan in the form provided by counsel. The Chief Operating Office is further authorized and directed to take any and all actions necessary or appropriate to obtain a favorable determination letter from the Internal Revenue Service on the Plan's tax-qualified status, and to obtain a compliance statement from the Internal Revenue Service under the Voluntary Correction Program. These actions shall include, but not be limited to, the execution of documents on behalf of Metro, including the execution of additional Plan amendments, on the advice of counsel, that are necessary to comply with applicable law or requested by the Internal Revenue Service in connection with the application for a determination letter or compliance statement.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2011.

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Tom Hughes, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

M:\attorney\confidential\12 Personnel\04 Benefits Issues\03 Salary Savings Plan\08 401(k) Roth File -- Vanguard\Resolution 10-4221 Adopting 2010 Restatement Final 12 09 10.doc

**METRO**  
**EMPLOYEE SALARY SAVINGS PLAN**

**2010 Restatement**

January 1, 2010

Metro  
an Oregon metropolitan service district  
600 NE Grand Avenue  
Portland, OR 97232-2736

Metro has established and maintained the Employee Salary Savings Plan (the "Plan") for the exclusive benefit of its eligible employees. The Plan was originally adopted effective July 1, 1985. The Plan was last restated effective generally January 1, 2002, and was last amended effective March 28, 2005. Metro adopts this restatement to add provisions required or permitted by the Pension Protection Act of 2006 and other federal law changes, to update Plan language, ensure compliance with applicable law, and make other clarifying and administrative changes. This Plan and the related trust (the "Trust") are intended to comply with §401 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations.

**ARTICLE 1**

**General Provisions; Definitions**

**1.1 Effective Dates; Valuation Dates; Plan Year**

1.1.1 This restatement shall be effective January 1, 2010, except as otherwise provided with respect to specific provisions of this restatement.

1.1.2 December 31 of each year shall be the regular valuation date. Any business day the New York Stock Exchange is open for trading shall be a special valuation date.

1.1.3 The Plan Year and limitation year shall be the calendar year. The limitation year is the period used for determining compliance with the annual addition limits under 3.3.

## **1.2 Qualification**

Under Internal Revenue Service (“IRS”) rules, this Plan is, technically, a profit sharing plan. If the IRS rules that this restatement does not qualify under §401(a) of the Code, Metro may amend the Plan retroactively to qualify.

## **1.3 Metro**

For purposes of this Plan, “Metro” means the Portland area metropolitan service district authorized by chapter 268 of the Oregon Revised Statutes (“ORS”). Metro was established and is governed by a district charter adopted by the voters pursuant to ORS 268.710 and Article XI, section 14, of the Oregon Constitution (the “Metro Charter”). The Metro Charter was adopted in November 1992 and most recently amended in November 2000. For purposes of §414(d) of the Code, Metro is a political subdivision of the state of Oregon.

## **1.4 Trustee; Trust**

The “Trustee” means one or more individuals or entities with which Metro enters into a trust agreement for the holding and investment of Plan assets. As of January 1, 2010, the Trustee is Vanguard Fiduciary Trust Company. Subject to the terms of the applicable trust agreement, Metro may change the Trustee at any time without amending this Plan document by entering into a new trust agreement.

The “Trust” means the trust in which Plan assets are held and invested, and which is created by or maintained pursuant to a trust agreement between Metro and the Trustee. As of January 1, 2010, the Trust is governed by the March 31, 1998, Trust Agreement between Metro and Vanguard Fiduciary Trust Company.

# **ARTICLE 2**

## **Eligibility and Participation**

### **2.1 Conditions of Eligibility**

2.1.1 A qualified employee, as defined in 2.1.2, shall be eligible to participate on the earliest of the following dates:

(a) The first day of the month that begins after the 30<sup>th</sup> day of continuous employment as a qualified employee, as defined in 2.1.2.

(b) For elected officials, the first day of the month that begins on or after the first day of employment as an elected official.

(c) The first day of the month that begins on or after the date the qualified employee becomes an active member of the Oregon Public Employees Retirement System or the Oregon Public Service Retirement Plan.



2.1.2 “Qualified employee” means an individual described below.

(a) Except as provided in (b) below, the term “qualified employee” means the following individuals:

(1) Employees of Metro, as defined in 1.3, including, but not limited to, employees of the Metropolitan Exposition-Recreation Commission (MERC).

(2) The members of the Metro Council.

(3) The Metro Attorney and all employees of the Office of the Metro Attorney.

(4) The Metro Auditor and all employees of the Office of the Metro Auditor.

(b) Notwithstanding (a) above, the term “qualified employee” does not include the following employees and individuals:

(1) A leased employee who is treated as an employee for pension purposes solely because of §414(n) of the Code. For this purpose, a “leased employee” means any person who is not an employee, but who provides services pursuant to an agreement between the employer and a third party, is under the employer’s primary direction or control and has performed such services on a substantially full-time basis for at least one year.

(2) An employee who is covered by a collective bargaining agreement that does not provide for participation in this Plan.

(3) A worker who is classified by Metro as an independent contractor, even if the worker is later determined to have been an employee of Metro.

(4) An employee who is not eligible to participate in the Oregon Public Employees Retirement Plan or the Oregon Public Service Retirement Plan pursuant to ORS chapter 238 or 238A, and who is in at least one of the following categories:

(A) A seasonal or temporary employee.

(B) An intern.

(C) An employee who is subject to the salary and personnel rules established by the Chief Operating Officer of

Metro or the Metro Auditor and who is not regularly scheduled to work at least 20 hours per week. Notwithstanding this provision, a qualified employee of MERC who became eligible to participate in the Plan before July 1, 2010, shall continue to be eligible to participate in the Plan as long as he or she continues to be a qualified employee. If such an employee terminates employment and is later rehired, he or she must satisfy the eligibility and participation rules in effect on the date of rehire before he or she may again participate in the Plan.

## **2.2 Participation**

2.2.1 “Participant” means an employee or former employee with an account balance under the Plan.

2.2.2 The Plan Administrator shall inform each qualified employee who has become eligible to participate about the Plan and furnish forms for electing contributions, selecting investments and designating beneficiaries.

## **ARTICLE 3**

### **Contributions**

#### **3.1 Elective Contributions**

3.1.1 Subject to 3.1.3, 3.3, and the provisions of this subsection 3.1.1, a qualified employee who has satisfied the requirements of 2.1.1 may elect to have elective contributions deducted from his or her compensation and contributed to the Trust. Effective June 29, 2006, the term “elective contributions” includes both pre-tax elective contributions and Roth elective contributions, as described in 3.1.2 below.

(a) Subject to (b) and (c), elective contributions from compensation shall be a whole number percentage of compensation per payroll period while participating for the Plan Year, up to a maximum established by the Plan Administrator pursuant to 3.1.2(b).

(b) Except as permitted under the catch-up contribution rule in (c), elective contributions by any Plan participant for any calendar year shall not exceed the applicable dollar limitation under §402(g)(1) of the Code, as adjusted by the IRS for increases in cost-of-living. The applicable dollar limitation for 2010 is \$16,500. Such limit is in addition to the limit imposed by 3.3.

(c) Participants who have reached or are expected to reach age 50 before the end of the Plan Year may make catch-up contributions in accordance with §414(v) of the Code.

(d) An employee's compensation shall be reduced by the amount of the elective contributions. An employee may make elective contributions only with respect to compensation that the employee could otherwise elect to receive in cash and that are not currently available to the employee. Effective January 1, 2008, for purposes of this section 3.1, "compensation" is as defined in 3.3.2, excluding the post-severance payments described in 3.3.2(d)(2) and (3) and, effective January 1, 2009, excluding any differential wage payments described in 3.3.2(a).

3.1.2 Effective June 29, 2006, the Plan accepts Roth elective contributions made on behalf of participants.

(a) A "Roth elective contribution" is an elective contribution that is:

(1) Designated irrevocably by the participant at the time of the cash or deferred election as a Roth elective contribution that is being made in lieu of all or a portion of the pre-tax elective contributions the participant is otherwise eligible to make under the Plan; and

(2) Treated as not excludable from the participant's gross income.

(b) Contributions of Roth elective contributions will be credited and debited to the Roth 401(k) account maintained for each participant. The Plan will retain a record of the amount of Roth elective contributions in each participant's account. Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each participant's Roth 401(k) account and the participant's other accounts under the Plan. No contributions other than Roth elective contributions and properly attributable earnings will be credited to a participant's Roth 401(k) account.

3.1.3 Elections shall be governed by the following rules:

(a) An employee's new or changed election shall be effective on the first payroll period beginning on or after the date the employee's completed election is received by the Benefits Manager.

(b) The Plan Administrator may establish rules covering the maximum amount or rate of elective contributions, the method and frequency of elections and procedures for starting, stopping and changing the rate of elective contributions.

3.1.4 Contributions with respect to qualified military service will be provided as specified in the Plan and in accordance with applicable law, including §414(u) of the Code. An employee who returns from military leave with employment rights protected by law may make elective contributions on account of the period of leave as follows:

(a) Subject to (c), make-up elective contributions must be made during the contribution make-up period under (b) out of compensation payable during such period.

(b) The contribution make-up period begins on the date the employee is reemployed and ends on the earlier of the following:

(1) The fifth anniversary of reemployment.

(2) The last day of a period that is three times as long as the period of military leave.

(c) To the extent permitted by applicable regulations, make-up contributions may be made out of funds other than compensation. Each such contribution shall be considered made when the employee delivers funds to the Plan equal to the contribution amount.

(d) The employee shall file an election with the Benefits Manager designating the Plan Year during military leave to which make-up contributions under (a) and (c) relate.

3.1.5 If a participant has an excess deferral as described in §402(g) of the Code (an excess of elective contributions and other elective deferrals over the applicable dollar limitation described in 3.1.1(b)), a corrective distribution may be made in accordance with this subsection 3.1.5, unless the excess deferral is attributable to a catch-up contribution made in accordance with §414(v) of the Code and 3.1.1(c).

(a) A participant may receive a corrective distribution of an excess deferral (and any income allocable to the excess) after the end of the calendar year with respect to which the excess deferral was made, provided that, no later than March 1 following the end of the calendar year, the participant notifies the Benefits Manager of the excess deferral received by this Plan in accordance with (c) below. If the notice is timely provided, the excess deferral (and any income allocable to it) may be distributed to the participant no later than April 15 following the close of the calendar year.

(b) A participant who has an excess deferral for a calendar year may receive a corrective distribution of the excess (and any income allocable to the excess) during the same year if the participant designates the distribution as an excess deferral in accordance with (c) below, the corrective distribution is made after the date on which the Plan received the excess deferral, and the Plan Administrator designates the distribution as a distribution of excess deferrals.

(c) To receive a distribution of excess deferrals pursuant to (a) or (b) above, a participant must certify or otherwise establish that the specified amount is an excess deferral. However, a participant will be deemed to have

notified the Plan of excess deferrals to the extent he or she has excess deferrals for the calendar year, calculated by taking into account only elective contributions under this Plan.

(d) If a participant has made any Roth elective contributions for the calendar year, the participant's notification under (c) must identify the extent, if any, to which the excess deferrals are comprised of Roth elective contributions. In the absence of a different designation by a participant, excess deferrals identified under the notification or deemed notification rules in (c) shall consist of pre-tax elective contributions first.

### **3.2 No Employee Contributions**

No employee contributions are required or permitted, other than rollover contributions pursuant to 4.3. Under IRS rules, elective contributions under 3.1 are technically employer contributions by Metro.

### **3.3 Limit on Annual Additions**

3.3.1 No annual addition for any limitation year under 1.1.3 for any employee shall be more than the lesser of the following:

(a) The limit in §415(c)(1)(A) of the Code, as adjusted by the IRS pursuant to §415(d). The limit from all sources for 2009 and 2010 is \$49,000.

(b) 100 percent of the employee's compensation under 3.3.2.

3.3.2 Effective January 1, 2008, "compensation" means wages within the meaning of §3401(a) of the Code and all other payments of compensation to an employee by Metro (in the course of Metro's trade or business) for which Metro is required to furnish the employee a written statement under §§6041(d), 6051(a)(3), and 6052 of the Code, determined without regard to any rules under §3401(a) of the Code that limit the remuneration included in wages based on the nature or location of the employment or the services performed. This definition of "compensation" is subject to the following adjustments:

(a) Compensation shall include amounts that would have been received and includible in gross income, but for an election under §125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Code. Effective for remuneration paid after December 31, 2008, this amount shall include any differential wage payment, as defined in §3401(h)(2) of the Code, that is treated as a payment of wages by Metro to the employee pursuant to §3401(h)(1) of the Code.

(b) The maximum amount of an employee's annual compensation taken into account for any Plan purpose shall not exceed the limit in §401(a)(17)(A) of the Code, as adjusted by the IRS for increases in cost-of-living. The limit for 2010 is \$245,000. If any period over which compensation

is determined (determination period) consists of fewer than 12 months, the applicable dollar limitation determined under this section shall be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

(c) Amounts that are paid after an employee's severance from employment, as defined in 5.1.2, shall be excluded from the employee's compensation for all Plan purposes, except as provided in (1), (2), or (3) below.

(1) Back pay, within the meaning of Treasury Regulation §1.415(c)-2(g)(8), shall be included in compensation for the Plan Year to which the back pay relates, to the extent that it otherwise satisfies the basic definition in this paragraph.

(2) Compensation shall include regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, provided that: (A) absent a severance from employment, the compensation would have been paid to the employee while the employee continued in employment with Metro; (B) the compensation otherwise satisfies the basic definition in this paragraph; and (C) the compensation is paid to the employee by the end of the Plan Year that includes the date of the employee's severance from employment or, if later, within 2½ months after the employee's severance from employment.

(3) Compensation shall include payment of unused accrued bona fide sick, vacation, or other leave, provided that the employee would have been able to use the leave if his or her employment had continued, and that the payment satisfies the requirements in (2)(B) and (C) above.

3.3.3 For any limitation year, "annual addition" means the sum of the following amounts allocated to a participant's accounts as of any date within the limitation year:

(a) Employer contributions (excluding forfeitures) made directly or indirectly;

(b) The participant's contributions (whether mandatory or voluntary, but not including rollover contributions), if any; and

(c) Forfeitures.

3.3.4 In applying the limits on annual additions, all affiliates of Metro under §414(b) and (c) of the Code, as modified by §415(h) of the Code, all members of Metro's affiliated service group under §414(m) of the Code, and all other entities required to be

aggregated with Metro under regulations issued pursuant to §414(o) of the Code shall be considered a single employer.

3.3.5 If Metro maintains another qualified defined contribution plan or plans, the annual additions under all such plans shall be combined for purposes of applying the limit in this section.

3.3.6 If an annual addition for a participant would otherwise exceed the limit in 3.3.1, the Plan Administrator may prospectively reduce or stop the participant's elective contributions, other than any catch-up contributions made pursuant to 3.1.1(c), to the extent necessary to avoid exceeding the annual addition limit.

### **3.4 Time of Payment; Reports to Plan Administrator**

3.4.1 Metro shall pay contributions to the Trustee, subject to the following:

(a) Elective contributions shall be paid as soon as the amount can reasonably be identified and separated from Metro's general assets. Generally, elective contributions shall be paid to the Trustee within five business days following the day on which the amounts would otherwise have been payable to the participant in cash.

(b) Any amount paid after the end of the Plan Year shall be treated, for allocation, not investment, purposes, as paid on the last day of that year if both of the following apply:

(1) The amount is paid within the regular or extended time for filing Metro's federal information return for the Metro reporting year in which the Plan Year ends.

(2) The amount is designated by Metro as attributable to that Plan Year.

(c) Effective January 1, 2006, except as provided in Treasury Regulation §1.401(k)-1(a)(3)(iii)(C)(2) for bona fide administrative considerations, elective contributions shall be made after: (1) the employee's election is made; and (2) the earlier of the employee's performance of services with respect to which the elective contributions are made, or the date the compensation would be currently available.

3.4.2 Metro shall furnish the Plan Administrator any information he or she reasonably requests for Plan administration.

### **3.5 In-Service Withdrawals**

3.5.1 An employee may make in-service withdrawals (while still employed by Metro) from the employee's accounts as follows:

(a) An employee who has reached age 59½ may withdraw up to the full balance of the employee's accounts.

(b) To the extent approved by the Plan Administrator because of financial hardship under 3.5.2, an employee not covered in (a) may withdraw all or part of the employee's rollover and transfer accounts, if any, and a portion of the employee's elective contribution account. The portion of the elective contribution account available for withdrawal on account of hardship shall be limited to the principal amount of the employee's elective contributions, and earnings allocated to that account as of June 30, 1989.

3.5.2 "Financial hardship" means an employee's immediate and heavy financial need that cannot be met from other reasonably available resources and is caused by one or more of the following:

(a) Expenses for, or necessary to obtain, medical care that would be deductible under §213(d) of the Code (determined without regard to whether the expenses exceed 7.5 percent of adjusted gross income) or that are incurred by the employee's primary beneficiary.

(b) Payment of tuition, related educational fees, and room and board for the next 12 months of post-secondary education for the employee or the employee's spouse, children, dependents (as defined in §152 of the Code, without regard to §152(b)(1), (b)(2), and (d)(1)(B) of the Code) or primary beneficiary.

(c) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the employee.

(d) Payments necessary to prevent the employee's eviction from his or her principal residence or the foreclosure on the mortgage of the employee's principal residence.

(e) Payments for burial or funeral expenses for the employee's deceased parent, spouse, children, dependents (as defined in §152 of the Code, without regard to §152(d)(1)(B) of the Code), or primary beneficiary.

(f) Expenses for the repair of damage to the employee's principal residence that would qualify for the casualty deduction under §165 of the Code (determined without regard to whether the loss exceeds 10 percent of adjusted gross income).

For purposes of this section 3.5, an employee's primary beneficiary is an individual who is named as a beneficiary under section 6.3 and who has an unconditional right to all or a portion of the employee's accounts upon the employee's death.



3.5.3 Withdrawals shall be subject to the following rules, in addition to any withholding or taxation rules imposed by local, state, and federal governments:

(a) The withdrawal date shall be fixed by the Plan Administrator after application by the employee under procedures established by the Plan Administrator.

(b) The application shall include a signed statement of the facts causing financial hardship, the unavailability of other reasonably available resources and any other information required by the Plan Administrator. The Plan Administrator may rely on the signed statement of facts as conclusive evidence of an employee's financial need.

(c) The Plan Administrator may require a minimum advance notice, may limit the amount and frequency of withdrawals and may delay payment of an approved withdrawal to permit liquidation of necessary assets or for other pertinent reasons.

(d) Amounts shall be adjusted as of the regular or special valuation date on or preceding the date on which acceptable distribution directions are received by the Trustee.

## **ARTICLE 4**

### **Participants' Accounts; Allocations**

#### **4.1 Participants' Accounts; Vesting**

4.1.1 The Plan Administrator shall maintain the accounts listed below for each participant, to the extent applicable. Each account will be adjusted to reflect its share of the net annual earnings or losses of the Trust fund, and the appreciation or depreciation in the value of the assets of the Trust fund.

(a) A pre-tax elective contributions account.

(b) A Roth elective contributions account.

(c) A rollover account, to be credited with the participant's rollover contributions under 4.3, other than rollovers from a Roth elective deferral account.

(d) A Roth rollover account, to be credited with the participant's direct rollovers from a Roth elective deferral account under an applicable retirement plan described in §402A(e)(1) of the Code, to the extent such rollovers are permitted by the Plan Administrator in accordance with 4.3. The Roth rollover account is subject to the separate accounting rules in 3.1.2(b).

(e) A Transferred 5% Employer Contribution Account.

(f) Any other separate account that is necessary for the proper administration of the Plan.

4.1.2 At least annually, the Plan Administrator shall furnish each participant a statement showing contributions and account balances.

4.1.3 Participants' accounts shall be fully vested at all times, except for the "Transferred 5% Employer Contribution Account," which shall remain subject to the vesting schedule under the plan from which it was initially transferred.

## **4.2 Valuations and Adjustments**

4.2.2 As of each regular or special valuation date, the Trustee shall value the Trust fund at its fair market value and report the value to the Plan Administrator. The Plan Administrator shall allocate the value in proportion to the balances of nonsegregated accounts on the valuation date before adding any allocations made as of that date and with appropriate adjustment for any interim contributions since the last valuation date.

4.2.3 The Plan Administrator may call for a special valuation whenever he or she finds that desirable to avoid a material distortion in benefits or otherwise to administer the Plan properly.

## **4.3 Rollovers**

4.3.1 Subject to the provisions of this section, the Plan Administrator may, in its discretion, direct the Trustee to accept rollover contributions on behalf of a qualified employee, the amount of which shall be credited to the employee's rollover account or Roth rollover account, as applicable, and which shall at all times remain fully vested and nonforfeitable.

4.3.2 A "rollover contribution" is:

(a) An amount received by the Trustee from a qualified employee who, having received an eligible rollover distribution, as defined in §402(c)(4) of the Code, from a qualified trust described in §401(a) of the Code, a qualified annuity plan described in §403(a) of the Code, an annuity contract described in §403(b) of the Code, or an eligible plan described in §457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state (governmental §457(b) plan), transfers any portion of the amount received in the distribution to the Trustee on or before the 60<sup>th</sup> day after the day on which the employee received the distribution (unless this 60-day requirement is waived pursuant to §402(c)(3)(B) of the Code);

(b) An amount received by the Trustee on behalf of a qualified employee in a direct trustee-to-trustee transfer of an eligible rollover distribution from a qualified trust described in §401(a) of the Code, a qualified annuity plan described in §403(a) of the Code, an annuity contract described in §403(b) of the Code, or a governmental §457(b) plan, in accordance with §401(a)(31) of the Code; or

(c) An amount distributed to a qualified employee from an individual retirement account or individual retirement annuity under §408(a) or (b) of the Code, that qualifies as a rollover contribution under §§408(d)(3) of the Code and that is transferred by the qualified employee to the Trustee on or before the 60<sup>th</sup> day after the day on which the employee received the amount (unless this 60-day requirement is waived pursuant to §408(d)(3)(I) of the Code).

4.3.3 Rollover contributions made under this section may include after-tax employee contributions that are satisfactorily substantiated by the employee. Rollover contributions that include after-tax amounts shall be separately accounted for, including separately accounting for the portion of the contribution that is includible in gross income and the portion of the contribution that is not includible in gross income. Roth rollover contributions are subject to the requirements of 4.3.4.

4.3.4 A rollover contribution to an employee's Roth rollover account must be a direct rollover from another Roth elective deferral account under an applicable retirement plan described in §402A(e)(1) of the Code. The Plan will not accept 60-day rollovers of the taxable portion of an eligible rollover distribution from a Roth elective deferral account.

4.3.5 Before accepting a rollover contribution, the Plan Administrator shall obtain a statement from the plan administrator of the distributing plan that the distributing plan is intended to comply with the applicable Code provision or such other statement or verification required by the IRS. If a direct rollover includes amounts from a Roth elective deferral account and amounts from other accounts, the distributing plan must identify the portion of the direct rollover that consists of amounts from the Roth elective deferral account. In addition, the Plan Administrator shall not accept a direct rollover from a Roth elective deferral account unless the distributing plan provides either:

(a) A statement indicating the first taxable year in which the employee first had Roth elective deferrals made under the distributing plan, and the portion of the distribution that is attributable to investment in the contract under §72 of the Code; or

(b) A statement that the distribution is a qualified distribution.

4.3.6 All qualified employees, as defined in 2.1.2, are eligible to make rollover contributions to the Plan, even if they have not yet become participants.

#### **4.4 Transfers from Other Plans**

4.4.1 The Plan Administrator may direct the Trustee to accept funds transferred directly to this Plan from another qualified plan if all of the following conditions are met:

- (a) The individual involved has requested the transfer and is a qualified employee under 2.1.2 at the time the transfer is made.
- (b) None of the funds are subject to distribution requirements inconsistent with the distribution options in this Plan.
- (c) The Plan Administrator determines that the transfer will not impair the qualified status of this Plan.

#### **4.5 Loans to Participants**

4.5.1 The Plan Administrator may direct the Trustee to make loans available to participants on a reasonably equivalent basis pursuant to the following rules:

- (a) The minimum loan amount shall be \$1,000. A reasonable fee may be charged to the participant for making and administering the loan.
- (b) The participant must show the intention and capacity to repay the loan and interest when due.
- (c) Receipt of a loan shall constitute consent by the participant to withdrawals under 4.5.6 before normal retirement age.
- (d) A loan shall be held as a promissory note for the separate account of the participant.
- (e) The participant may designate the investment funds from which the loan proceeds are to be taken. Absent such a designation, the Plan Administrator shall take the proceeds *pro rata* from the investment funds in which the participant's accounts are invested as of the date the loan is funded.
- (f) Loan repayments shall be invested in the same investment funds and in the same percentages as are the participant's new contributions.
- (g) A participant may not have more than one loan outstanding at a time.
- (h) A participant who has defaulted on a Plan loan may not take another Plan loan for five years after the date of the default.

4.5.2 Loans shall be funded as follows:

(a) No more than 50 percent of the participant's account balances shall be considered as funding for the outstanding balance of all loans made to the participant, determined as of the date of each loan.

(b) All loans shall be repaid by an assignment of current pay of the participant or other automatic payment arrangement sufficient to service the loan as determined by the Plan Administrator and 4.5.5 shall apply.

4.5.3 Subject to lower limits applied uniformly by the Plan Administrator, a Plan loan, when added to the outstanding balance of any Plan loans on which the participant has defaulted and accrued interest on such loans, shall not exceed the lesser of the following:

(a) 50 percent of the participant's vested account balances.

(b) \$50,000, reduced by any principal payments made on Plan loans in the 12 months preceding the date of the loan.

4.5.4 The Plan Administrator shall fix the terms of payment and interest rate for loans under the following rules, treating all similarly situated persons alike:

(a) All loans shall be evidenced by negotiable promissory notes payable to the Trustee. The maker shall be personally liable on the note.

(b) The interest rate shall be based on the local commercial lending rates for comparable loans at the time the loan is made.

(c) Loans must be payable in not more than five years, unless used to acquire the principal residence of the participant. If a loan is used to acquire the principal residence of the participant, the loan must be payable in not more than 30 years.

(d) Loans must be amortized by substantially level principal and interest payments for each pay period during the loan term, subject to (e).

(e) If a participant takes an unpaid leave of absence authorized by Metro, interest shall accrue, but no loan repayments shall be required during the first 12 months of such leave and the loan shall be reamortized at the end of the leave or 12 months, whichever is earlier, but the loan period in (c) shall not be extended.

(f) If a participant performs service in the uniformed services, whether or not the participant returns with employment rights protected by law, interest shall not accrue, no loan repayments shall be required during the period of military service, the period of military service shall not be taken into account

in determining the maximum loan term and repayments shall resume as scheduled when the period of military service ends.

4.5.5 Regardless of the payment terms, if the person whose assigned pay provides repayment of the loan terminates employment or if any automatic payment arrangement is canceled, the principal and accrued interest as of the date of termination shall, at the option of the Plan Administrator, become immediately due and collectable from the account, pursuant to 4.5.6.

4.5.6 If a loan is not repaid when due or otherwise is in default, the following shall apply:

(a) The Plan Administrator shall have the option of declaring the entire principal and interest accrued to the date the default occurs immediately due and payable.

(b) After the participant has reached age 59½ or has a separation from employment, the outstanding balance, including accrued interest, plus any applicable withholding, may be withdrawn on default.

(c) Withdrawals on default shall be debited against the participant's accounts *pro rata*.

## **ARTICLE 5**

### **Benefits on Retirement or Termination**

#### **5.1 Retirement Dates; Eligibility**

5.1.1 A participant shall be entitled to benefits on retirement or other severance from employment. Retirement shall occur on the employee's severance from employment after reaching a retirement date under 5.1.3.

5.1.2 For purposes of the Plan, a participant has a "severance from employment" when he or she ceases to be an employee of Metro and all other entities that are required to be aggregated with Metro under §414(b), (c), or (m) of the Code or under regulations issued pursuant to §414(o) of the Code. A participant does not have a severance from employment under the following circumstances:

(a) In connection with the change in employment, the participant's new employer maintains the Plan with respect to the participant; or

(b) The participant's employment status changes from an employee to a leased employee, as defined in 2.1.2(b)(1).

5.1.3 Retirement dates are as follows:

(a) Normal retirement date shall be age 65.

(b) Deferred retirement date shall be any day after normal retirement date, but no later than the participant's required beginning date under 5.4.1(a).

(c) Early retirement date shall be any day after age 59½, except that early retirement shall not affect vesting under 4.1.3.

5.1.4 If a person entitled to receive benefits under the Plan is hired by Metro before retirement benefits have begun or been paid, the following shall apply:

(a) If payment had not begun or been made, benefits shall not be paid until later retirement under 5.1.1. On later retirement, the amount and form of benefit shall be redetermined.

(b) If payment had begun in installments under 5.2.2(b), the participant may elect to stop benefits or to reduce the size of installments, subject to 5.4. If installments are stopped, the amount and form of benefit will be redetermined on later retirement.

## **5.2 Amount and Form of Benefit**

5.2.1 The benefit shall be based on the participant's vested account balances, adjusted through the regular or special valuation date on or preceding the date on which acceptable distribution directions are received by the Trustee.

5.2.2 If the distributable amount is not more than \$1,000, benefits shall be paid in a single sum in cash, unless the participant timely elects a direct rollover under 5.3.4. If the distributable amount is more than \$1,000, unless the participant timely elects a direct rollover under 5.2.3, benefits shall be paid in cash in one of the following ways, as selected by the participant, subject to 5.4:

(a) In a single sum.

(b) In installments, subject to the following provisions:

(1) The participant may elect to receive the installment payments described in (2) on a monthly, quarterly, semi-annual, or annual basis.

(2) The amount of each installment payment, and the period over which installments will be paid, may be determined using one of the following methods, as elected by the participant, subject to the limitation described in (3):

(A) A fixed dollar amount, or fixed percentage of the participant's Plan accounts, with payments to continue until the Participant's accounts have been fully distributed.

(B) Installment payments over a fixed period elected by the participant, with payments designed to be substantially equal to the extent administratively feasible, based on reasonable earnings assumptions adopted by the Plan Administrator.

(3) In no event shall the period over which installment payments are to be made exceed the greater of the participant's life expectancy or the joint life expectancies of the participant and his or her beneficiary.

5.2.3 If the participant dies before payment of the entire account, the balance shall be paid as a death benefit under Article 6, subject to the required distribution rules in 5.4.1.

### **5.3 Application for Benefits; Time of Distribution**

5.3.1 A participant or beneficiary eligible for benefits must apply in writing under 7.3 on a form prescribed by the Plan Administrator. Application shall be made at least 14 days before single-sum payments are to be made or installment benefits are to start.

5.3.2 The participant shall select the form of payment of benefits in the application, subject to 5.2.2, 5.4, and the following rules.

(a) The Benefits Manager shall provide the participant or beneficiary with the notice required by §402(f) of the Code and the regulations thereunder (the distribution notice). The participant or beneficiary shall have at least 30 days after receipt of the distribution notice to consider whether to elect payment in the form of a direct rollover. Effective January 1, 2007, the distribution notice shall not be provided more than 180 days before the distribution is to be made or begun.

(b) The participant may waive the 30-day waiting period described in (a) by making an affirmative benefit election. Such waiver shall become irrevocable seven days after it is made.

(c) The participant may make or revoke an election under 5.3.1 at any time up to the later of the date that is seven days before the benefit starting date or five days after the date the Benefits Manager sends the distribution notice to the participant.

5.3.3 If a participant has had a severance from employment and either has reached normal retirement age, or is entitled to a benefit that does not exceed \$1,000, the Plan Administrator shall direct the Trustee to pay benefit as soon as practicable, whether or not an



application is filed. The participant shall be provided with the distribution notice described in 5.3.2(a). If the participant's benefit does not exceed \$1,000, it shall be paid in a single lump sum as described in 5.2.2. If the participant's benefit exceeds \$1,000 and the participant does not elect a different payment form after receiving the distribution notice, the benefit shall be paid in a single lump sum. In all other situations, subject to 5.4, payment shall be made or begin as soon as practicable after the participant has had a severance from employment with Metro and applied for payment of benefits.

5.3.4 To the extent required by law, and except as otherwise provided in this section, any portion of an eligible rollover distribution that would otherwise be includible in the distributee's gross income if not rolled over shall, at the election of and in lieu of distribution to the distributee, be paid directly to the eligible retirement plan specified by the distributee.

(a) For purposes of this subsection, an "eligible rollover distribution" is any distribution of Plan benefits to a participant, a participant's surviving spouse, or a participant's spouse or former spouse pursuant to a qualified domestic relations order ("distributee"), except the following distributions:

(1) Any distribution that is one of a series of substantially equal periodic payments made at least annually over one of the following periods: (A) the life (or life expectancy) of the distributee, or the joint lives (or life expectancies) of the distributee and a designated beneficiary; or (B) a specified period of ten years or more.

(2) Any distribution to the extent it is required under §401(a)(9) of the Code.

(3) Any hardship distribution.

For purposes of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, any such portion may be transferred only to an individual retirement account or annuity described in §408(a) or (b) of the Code, to a qualified plan described in §401(a) or 403(a) of the Code, or (effective January 1, 2007) an annuity contract described in §403(b) of the Code, that provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible in gross income. The amount transferred shall be treated as consisting first of the portion of such distribution that is includible in gross income, determined without regard to §402(c)(1) of the Code. A direct rollover of a distribution from a participant's Roth 401(k) account or Roth rollover account will be made only to the extent the rollover is permitted under the rules of §402(c) of the Code.

(b) For purposes of this subsection, an "eligible retirement plan" is:

- (1) An individual retirement account described in §408(a) of the Code;
- (2) An individual retirement annuity described in §408(b) of the Code (other than an endowment contract);
- (3) A qualified trust under §401(a) of the Code;
- (4) An annuity plan described in §403(a) of the Code;
- (5) An eligible deferred compensation plan described in §457(b) of the Code that is maintained by an eligible governmental employer described in §457(e)(1)(A) of the Code, and that agrees to separately account for amounts transferred into such plan from this Plan; or
- (6) An annuity contract described in §403(b) of the Code.
- (7) Effective January 1, 2008, a Roth IRA, to the extent provided in §408A(e)(1) of the Code.

Effective June 29, 2006, notwithstanding the foregoing, with respect to any portion of an eligible rollover distribution that is attributable to payments or distributions from a Roth 401(k) account or a Roth rollover account, an “eligible retirement plan” shall include only another designated Roth account under an applicable retirement plan described in §402A(e)(1) of the Code that agrees to separately account for the amount of the distribution not includible in income (determined without regard to the rollover), or a Roth IRA described in §408A of the Code.

(c) Effective January 1, 2010, if a distribution would qualify as an “eligible rollover distribution” under (a) except that it is payable to a deceased participant’s designated beneficiary, the beneficiary may elect to have the distribution paid in a direct rollover to his or her individual retirement plan. For this purpose, a “designated beneficiary” means the participant’s designated beneficiary for purposes of the required minimum distribution requirements of §401(a)(9) of the Code. An “individual retirement plan” means an individual retirement account described in §408(a) of the Code or an individual retirement annuity described in §408(b) of the Code, other than an endowment contract, that is established for the purpose of receiving the distribution on behalf of the designated beneficiary.

5.3.5 If the account is fully distributed before the final allocation of contributions is made, a final payment shall be made to the participant promptly after allocation.

## **5.4 Distribution Rules**

5.4.1 All distributions under this Plan shall be determined and made in accordance with a reasonable and good faith interpretation of §401(a)(9) of the Code. The provisions of this Plan reflecting the requirements of §401(a)(9) of the Code shall take precedence over any inconsistent provisions of this Plan. Those requirements include the following:

(a) Distributions to a participant shall be made or begun not later than the participant's required beginning date, and shall be made over a period not to exceed the participant's life (or life expectancy) or the joint lives (or life expectancies) of the participant and his or her designated beneficiary. A participant's "required beginning date" is April 1 of the calendar year immediately following the calendar year in which the participant has both reached age 70½ and has retired.

(b) If a participant dies after distributions have begun in accordance with (a) above, but before receiving the entire amount of his or her Plan benefits, the remaining portion of the benefits shall be distributed at least as rapidly as under the distribution method being used at the time of the participant's death.

(c) If a participant dies before distributions have begun in accordance with (a) above, the entire amount of the participant's Plan benefits shall be distributed within five years after the participant's death, except as otherwise provided in (1) or (2) below.

(1) If any portion of the participant's Plan benefit is payable to, or for the benefit of, a designated beneficiary, that portion may be distributed over a period not to exceed the designated beneficiary's life (or life expectancy), provided that the distributions begin not later than one year after the participant's death or, if later, by the date prescribed in regulations issued under §401(a)(9) of the Code.

(2) If the designated beneficiary is the participant's surviving spouse, the rules in (1) shall apply, except that the distributions to the surviving spouse are not required to begin before the date on which the participant would have reached age 70½, and if the surviving spouse dies before distributions to the spouse begin, paragraphs (b) and (c) of this 5.4.1 shall be applied as if the surviving spouse were the employee.

5.4.2 If, after the date on which any distribution of any portion or all of a Participant's accounts is distributable to any person under the Plan, the distribution cannot be made because the identity or whereabouts of such person cannot be ascertained, that portion of or all of the accounts shall constitute a forfeiture and shall be used to reduce future profiting sharing contributions to the Plan or to pay the reasonable and necessary expenses of administering the Plan. The Plan Administrator's determination of when a distribution cannot be made shall be final. Notwithstanding the foregoing, if, at any time after the forfeiture, the person entitled to the

distribution makes a claim to the Plan Administrator for the distribution, the amount of the forfeiture shall be reinstated and distributed to the person. The amount restored shall be funded from additional Metro contributions.

5.4.3 If a participant or beneficiary entitled to receive any Plan benefit is a minor or is determined to be legally incompetent by a court or in the reasonable judgment of the Plan Administrator, the Plan benefit shall be paid to a parent, guardian, conservator, or such other person as may be designated by the court or deemed appropriate by the Plan Administrator to receive the payment for the benefit of the participant or beneficiary. Any payment made under this section shall be considered a payment to the participant or beneficiary and, to the extent made, shall be deemed a complete discharge of any liability for the payment of benefits under the Plan.

## **ARTICLE 6**

### **Benefits on Death or Disability**

#### **6.1 Benefits on Death**

6.1.1 If a participant dies, the vested accounts, adjusted to the regular or special valuation date on or preceding the date on which acceptable distribution directions are received by the Trustee, shall be paid as a death benefit to the beneficiary. Application shall be made under 5.3.1, and must include evidence satisfactory to the Plan Administrator of the participant's death.

6.1.2 Subject to 5.4.1, the beneficiary shall select whether benefits shall be paid in a lump sum or in substantially equal monthly installments. If the beneficiary does not make a timely election, benefits shall be paid in a single sum, subject to any right the recipient may have to elect a direct rollover under 5.3.4.

6.1.3 If a participant dies on or after January 1, 2007, while performing qualified military service, as defined in §414(u) of the Code, the participant's survivors shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would have been provided under this Plan if the participant had resumed active employment and then terminated employment on account of death.

#### **6.2 Benefits on Disability**

6.2.1 A participant whose employment with Metro terminates because of disability shall be retired and shall receive full benefits. Subject to 6.2.2, payment shall be made as soon as practicable after the final allocation of contributions is made to the participant's account. The participant shall select the form of distribution from those in 5.2.2 by filing application under 5.3.1.

6.2.2 If the participant notifies the Plan Administrator in writing that benefits after disability would reduce any other disability benefit, the Plan Administrator shall, subject to 5.4.1, direct the Trustee to defer payment until the other benefit stops.

### **6.3 Designation of Beneficiary**

6.3.1 Each participant shall file a designation of specific beneficiaries with the Benefits Manager. The designation may be changed from time to time. The designated beneficiary or other recipient described below shall receive any residual benefit after death of a participant.

6.3.2 If a participant designates his or her spouse as a beneficiary and the participant's marriage to that spouse is later dissolved or annulled, the designation of the former spouse as a beneficiary shall be void unless the participant submits a subsequent designation naming the former spouse as the beneficiary. Notwithstanding the foregoing, the participant's beneficiary designation shall remain in effect to the extent required by a QDRO under 10.6.2.

6.3.3 If a beneficiary dies after the death of a participant but before full distribution to the beneficiary, any remaining balance of the benefit to which the beneficiary was entitled shall be paid to the estate of the deceased beneficiary.

6.3.4 If no beneficiary has been named or no named beneficiary is living when the participant dies, the benefit shall be paid in the following order of priority:

- (a) To the participant's surviving spouse.
- (b) To the participant's surviving children in equal shares.
- (c) To the participant's estate.

## **ARTICLE 7**

### **Plan Administration**

#### **7.1 Plan Administrator**

7.1.1 The Metro Chief Operating Officer, or person acting in such capacity, shall be the Plan Administrator, and may delegate any or all of his or her administrative responsibilities. To the extent the Plan Administrator has delegated such responsibilities, any reference to the Plan Administrator shall be a reference to the delegate acting within the scope of the delegate's authority.

7.1.2 The Plan Administrator shall interpret this Plan, decide any questions about the rights of participants and their beneficiaries and in general administer the Plan. Any decision by the Plan Administrator within his or her authority shall be final and bind all parties.

The Plan Administrator shall have absolute discretion to carry out his or her responsibilities under this Plan. The Plan Administrator shall be the agent for service of process on the Plan at Metro's address.

7.1.3 The Benefits Manager, on behalf of the Plan Administrator, shall keep records of all relevant data about the rights of all persons under the Plan. The Plan Administrator shall determine the time, manner, amount and recipient of payment of benefits and instruct the Trustee regarding distributions. Any person having an interest under the Plan may consult the Plan Administrator at any reasonable time.

7.1.4 The Plan Administrator may retain advisors to assist him or her and may consult with and rely upon the advice of counsel, who may be counsel for Metro. The Plan Administrator shall appoint a qualified independent public accountant if one is required or considered desirable for the Plan.

7.1.5 The Trustee shall be given the names and specimen signatures of the Plan Administrator and all other persons authorized to sign on behalf of the Plan Administrator. The Trustee shall accept and rely on the names and signatures until notified of a change.

## **7.2 Metro Functions**

7.2.1 Except as provided in 7.2.2, all Metro functions or responsibilities shall be exercised by the Metro Chief Operating Officer, who may delegate all or any part of these functions.

7.2.2 The power to amend or terminate the Plan and Trust under 9.1 or 9.2 may be exercised only by the Metro Council, except as provided in 7.2.3.

7.2.3 The Metro Chief Operating Officer may amend the Plan to make technical, administrative, or editorial changes on advice of counsel to comply with applicable law or to simplify or clarify the Plan.

7.2.4 The Metro Council shall not necessarily have any administrative or investment authority or function. Membership on the Council shall not, by itself, make a person a Plan fiduciary.

## **7.3 Claims Procedure**

7.3.1 Any person claiming a benefit or requesting an interpretation, a ruling or information under the Plan shall present the request in writing to the Plan Administrator, who shall respond in writing as soon as practicable.

7.3.2 If the claim or request is denied, the written notice of denial shall state all of the following:

(a) The reasons for denial, with specific reference to the Plan provisions on which the denial is based.

(b) A description of any additional material or information required and an explanation of why it is necessary.

(c) An explanation of the Plan's claim review procedure.

7.3.3 Any person whose claim or request is denied or who has not received a response within 30 days may request review by notice in writing to the Plan Administrator. The original decision shall be reviewed by the Plan Administrator, who may, but shall not be required to, grant the claimant a hearing. On review, whether or not there is a hearing, the claimant may have representation, examine pertinent documents and submit issues and comments in writing.

7.3.4 The decision on review shall normally be made within 60 days. If an extension of time is required for a hearing or other special circumstances, the claimant shall be so notified and the time limit shall be 120 days. The decision shall be in writing and shall state the reasons and the relevant Plan provisions. All decisions on review shall be final and bind all parties concerned.

## **7.4 Expenses**

7.4.1 The Plan Administrator shall be reimbursed for all expenses authorized by the Metro Council. The Plan Administrator shall notify the Metro Council periodically of expenses.

7.4.2 The Trustee shall be paid a fee and reimbursed for expenses to the extent provided by contract or approved by the Plan Administrator. The Trustee shall notify the Plan Administrator periodically of expenses and fees.

7.4.3 Metro may elect to pay any administrative fees or expenses. If it elects not to do so, the expenses and fees shall be paid from the Trust fund. Expenses related to the individual account of a participant may be charged directly to that account.

## **7.5 Indemnity and Defense**

7.5.1 Metro shall indemnify and defend any officer, director, or employee of Metro (including, but not limited to, the Plan Administrator) from any claim or liability that arises from any action or inaction in connection with the Plan, subject to the following rules:

(a) Coverage shall be limited to actions (or failures to act) that are taken in good faith and with the reasonable belief that the actions (or failures to act) were not opposed to the best interest of the Plan.

(b) Negligent actions and failures to act shall be covered by this section to the fullest extent permitted by law.

(c) Coverage under this section shall be reduced to the extent of any insurance coverage provided by Metro.

7.5.2 Metro shall indemnify and defend any Plan fiduciary not covered by 7.5.1 from any claim or liability arising from action or inaction based on information or direction from the Plan Administrator or Metro, absent willful misconduct, gross negligence or bad faith.

## **ARTICLE 8**

### **Investment of Trust Fund**

#### **8.1 Trust Fund**

8.1.1 Metro shall pay contributions to the Trustee, who shall pool them for investment, subject to participants' or beneficiaries' direction under 8.2.

8.1.2 The Trustee shall accept the sums paid and need not determine the required amount of contributions or collect any contribution not voluntarily paid.

#### **8.2 Participant Direction of Investments**

8.2.1 Participants shall direct investment of their accounts among permissible investment options as determined by the Plan Administrator in accordance with rules of the Plan Administrator, which may restrict the method, frequency and timing of investment directions. Any portion of a participant's accounts that is not covered by a timely, proper investment direction shall be invested in a highly liquid, low-risk, interest-bearing fund selected by the Plan Administrator.

8.2.2 Investment of the participant's accounts shall be controlled by the participant. Neither the Plan Administrator, the Trustee nor any investment manager shall have any fiduciary duty with respect to investment of any account.

#### **8.3 Custodian**

The Plan Administrator may employ a bank or other suitable institution to serve as custodian for all or part of the Trust assets. No custodian shall have any Trustee powers or responsibilities.



## **ARTICLE 9**

### **Amendment and Termination**

#### **9.1 Amendment**

9.1.1 Metro may amend this Plan at any time by written instrument signed on behalf of Metro, pursuant to 7.2. No amendment shall revest any of the Trust fund in Metro or otherwise modify the Plan so that it would not be for the exclusive benefit of eligible employees.

9.1.2 Amendments may be made effective retroactively to the extent permitted by applicable law and regulations.

#### **9.2 Termination**

9.2.1 Metro may wholly or partially terminate this Plan or discontinue or direct the discontinuance of contributions at any time, pursuant to 7.2. Metro may request a ruling from the IRS on the effect of termination on the qualification of the Plan.

9.2.2 The Plan may be amended to permit the distribution of accounts upon the termination of the Plan, subject to the following limitations:

(a) All distributions on account of a Plan termination must be made in the form of a lump sum, as defined in Treasury Regulation §1.401(k)-1(d)(4)(ii).

(b) Pursuant to Treasury Regulation §401(k)-1(d)(4)(i), no distributions may be made on account of a Plan termination if an alternative defined contribution plan is established or maintained by Metro or any entity that is required to be aggregated with Metro under §414(b), (c), or (m) of the Code or under regulations issued pursuant to §414(o) of the Code. For this purpose, an “alternative defined contribution plan” does not include an employee stock ownership plan as defined in §4975(e)(7) of the Code, a simplified employee pension as defined in §408(k) of the Code, or a SIMPLE IRA plan as defined in §408(p) of the Code.

## **ARTICLE 10**

### **Miscellaneous Provisions**

#### **10.1 Information Furnished**

The Plan Administrator may require satisfactory proof of age or other data from a participant, spouse or beneficiary. The Plan Administrator may adjust any benefit if an error in relevant data is discovered.

## **10.2 Applicable Law**

This Plan shall be construed in accordance with the laws of the state of Oregon and applicable federal law.

## **10.3 Plan Binding on All Parties**

This Plan shall be binding upon the heirs, personal representatives, successors and assigns of all present and future parties.

## **10.4 Not Contract of Employment**

The Plan shall not be a contract of employment between Metro and any employee. No employee may object to amendment or termination of the Plan. The Plan shall not prevent Metro from discharging any employee at any time.

## **10.5 Notices**

Except as otherwise required or permitted under this Plan or applicable law, any notice or direction under this Plan shall be in writing and shall be effective when actually delivered or, if mailed, when deposited postpaid as first-class mail. Mail shall be directed to the address stated in this Plan or to such other address as a party may specify by notice to the other parties.

## **10.6 Benefits Not Assignable; Qualified Domestic Relations Orders**

10.6.1 This Plan is for the personal protection of the participants. No interest of any participant or beneficiary may be assigned, seized by legal process, transferred or subjected to the claims of creditors in any way, except as provided by law, including payments pursuant to 10.6.2 or, effective August 5, 1997, certain judgments and settlements described in §401(a)(13)(C) of the Code.

10.6.2 Benefits may be paid in accordance with a QDRO under §414(p) of the Code pursuant to procedures of the Plan Administrator. Benefits may be paid to an alternate payee under a QDRO before payment to the participant would be permitted.

## **10.7 Nondiscrimination**

Metro, the Plan Administrator and the Trustee shall to the fullest extent possible treat all persons who are similarly situated alike under this Plan.

## **10.8 Nonreversion of Assets**

10.8.1 Subject to 10.8.2, no part of the contributions or the principal or income of the Trust shall be paid to or revested in Metro or be used other than for the exclusive benefit of the participants and their beneficiaries.

10.8.2 A contribution may be returned to Metro to the extent that the contribution was made by mistake of fact, subject to the following rules:

- (a) Any return must occur within one year of the mistaken payment.
- (b) The returnable amount shall be reduced by a pro rata share of any investment losses attributable to the contribution and by any amounts that cannot be charged under (c) below.
- (c) The amounts returned shall be charged to participants' accounts in the same proportion as the accounts were credited with the contribution. No participant's account shall be charged more than it was previously credited.

METRO

By: \_\_\_\_\_  
Michael Jordan  
Chief Operating Officer

Executed: January \_\_, 2011

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 11-4221, FOR THE PURPOSE OF ADOPTING THE METRO EMPLOYEE SALARY SAVINGS PLAN 2010 RESTATEMENT

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Date: December 9, 2010

Prepared by: Lisa Cohen Greenfield  
Senior Assistant Attorney,  
Office of Metro Attorney

## BACKGROUND

Metro has established and maintained an Employee Salary Savings Plan (the “401K Plan”) for the exclusive benefit of eligible employees. At times it is necessary to amend the 401K Plan to reflect changes in applicable laws and comply with the Internal Revenue Service’s filing requirements. The 401K Plan was last restated effective January 1, 2002, and was last amended effective March 28, 2005. Metro is now required to file an updated Restatement by January 31, 2011, as well as other documentation to obtain a determination letter from the Internal Revenue Service on the Plan's tax-qualified status and a compliance statement from the Internal Revenue Service under the Voluntary Correction Program. The updated Restatement called the Metro Employee Salary Savings Plan 2010 Restatement (“the Plan”). The Restatement and other filing documents were prepared by outside counsel in conjunction with the Office of Metro Attorney.

## ANALYSIS/INFORMATION

1. **Known Opposition.**

None

2. **Legal Antecedents.**

Numerous technical modifications to the 401K Plan are required in order to comply with the Pension Protection Act of 2006, §401 of the Internal Revenue Code of 1986, as amended, and applicable laws and regulations.

3. **Anticipated Effects.**

Approval of the Plan and authorization for Chief Operating Officer Michael Jordan to take any and all actions necessary or appropriate to obtain a favorable determination letter from the Internal Revenue Service on the Plan's tax-qualified status, and to obtain a compliance statement from the Internal Revenue Service under the Voluntary Correction Program.

4. **Budget Impacts**

None

## RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 11-4221 to confirm the adoption of the Plan Restatement for the Metro 401K Employee Salary Savings Plan as of January 6, 2011.

Agenda Item Number 6.3

**Resolution No. 11-4224**, For the Purpose of Metro Council's  
Acceptance of the Results of the Independent Audit Report for  
Financial Activity During Fiscal Year 2009-2010.

*Consent Agenda*

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF METRO COUNCIL'S	)	RESOLUTION NO. 11-4224
ACCEPTANCE OF THE RESULTS OF THE	)	
INDEPENDENT AUDIT REPORT FOR	)	Introduced by
FINANCIAL ACTIVITY DURING FISCAL	)	Suzanne Flynn, Metro Auditor
YEAR 2009-2010	)	

WHEREAS, Oregon Revised Statute 297.465 requires an annual independent audit of Metro's financial statements; and

WHEREAS, Metro Code Section 2.15.80 requires the Metro Auditor to appoint the external certified public accountant to conduct certified financial statement audits as specified in state and local laws; and

WHEREAS, Metro engaged in Contract No. 929814 with Moss Adams LLP, independent Certified Public Accountants to provide the following audit services:

1. Audit of Metro's financial statements (including all costs associated with the Comprehensive Annual Financial Report and applicable management recommendations and comments);
2. Single Audit and applicable management recommendations and comments;
3. Metro Natural Areas Bond Measure Expenditures and applicable management recommendations and comments; and
4. Oregon Zoo Construction Bond Measure Expenditures and applicable management recommendations and comments.

WHEREAS, the annual independent audit has been completed and an unqualified opinion received from Moss Adams LLP; and

WHEREAS, a separate letter was delivered to management and a management plan of action completed; now, therefore,

BE IT RESOLVED that the Metro Council hereby acknowledges and accepts the results of the independent audit report for fiscal year FY 2009-2010 (Exhibit A).

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 2011.

---

Tom Hughes, Council President

Approved as to Form:

---

Daniel B. Cooper, Metro Attorney

To Margo Norton, Director of Finance and Regulatory Services  
Metro  
Portland, Oregon

**Exhibit "A" to Resolution  
11-4224**

**Letter to Management**

Dear Ms Norton:

We have completed our audit of the financial statements of Metro for the year ended June 30, 2010 and have issued our report thereon dated December 2, 2010. In planning and performing our audit of the financial statements of Metro as of and for the year ended June 30, 2010, in accordance with auditing standards generally accepted in the United States of America, we considered Metro's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control. Accordingly, we do not express an opinion on the effectiveness of Metro's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency in which the design or operation of one or more of the internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

**FINDINGS FROM LAST YEAR - MATERIAL WEAKNESSES**

**None**

**FINDINGS FROM LAST YEAR - SIGNIFICANT DEFICIENCIES**

**Accuracy of the Schedule of Expenditures of Federal Awards - resolved:** Last year during our testing of the SEFA and related grant records, we identified two additional grant programs that were federally sourced, that were not identified by management as federal grants, and were therefore, originally omitted from the SEFA in error. During current year testing, no federally sourced programs were found to be omitted from the SEFA in error.

## OBSERVATIONS FROM LAST YEAR - MANAGEMENT ADVISORY COMMENTS

**PeopleSoft Access – resolved:** During our review of access controls to PeopleSoft last year, we noted that twelve employees have access to create and post a journal entry in the general ledger. We did find that Metro had previously implemented manual procedures including the recording of all adjusting journal entries into a Journal Entry log by the initiator of the entry, the posting of the entry into the general ledger by a second person, and the review monthly of all adjusting journal entries by a third person. While an automated control limiting access would be best, these manual procedures, if followed, should be sufficient to address this risk. We feel that Metro's manual procedures are in place and operating effectively to mitigate this risk.

**Payables cut off - resolved:** During our search for unrecorded liabilities in the prior year, we noted three exceptions in which invoices relating to goods or services received prior to the year-end were not recorded as payables in the proper period. Our current year search for unrecorded liabilities we noted no exceptions.

## CURRENT YEAR OBSERVATIONS AND RECOMMENDATIONS

### SIGNIFICANT DEFICIENCIES

The following significant deficiencies were identified during our audit of the June 30, 2010 financial statements.

**OPEB Census errors:** During testing of the OPEB census data, we noted that 65 employees had been erroneously omitted from the listing and 16 employees had been erroneously included in the listing. The 65 participants omitted in error were identified as employees terminated after the valuation report date, but eligible for benefits as of the report date. The 16 participants included in error were the result of recent hires that had not yet become eligible for benefits. These errors were the result of a lack of understanding of the limitations of the report queries used to generate the participant census data, and an insufficient review process to catch the errors. We understand that the Human Resource staff responsible for generation of this data has learned how to pull these reports differently to address these issues and improve the accuracy of future census data for use by the actuary.

**Recommendation:** We recommend an in-depth review of OPEB census populations by financial management personnel as well as coordination with IT staff to ensure the source data for these reports are accurately reflecting the eligibility criteria for this benefit obligation. We also recommend the review process be revised to look specifically for new hires not yet eligible and recent terminations that were eligible, as of the valuation date.

**Zoo Bond Accrued Payroll:** MA noted the initial balances reported for the Zoo Infrastructure and Animal Welfare fund (ZIAWF) accrued payroll were not reconciled and adjusted to correct ending balances. Upon further inquiry it was discovered that this was related to a payroll allocation entries made during the year to record Zoo employee labor associated with capital projects. The balances were not reviewed or reconciled and adjustments made by staff in the normal course of performing their duties.

**Recommendation:** We recommend that management revisit the fund balance and transaction monitoring duties of those responsible for the ZIAWF, and ensure those duties are performed timely.



**MANAGEMENT ADVISORY COMMENTS**

In addition to the significant deficiencies noted above, during our audit we also became aware of several matters that are opportunities for strengthening internal controls and operating efficiency. These matters are noted below as management advisory comments.

**Timely cash reconciliations at MERC:** During testing of cash, we noted that the MERC operating checking account was not reconciled on a timely basis after each month-end. We found reconciliations were done sometimes two and three months after month-end.

**Recommendation:** We recommend that management emphasize timeliness of reconciliations in order to ensure the accuracy of reporting MERC cash balances, as well as the importance of the reconciliation process in the system of internal controls over cash.

**FUTURE ACCOUNTING STANDARDS**

**GASB 54 – Fund Balance Reporting:** As reported to you last year, GASB 54 has been issued and will be effective for Metro for its fiscal year ending June 30, 2011. This standard establishes new classifications of fund balance by level of constraint related to resources. It also clarifies the use of special revenue, capital projects, and debt service funds. This standard requires the disclosure of certain fund balance policies. Last year, we recommended that Metro develop a process to implement this standard including a review or establishment of fund balance policies, determine the effort involved, secure the resources needed, and otherwise get started on the implementation process. Our understanding is that management has begun its implementation of this standard.

This report is intended solely for the information and use of the management of Metro and is not intended to be and should not be used by anyone other than these specified parties. We would be happy to further discuss any of the items in this letter with you at your convenience.

*Moss Adams, LLP*

Eugene, Oregon  
December 2, 2010



**Metro** | *People places. Open spaces.*

## **Metro Management Response**

December 24, 2010

Ms. Suzanne Flynn  
Metro Auditor

The independent audit firm of Moss Adams LLP, certified public accountants, has completed the audit of the financial statements of Metro for the year ended June 30, 2010. The financial statements for MERC are incorporated in the Metro report and are an integral part of the review. As part of that audit Moss Adams reviewed accounting policies and procedures, evaluated the effectiveness of the existing system of internal control, and made findings, observations and recommendations relating to this review. Moss Adams reviewed the Natural Areas Bond program and the Oregon Zoo Infrastructure and Animal Welfare Bond program, as required by the bond ordinances, and performed a separate review of federal grants for federal compliance reporting purposes.

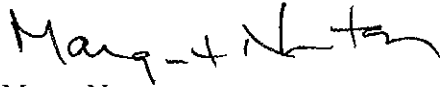
The independent auditor's responsibility under the auditing standards generally accepted in the United States has become increasingly rigorous in both the private and public sectors. The Governmental Accounting Standards Board (GASB), now in its 26<sup>th</sup> year, issues standards that help Metro demonstrate to the region our accountability and stewardship over public resources. This year Metro successfully implemented the standard for Intangible Assets (GASB 51) and began the process of implementing the new standard of reporting fund balances (GASB 54) with full implementation expected next year. We are deeply appreciative that our accounting group, led by Don Cox, CPA, CGFM, Accounting Manager and Accounting Compliance Officer, and Karla Lenox, CPA, Financial Reporting and Control Supervisor, continues to ensure that Metro meets these new standards, receives an unqualified audit opinion and produces an award winning Comprehensive Annual Financial Report. We also appreciate the professional work of the MERC accounting group, led by Julia Fennell, Controller. We also thank the audit staff of Moss Adams LLP for its careful and professional review. Each year we gain new insights into maintaining and sustaining best practices through the audit process and our professional discussions with Moss Adams.

Moss Adams made recommendations to management in its letter dated December 2, 2010. In addition Moss Adams reviews the prior year's report and comments on Metro's excellent progress. We have reported this "management letter" to the Audit Committee and will be presenting our response to the Metro Council.

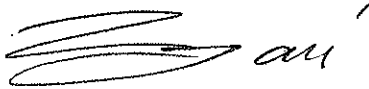
We wish to thank the Audit Committee which serves as "a liaison between the Metro Council, the independent external auditor, the Metro Auditor and management, as their duties relate to financial accounting, reporting, and internal controls and compliance." Under the Metro code changes adopted in 2010 the Audit Committee serves as the Council's "agent in assuring the independence of the Council's external auditors, the integrity of management, and the adequacy of disclosures to the public." The Audit Committee has been helpful to Finance and Regulatory Services in evaluating and improving our business and accounting processes.

Finally, we wish to thank you personally for your attention and support during the audit process. We look forward to continuing our work with you to assure both the Metro Council and the region's citizens that Metro operates with the highest standards of fiscal prudence, accountability, transparency and integrity.

Sincerely,

A handwritten signature in black ink, appearing to read "Margo Norton". The signature is fluid and cursive, with the first name "Margo" written in a larger, more prominent script than the last name "Norton".

Margo Norton  
Finance and Regulatory Services Director

A handwritten signature in black ink, appearing to read "Tim Collier". The signature is fluid and cursive, with the first name "Tim" written in a larger, more prominent script than the last name "Collier".

Tim Collier, CPA  
Finance and Regulatory Services Deputy Director

*For the reader's convenience, the findings, observations and recommendations of Moss Adams are reproduced in their entirety, modified only by the numbering of the recommendations. Metro's response follows each recommendation with the same numbering system.*

## **FINDINGS FROM LAST YEAR - MATERIAL WEAKNESSES**

**None**

## **FINDINGS FROM LAST YEAR (2008-09) - SIGNIFICANT DEFICIENCIES**

**Accuracy of the Schedule of Expenditures of Federal Awards - resolved:** Last year during our testing of the SEFA and related grant records, we identified two additional grant programs that were federally sourced, that were not identified by management as federal grants, and were therefore, originally omitted from the SEFA in error. During current year testing, no federally sourced programs were found to be omitted from the SEFA in error.

## **OBSERVATIONS FROM LAST YEAR (2008-09) - MANAGEMENT ADVISORY COMMENTS**

**PeopleSoft Access – resolved:** During our review of access controls to PeopleSoft last year, we noted that twelve employees have access to create and post a journal entry in the general ledger. We did find that Metro had previously implemented manual procedures including the recording of all adjusting journal entries into a Journal Entry log by the initiator of the entry, the posting of the entry into the general ledger by a second person, and the review monthly of all adjusting journal entries by a third person. While an automated control limiting access would be best, these manual procedures, if followed, should be sufficient to address this risk. We feel that Metro's manual procedures are in place and operating effectively to mitigate this risk.

**Payables cut off - resolved:** During our search for unrecorded liabilities in the prior year, we noted three exceptions in which invoices relating to goods or services received prior to the year-end were not recorded as payables in the proper period. Our current year search for unrecorded liabilities we noted no exceptions.

## **CURRENT YEAR (2009-10) OBSERVATIONS AND RECOMMENDATIONS**

### **SIGNIFICANT DEFICIENCIES**

The following significant deficiencies were identified during our audit of the June 30, 2010 financial statements.

**OPEB Census errors:** During testing of the OPEB census data, we noted that 65 employees had been erroneously omitted from the listing and 16 employees had been erroneously included in the listing. The 65 participants omitted in error were identified as employees terminated after the valuation report date, but eligible for benefits as of the report date. The 16 participants included in error were the result of recent hires that had not yet become eligible for benefits. These errors were the result of a lack of understanding of the limitations of the report queries used to generate the participant census data, and an insufficient review process to catch the errors. We understand that the Human Resource staff responsible for generation of this data has learned how to pull

these reports differently to address these issues and improve the accuracy of future census data for use by the actuary.

**Recommendation #1:** We recommend an in-depth review of OPEB census populations by financial management personnel as well as coordination with IT staff to ensure the source data for these reports are accurately reflecting the eligibility criteria for this benefit obligation. We also recommend the review process be revised to look specifically for new hires not yet eligible and recent terminations that were eligible, as of the valuation date.

**Response #1:** Metro is currently in the middle of an HR system upgrade that will help address this issue. Our current system setup has made the OPEB reporting more difficult. With the changes in system setup and newly implemented report verification process, this should be corrected going forward. Management will review if we should complete another full valuation of OPEB in the FY 2010-11 period.

**Zoo Bond Accrued Payroll:** MA noted the initial balances reported for the Zoo Infrastructure and Animal Welfare fund (ZIAWF) accrued payroll were not reconciled and adjusted to correct ending balances. Upon further inquiry it was discovered that this was related to a payroll allocation entries made during the year to record Zoo employee labor associated with capital projects. The balances were not reviewed or reconciled and adjustments made by staff in the normal course of performing their duties.

**Recommendation #2:** We recommend that management revisit the fund balance and transaction monitoring duties of those responsible for the ZIAWF, and ensure those duties are performed timely.

**Response #2:** The Accounting Compliance Officer and Payroll Supervisor have implemented a new system that will assist in the process of payroll coding changes. If the change in payroll funding is for a one month period it will be processed through payroll; if the change is needed for more than one month, it will be handled through a journal entry. This will speed up the process and ensure easier and more accurate reconciliations.

## **MANAGEMENT ADVISORY COMMENTS**

In addition to the significant deficiencies noted above, during our audit we also became aware of several matters that are opportunities for strengthening internal controls and operating efficiency. These matters are noted below as management advisory comments.

**Timely cash reconciliations at MERC:** During testing of cash, we noted that the MERC operating checking account was not reconciled on a timely basis after each month-end. We found reconciliations were done sometimes two and three months after month-end.

**Recommendation #3:** We recommend that management emphasize timeliness of reconciliations in order to ensure the accuracy of reporting MERC cash balances, as well as the importance of the reconciliation process in the system of internal controls over cash.

**Response #3:** A MERC accounting vacancy during the year delayed the regular reconciliation schedule. Bank reconciliations have been returned to the Accountant position and are being completed on a regular monthly schedule.

## **FUTURE ACCOUNTING STANDARDS**

**GASB 54 – Fund Balance Reporting:** As reported to you last year, GASB 54 has been issued and will be effective for Metro for its fiscal year ending June 30, 2011. This standard establishes new classifications of fund balance by level of constraint related to resources. It also clarifies the use of special revenue, capital projects, and debt service funds. This standard requires the disclosure of certain fund balance policies. Last year, we recommended that Metro develop a process to implement this standard including a review or establishment of fund balance policies, determine the effort involved, secure the resources needed, and otherwise get started on the implementation process. Our understanding is that management has begun its implementation of this standard.

This report is intended solely for the information and use of the management of Metro and is not intended to be and should not be used by anyone other than these specified parties. We would be happy to further discuss any of the items in this letter with you at your convenience.

### **Note: Single Audit**

In addition to the audit of the financial statements, Moss Adams also performed a separate audit of federal grant funds and has issued a report on compliance with requirements applicable to each major program and internal control over compliance with OMB circular A-133, often referred to as the “Single Audit” for federal compliance.

The report provided an unqualified opinion in the financial reporting, identified no questioned costs, and disclosed essentially the same findings of “significant deficiency” as those included above. The management response to those findings in prior years was included in the Schedule of Findings and Questioned Costs, a part of the single audit. In the current year they are addressed below.

**Schedule of Findings and Questioned Costs Recommendation:** Moss Adams recommends Metro further develop a federal contracts review process to ensure appropriate language is included for all Park’s contracts that are receiving federal funds. This should include review of current contracts that may require amendments

**Response # 4:** This repeat finding arose from a Parks and Environmental Services’ grant from the State of Oregon that was not properly classified as a federal grant in a prior year. The major contract was amended to include the federal language, but a small contract from 2007, now completed, was overlooked. PES implemented a grants checklist last year to avoid this in future contracts. As a precaution PES will review its current contracts to verify that all required federal contract provisions are included.

# Comprehensive Annual Financial Report

For the year ended June 30, 2010

*Cover only - entire report may be  
downloaded from Metro's website  
(200 pages)*

## Finance and Regulatory Services Department

Director of Finance and Regulatory Services  
Margaret Norton

Prepared by  
Accounting Services Division

Accounting Compliance Officer  
Donald R. Cox Jr., CPA, CGFM

Financial Reporting Supervisor  
Karla J. Lenox, CPA



**Metro** | *Making a great place*

600 NE Grand Ave., Portland, Oregon 97232



**INDEPENDENT AUDITOR'S REPORT**

Metro Council and Metro Auditor  
Portland, Oregon

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of Metro, as of and for the year ended June 30, 2010, which collectively comprise Metro's basic financial statements as listed in the table of contents. These financial statements are the responsibility of Metro's management. Our responsibility is to express opinions on these financial statements based on our audit. We did not audit the financial statements of the Oregon Zoo Foundation, a discretely presented component unit, which represents 1.4% and .3%, respectively, of the assets and revenues of Metro. Those statements were audited by other auditors, whose report thereon has been furnished to us, and our opinion, insofar as it relates to the amounts included for the Oregon Zoo Foundation, is based solely on the report of the other auditors.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The financial statements of the Oregon Zoo Foundation were not audited in accordance with *Government Auditing Standards*. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of Metro, as of June 30, 2010, and the respective changes in financial position and cash flows, where applicable, thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.



In accordance with *Government Auditing Standards*, we have also issued our report dated December 2, 2010 on our consideration of Metro's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements and other matters. The purpose of the report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The management's discussion and analysis, budgetary comparison, and schedule of funding progress for other post employment benefits on pages 15 through 34, and 85 through 87 are not a required part of the basic financial statements but are supplementary information required by accounting principles generally accepted in the United States of America. We have applied certain limited procedures to the management's discussion and analysis and the schedule of funding progress for other post employment benefits on pages 15 through 34, and page 87 which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it. The schedules of revenues, expenditures, and changes in fund balance – budget and actual, on pages 85 and 86 have been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, are fairly stated in relation to the basic financial statements taken as a whole.

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise Metro's basic financial statements. The introductory section, other supplementary information, capital assets, other financial schedules, and statistical information are presented for purposes of additional analysis and are not a required part of the basic financial statements. The supplementary information, capital assets, and other financial schedules have been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, are fairly stated in all material respects in relation to the basic financial statements taken as a whole. The introductory section and statistical information have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on them. Additionally, the accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.



For Moss Adams LLP  
Eugene, Oregon  
December 2, 2010

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE AND  
ON INTERNAL CONTROL OVER FINANCIAL REPORTING  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN  
ACCORDANCE WITH *OREGON AUDITING STANDARDS***

Metro Council and Metro Auditor  
Portland, Oregon

We have audited the basic financial statements of Metro as of and for the year ended June 30, 2010 and have issued our report thereon dated December 2, 2010. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the provisions of the Minimum Standards for Audits of Oregon Municipal Corporations, prescribed by the Secretary of State. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement.

### **Compliance**

As part of obtaining reasonable assurance about whether Metro's basic financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, grants, including provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules OAR 162-010-0000 to 162-010-0330, as set forth below, noncompliance with which could have a direct and material effect on the determination of financial statement amounts:

- The use of approved depositories to secure the deposit of public funds.
- The requirements relating to debt.
- The requirements relating to the preparation, adoption and execution of the annual budgets for fiscal years 2010 and 2011.
- The requirements relating to insurance and fidelity bond coverage.
- The appropriate laws, rules and regulations pertaining to programs funded wholly or partially by other governmental agencies.
- The statutory requirements pertaining to the investment of public funds.
- The requirements pertaining to the awarding of public contracts and the construction of public improvements.

However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Minimum Standards for Audits of Oregon Municipal Corporations, prescribed by the Secretary of State, except those noted below.

**Requirements pertaining to the awarding of public contracts and the construction of public improvements.**

Our testing of public contracts identified one instance of ten contracts tested where the contract was approved by individuals in excess of the amount they had the authority to approve under Metro's internal policy.

**Laws, rules and regulations pertaining to programs funded wholly or partially by other governmental agencies.**

During our testing of procurement for the Single Audit, we noted a significant deficiency in internal controls and related instance of non-compliance finding concerning two contracts tested where the contract did not include Metro's standard federal clauses used to ensure contractors are aware that the project is federally sourced and additional federal compliance requirements are applicable to the project.

The above matters are reported in further detail in the accompanying Schedule of Findings and Questioned Costs. Further, additional best practice observations and recommendations were included in a letter issued separately to management.

**Internal Control Over Financial Reporting**

In planning and performing our audit, we considered Metro's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Metro's internal control over financial reporting.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over financial reporting, described in the accompanying schedule of findings and questioned costs that we consider to be significant deficiencies in internal control over financial reporting. Those financial statement findings are reported as 2010-01 and 2010-02 in the Schedule of Findings and Questioned Costs. *A significant deficiency* is a deficiency, or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

This report is intended solely for the information of the Metro Council and Metro Auditor, management, and the State of Oregon and is not intended to be and should not be used by anyone other than those specified parties.

A handwritten signature in black ink, reading "James C. Lavarotto". The signature is written in a cursive, flowing style.

For Moss Adams LLP  
Eugene, Oregon  
December 2, 2010

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL  
REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF  
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT  
AUDITING STANDARDS***

Metro Council and Metro Auditor  
Portland, Oregon

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of Metro as of and for the year ended June 30, 2010, which collectively comprise Metro's basic financial statements and have issued our report thereon dated December 2, 2010. Our report was modified to include a reference to other auditors. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Other auditors audited the financial statements of the Oregon Zoo Foundation, a discretely presented component unit, as described in our report on Metro's financial statements. The financial statements of the Oregon Zoo Foundation were not audited in accordance with *Governmental Auditing Standards*.

**Internal Control over Financial Reporting**

In planning and performing our audit, we considered Metro's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Metro's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of Metro's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over financial reporting, described in the accompanying schedule of findings and questioned costs that we consider to be significant deficiencies in internal control over financial reporting as items 2010-01 and 2010-02. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL  
REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF  
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT  
AUDITING STANDARDS* – (continued)**

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether Metro's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of Metro in a separate letter dated December 2, 2010.

This report is intended solely for the information and use of the audit committee; management; the Council; the Secretary of State, Divisions of Audits, of the State of Oregon; federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

*Moss Adams, LLP*

Eugene, Oregon  
December 2, 2010

**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS THAT  
COULD HAVE A DIRECT AND MATERIAL EFFECT ON EACH MAJOR PROGRAM AND  
ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB  
CIRCULAR A-133 AND ON THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**

Metro Council and Metro Auditor  
Portland, Oregon

**Compliance**

We have audited Metro's compliance with the types of compliance requirements described in the *OMB Circular A-133 Compliance Supplement* that could have a direct and material effect on Metro's major federal program for the year ended June 30, 2010. Metro's major federal programs are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts, and grants applicable to its major federal programs is the responsibility of Metro's management. Our responsibility is to express an opinion on Metro's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about Metro's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of Metro's compliance with those requirements.

In our opinion, Metro complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2010. However, the results of our auditing procedures disclosed an instance of noncompliance with those requirements, which are required to be reported in accordance with OMB Circular A-133 and which are described in the accompanying schedule of findings and questioned costs as item 2010-03.

**Internal Control over Compliance**

Management of Metro is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts, and grants applicable to federal programs. In planning and performing our audit, we considered Metro's internal control over compliance with the requirements that could have a direct and material effect on a major federal program to determine the auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of Metro's internal control over compliance.



**INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE WITH REQUIREMENTS THAT  
COULD HAVE A DIRECT AND MATERIAL EFFECT ON EACH MAJOR PROGRAM AND  
ON INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB  
CIRCULAR A-133 AND ON THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS –  
(continued)**

A *deficiency in internal control over compliance* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. A *material weakness* in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be *material weaknesses*, as defined above. However, we identified certain deficiencies in internal control over compliance that we consider to be significant deficiencies as described in the accompanying schedule of findings and questioned costs as items 2010-03. A significant deficiency in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Metro's responses to the findings identified in our audit are included in a separate letter issued by management and, accordingly, we express no opinion on the responses.

This report is intended solely for the information and use of the audit committee; management; the Council; the Secretary of State, Divisions of Audits, of the State of Oregon; federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

*Moss Adams, LLP*

Eugene, Oregon  
December 2, 2010



**METRO**

**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**  
**YEAR ENDED JUNE 30, 2010**

<u>Grantor and Program Title</u>	<u>Federal CFDA Number</u>	<u>Grant Number</u>	<u>Federal Expenditures</u>
<u>U. S. Department of Agriculture</u>			
Direct Programs:			
Natural Resources Conservation Service-			
Wetlands Reserve Program-Forest Grove Habitat	10.072	66-0435-8-060	\$ 7,342
Wetlands Reserve Program-Lovejoy Restoration	10.072	66-0435-8-060	11,596
Wetlands Reserve Program-Gotter Prairie	10.072	66-0436-8-035	18,292
Subtotal Wetlands Reserve Program			<u>37,230</u>
Wildlife Habitat Incentives Program	10.914	7204365C165	<u>8,550</u>
Forest Service-			
Condor Program	10.XXX	09-CS-11062200-007	3,500
UNO Program	10.XXX	09-CS-11062200-010	15,000
Subtotal Forest Service Program			<u>18,500</u>
Total U. S. Department of Agriculture			<u>64,280</u>
<u>U.S. Department of Defense</u>			
Passed through Washington Department of Fish & Wildlife:			
Water Resources Development Act	12.110	WDFW # 06-1337	<u>50,000</u>
Total U.S. Department of Defense			<u>50,000</u>
<u>U. S. Department of the Interior</u>			
Bureau of Land Management-			
Direct Program:			
Federal Land Policy and Management Act (FLPMA)	15.DDG	HAF079Q05	<u>40,000</u>
U.S. Fish and Wildlife Service-			
Passed through Oregon Department of Fish & Wildlife:			
Sport Fish Restoration Program	15.605	F-111D-267	<u>490,034</u>
Passed through The Department of State Lands:			
Cooperative Endangered Species Conservation Fund	15.615	USFWS Sec 6 grant E-28	10,000
Cooperative Endangered Species Conservation Fund	15.615	USFWS Sec 6 grant E6-52	17,811
Subtotal Cooperative Endangered Species Conservation Fund			<u>27,811</u>
Passed through Oregon State Marine Board:			
Clean Vessel Act	15.616	N/A	<u>788</u>
Sportfishing and Boating Safety Act	15.622	1379	<u>98,007</u>
Passed through Oregon Department of Fish & Wildlife:			
Oregon Conservation Strategy Grant	15.634	T-16, E-56	7,606
Passed through Washington Department of Fish & Wildlife:			
State Wildlife Grants	15.634	08-1424	<u>52,240</u>
Subtotal State Wildlife Grants			<u>59,846</u>

**METRO**

**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (Continued)**  
**YEAR ENDED JUNE 30, 2010**

<u>Grantor and Program Title</u>	<u>Federal CFDA Number</u>	<u>Grant Number</u>	<u>Federal Expenditures</u>
Direct Program:			
Service Training and Technical Assistance	15.649	FWS #13420-1113-0000	28,000
Total U. S. Department of the Interior			744,486
<u>U. S. Department of Transportation</u>			
Federal Transit Administration-			
Federal Highway Administration-			
Highway Research and Development Program:			
Direct Program:			
FHWA - DTA Methods Deployment	20.200	DTFH60-09-P-000115	12,000
Highway Planning and Construction (Highway Planning and Construction Cluster)-			
Passed through Oregon Department of Transportation:			
2010 Planning Fund	20.205	ODOT # 25916	1,281,200
2008 Planning Fund Carryover funds	20.205	ODOT # 25916	511,504
2010 STP funds	20.205	ODOT # 25916	700,544
2008 STP Carryover funds	20.205	ODOT # 25916	281,465
2008 STP Next Corridor Carryforward	20.205	ODOT # 25916	148,213
2010 STP Freight	20.205	ODOT # 25916	75,000
Transportation Options Mass Marketing Campaign	20.205	ODOT # 22211	957,094
I-5 / 99W Connector Project	20.205	ODOT # 22445	7,626
Oregon Hwy 212 / Damascus Project	20.205	ODOT # 25218-01	20,418
Passed through Multnomah County, Oregon:			
Sellwood Bridge IGA	20.205	4600006289	8,813
Passed through Clackamas County, Oregon:			
Sunrise Corridor EIS	20.205	Metro # 925507	8,564
Subtotal Highway Planning and Construction			4,000,441
Federal Transit Metropolitan Transportation Planning Grants-			
Passed through Oregon Department of Transportation :			
2010 Technical Studies (Sec 5303)	20.505	ODOT # 25996	315,242
2009 Technical Studies (Sec 5303)	20.505	ODOT # 24986	166,510
Subtotal Federal Transit Metropolitan Planning Grants			481,752
Federal Transit - Formula Grants (Federal Transit Cluster)-			
Direct Programs:			
Transit Oriented Development	20.507	OR90-X073	17,340
Congestion Mitigation & Air Quality Improvement Program (CMAQ):			
Regional Travel Options	20.507	OR95-X010	1,716,586

**METRO**

**SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (Continued)**  
**YEAR ENDED JUNE 30, 2010**

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<u>Grantor and Program Title</u>	<u>Federal CFDA Number</u>	<u>Grant Number</u>	<u>Federal Expenditures</u>
Passed through Tri-County Metropolitan Transportation District of Oregon (TriMet):			
Lake Oswego-Portland - DEIS Support - Task 1	20.507	GH090495TL	211,375
Subtotal Federal Transit Cluster			<u>1,945,301</u>
Alternative Analysis-			
Direct Programs:			
Streetcar/Eastside/LO-PDX (Sec 5339)	20.522	OR39-0002-01	245,944
Travel Forecasting Model Improvement (Sec 5339)	20.522	OR39-0004	86,302
Subtotal Alternative Analysis Grants			<u>332,246</u>
Total U.S. Department of Transportation			<u>6,771,740</u>
<u>U.S. Department of Education</u>			
Institute of Museum and Library Services -			
Direct Program:			
Museums for America	45.301	MA-04-08-0266-08	37,792
Total U.S. Department of Education			<u>37,792</u>
<u>U.S. Environmental Protection Agency</u>			
Passed through Oregon DEQ:			
Nonpoint Source Implementation Grants	66.460	C9-000451-07	36,862
Direct Program:			
Brownfields Assessment and Cleanup Cooperative Agreements II	66.818	BF-96072301	50,075
Total U.S. Environmental Protection Agency			<u>86,937</u>
Total Expenditures of Federal Awards			<u>\$ 7,755,235</u>

**METRO**  
**NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS**  
**YEAR ENDED JUNE 30, 2010**

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**NOTE 1 - ACCOUNTING POLICIES**

**General** - The accompanying Schedule of Expenditures of Federal Awards includes the federal grant activity of Metro. Metro's financial reporting entity is described in note 1 to Metro's basic financial statements. Financial assistance received directly from federal agencies as well as financial assistance passed through other government agencies is included in the accompanying schedule.

**Basis of accounting** - The accompanying Schedule of Expenditures of Federal Awards is presented using the modified accrual basis of accounting, which is described in note 3 to Metro's basic financial statements.

**Relationship to basic financial statements** - Federal assistance revenues are reported in Metro's basic financial statements included with revenues from federal and state sources, as described in note 3 to Metro's basic financial statements.

**METRO**  
**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2010**

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**Section I - Summary of Auditor's Results**

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*Financial Statements*

Type of auditor's report issued: Unqualified

Internal control over financial reporting:

- Material weakness(es) identified? \_\_\_\_\_ yes      X   no
- Significant deficiencies(s) identified that are not considered to be material weaknesses?   X   yes    \_\_\_\_\_ none reported

Noncompliance material to financial statements noted? \_\_\_\_\_ yes      X   no

*Federal Awards*

Internal control over major programs:

- Material weakness(es) identified? \_\_\_\_\_ yes      X   no
- Significant deficiencies (s) identified that are not considered to be material weaknesses?   X   yes    \_\_\_\_\_ none reported

Type of auditor's report issued on compliance for major programs: Unqualified

Any audit findings disclosed that are required to be reported in accordance with section 510(a) of Circular A-133?   X   yes    \_\_\_\_\_ no

Identification of major programs:

<u>CFDA Number(s)</u>	<u>Name of Federal Program or Cluster</u>
15.605	U.S. Department of the Interior – U.S. Fish and Wildlife Sport Fish Restoration Program
20.205	U.S. Department of Transportation Highway Planning and Construction Cluster

Dollar threshold used to distinguish between type A and type B programs: \$300,000

Auditee qualified as low-risk auditee? \_\_\_\_\_ yes      X   no

**METRO**  
**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2010**

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**Section II - Financial Statement Findings**

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**FINDING 2010-01 – OPEB Census Data – Significant Deficiency in Internal Control**

**Criteria:** Under generally accepted accounting principles (GAAP), the existence, and assets and liabilities, of other post employment benefit plans (OPEB) are required disclosures in the financial statements. For plans covering over 200 or more participants, an actuarial valuation of plan assets and liabilities is required at least biennially, based on participant census data provided by the employer, and by use of certain allowable actuarial methods and assumptions as provided by GASB 45.

**Condition:** In our testing of the census data of participants of the plan provided to the actuary, we found errors in the census data that was provided to the actuary.

**Context:** We found that of the 742 participants that should have been included in the census data, 16 were included that were actually no longer participants eligible for benefits under the plan, and 65 participants eligible for benefits were excluded.

**Effect:** The recorded OPEB liability in the government-wide statement of net assets is estimated to be understated at year end by \$77,000, and the reported actuarial accrued liability in the notes to the financial statements, the present value of benefits earned to date under the plan, is estimated to be understated by \$176,000.

**Cause:** The reports generated from the human resource and payroll system were not properly revised to remove new employees that had not yet met eligibility requirements for participation, and failed to include employees terminated after the valuation date but were eligible as of the valuation date. Furthermore, Metro's review and approval process for the census data was not adequate to catch the errors.

**Recommendation:** We recommend that management create reports that look specifically for new employees not yet eligible for benefits, as well as recently terminated employees that were still eligible for benefits at the valuation date, so that accurate data can be assembled and sent to the actuary. We also recommend that the review process be expanded to specifically look for new hires not yet eligible for participation, as well as terminated employees that were eligible for benefits as of the valuation date.

**Management's Response:** Management's response is included at "Management's Views and Corrective Action Plan"

**METRO**  
**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2010**

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**FINDING 2010-02 – Zoo Bond Accrued Payroll – Significant Deficiency in Internal Control**

**Criteria:** Under generally accepted accounting principles (GAAP), the liabilities of accrued payroll are required to be reflected and disclosed in the financial statements.

**Condition:** In our testing of the year-end payroll accrual, we noted that the accrued payroll related accounts were not reconciled and adjusted to correct ending balances in the Zoo Infrastructure and Animal Welfare Fund (ZIAWF).

**Context:** The ZIAWF was reporting a debit balance – a negative liability – for accrued payroll, and an entry was required to correct the error in the amount of approximately \$77,000. This fund records capital improvements at the Oregon Zoo and reported \$1.4M of total expenditures for the year. A small amount of Zoo employee labor normally reported in the General Fund was used in the various capital projects during the year, and an allocation of payroll related costs and liabilities was required to be reported in this fund.

**Effect:** The recorded payroll liability in the ZIAWF financial statements was understated at year end by \$77,000 prior to the correcting entry posted by management.

**Cause:** There were adjusting payroll entries made as a part of the normal payroll process which resulted in the payroll cost and accrual allocations to the ZIAWF. However, subsequent to these accruals during the year, timely reconciliations of the accruals with payments made were not properly reflected in the ZIAWF. In addition, reviews of transactions and balances posted to the ZIAWF were not performed timely by employees in the normal course of performing their duties.

**Recommendation:** We recommend that management revisit the fund balance and transaction monitoring duties of those responsible for the ZIAWF, and ensure those duties are performed timely.

**Management's Response:** Management's response is included at "Management's Views and Corrective Action Plan"

**METRO**  
**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2010**

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**Section III - Federal Award Findings and Questioned Costs**

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**Finding 2010-03 Procurement, Suspension and Debarment – Significant Deficiency in Internal Control and Instances of Noncompliance (Unresolved Finding 2009-02)**

**Federal Program:** Sport Fish Restoration Program, passed through the Oregon Department of Fish and Wildlife (Federal CFDA number 15.605)

**Federal Agency:** US Department of the Interior, US Fish and Wildlife

**Award Year:** 2009-2010

**Criteria:** As noted in the A-102 Common Rule, Section 36, governmental subrecipients of States, shall use the same policies and procedures used for procurements from non-Federal funds. They also shall ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Per 43 CFR, Part 12 Section 76 (i) Contract provisions, grantee's and subgrantee's contracts must contain provisions in paragraph (i) .43 CFR Subpart E requires Buy America compliance and Appendix A of Subpart F of 43 CFR Part 12 (8) requires debarment and suspension certifications in the contract provisions.

**Condition:** During our testing of procurement, we noted two instances in four contracts tested where a contract did not include any of the required federal clauses and certifications. The costs paid by the grant were allowable per the scope of the grant. Metro implemented a review process in fiscal year 2009 to use a checklist for new and amended contracts to ensure all proper language is included qualifying contracts. However, this change was not fully implemented for the Parks department.

**Questioned Costs:** None as discussed above.

**Context:** The procured contractor's contracts that were identified as being sourced with federal funds were not amended to include the federal contracting language. This resulted in the contracts not being negotiated with the federal clauses and certifications.

**Effect:** Federal funds were expended in procurement contracts missing required certifications and/or evidence of the Agency following established procurement procedures.

**Cause:** Although this issue was identified in the prior year, the Parks department had not identified all existing contracts for projects that have become federally sourced.

**Recommendation:** Moss Adams recommends Metro further develop a federal contracts review process to ensure appropriate language is included for all Park's contracts that are receiving federal funds. This should include review of current contracts that may require amendments.

**Management's Response:** Management's response is included at "Management's Views and Corrective Action Plan"



**METRO**  
**SCHEDULE OF FINDINGS AND QUESTIONED COSTS**  
**FOR THE YEAR ENDED JUNE 30, 2010**

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**Section IV – Summary Schedule of Prior Federal Award Findings**

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**Finding 2009-01 – Preparation of the Schedule of Expenditures of Federal Awards (SEFA) – Material Weakness in Internal Controls.**

**Condition:** Our testing of the schedule of expenditures of federal awards (SEFA) revealed that two additional grants were federal awards required to be audited under OMB Circular A-133, that were not properly identified by departmental staff as federal awards, and were initially omitted from the SEFA. Central accounting staff responsible for SEFA preparation rely on departmental information and the correct coding of federal awards in the general ledger. The existing processes and controls were insufficient to catch this error by Metro staff in the normal course of performing their accounting and reporting functions. Upon discovery of this, the SEFA was corrected to include these two programs.

**Recommendation:** Moss Adams recommends that Metro develop and implement policies to ensure the preparation of the SEFA is complete and thorough. Such a policy should include mechanisms for the timely and accurate identification of federal funds received from all sources.

**Current Status:** Resolved

**Finding 2009-02 Procurement, Suspension and Debarment – Significant Deficiency in Internal Control and Instances of Noncompliance (Unresolved Finding 2008-02)**

**Condition:** During our testing of procurement, we noted two instances in eleven contracts tested where a contract did not include any of the required federal clauses and certifications. The costs paid by the grant were allowable per the scope of the grant. Metro implemented a review process in the current year and uses a checklist for new and amended contracts to ensure all proper language is included for Planning department projects. However, this change appears to only be effectively implemented for projects applicable to the Planning department. The two instances noted in fiscal year 2009 were related to the Parks department.

**Recommendation:** Moss Adams recommends Metro implement an agency wide tracking and review process of contracts to ensure appropriate language is included for all contracts that are receiving federal funds.

**Current Status:** Unresolved. See Finding 2010-03.

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 11-4224 FOR THE PURPOSE OF THE METRO COUNCIL'S ACCEPTANCE OF THE RESULTS OF THE INDEPENDENT AUDIT REPORT FOR FINANCIAL ACTIVITY DURING FISCAL YEAR 2009-2010

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Date: December 23, 2010

Prepared by: Suzanne Flynn  
Metro Auditor  
503/797-1891

## BACKGROUND

State ORS provision 297.465 requires an annual independent audit of Metro's financial statements. The current contract was awarded to Moss Adams LLP for audit services and is effective May 1, 2010 through June 30, 2013.

Metro Code Chapter 2.15 specifies at Section 2.15.80 that the Auditor shall appoint external certified public accountants to conduct certified financial statement audits. Metro Charter Section 18 also specifies that the auditor shall be responsible for financial auditing of all aspects of Metro's operations.

The Comprehensive Annual Financial Report (CAFR) has been completed by Finance and Regulatory Services. Moss Adams LLP has audited the financial statements and issued an opinion that these statements fairly represent Metro's financial position as of June 30, 2010. Moss Adams also compiled a separate letter to management with recommendations, referred to as "Exhibit A." Finance and Regulatory Services has responded to the recommendations. The results have been reviewed by the Metro Auditor and Metro Audit Committee members.

## ANALYSIS/INFORMATION

1. **Known Opposition** none

2. **Legal Antecedents**

State ORS provision 297.465 requires an annual independent audit of Metro's financial statements. Metro contract No. 929814 with Moss Adams LLP for audit services will expire on June 30, 2013.

Metro Code Chapter 2.15 specifies at Section 2.15.80 that the Auditor shall appoint external certified public accountants to conduct certified financial statement audits. The Metro Charter Section 18 also specifies that the auditor shall be responsible for financial auditing of all aspects of Metro's operations.

3. **Anticipated Effects**

Recommendations made by Moss Adams shall be noted and implemented by Finance and Regulatory Services management and staff.

4. **Budget Impacts** None known at this time\*.

## RECOMMENDED ACTION

The Metro Auditor recommends approval of Resolution No. 11-4224.

\* A decision to recalculate OPEB (other post employment benefits) could result in a fiscal impact of approximately \$13,000.

Agenda Item Number 6.4

**Resolution No. 11-4225**, For the Purpose of Electing the  
Deputy Council President for 2011.

*Consent Agenda*

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ELECTING THE	)	RESOLUTION NO. 11-4225
DEPUTY COUNCIL PRESIDENT FOR 2011	)	
	)	Introduced by Council President Tom Hughes

WHEREAS, the Metro Charter directs the Council to adopt an annual organizing resolution for the orderly conduct of Council business; and

WHEREAS, the Metro Charter and Chapter 2.01 of the Metro code directs the appointment and election of the Deputy Council President by a vote of the Metro Council on the first Council meeting of the new year; and

WHEREAS, the Council President has nominated Councilor Carl Hosticka to serve as the Deputy Council President for 2011; now therefore

BE IT RESOLVED:

1. That the Metro Council elects Councilor Carl Hosticka to be the Deputy Council President for 2011.
2. That this resolution will be followed by a companion organizing resolution shortly hereafter, naming members of the Metro Council to various commissions, committees, and boards in different capacities as liaisons, members, and chairs.

ADOPTED by the Metro Council this 6<sup>th</sup> day of January, 2011.

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Tom Hughes, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

Agenda Item Number 7.1

**Ordinance No. 11-1251**, For the Purpose of Amending the  
Metro Code in Order to Reassign the Duties of the Clerk of the  
Metro Council.

*Ordinances – First Reading*

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE	)	ORDINANCE NO. 11-1251
METRO CODE IN ORDER TO REASSIGN	)	
THE DUTIES OF THE CLERK OF THE	)	Introduced by Councilor Carlotta Collette
METRO COUNCIL	)	
	)	

WHEREAS, Metro Code 2.01.020 states and defines the roles, responsibilities and meeting management procedures for the "Clerk of the Council;" and

WHEREAS, the Metro Council Office has undergone numerous staff and organizational structure changes since the adoption of this definition into Metro Code; and

WHEREAS, because of these changes, the current definition of the "Clerk of the Council" is outdated and inaccurate in representing current office operations; and

WHEREAS, "Clerk of the Council" duties and responsibilities have been assigned throughout both the Council Office to various staff, and throughout the agency namely to Metro's Records Officer; and

WHEREAS, because of reassignments the title "Clerk of the Council" for a single individual is irrelevant, inaccurate and not legally necessary; and

WHEREAS, because the Council Office in collaboration with Metro's Records Officer have assumed "Clerk of the Council" duties, the title for a single individual does not exist; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Sections of the Metro Code containing references to the Clerk of the Council are hereby amended as set forth in Exhibit "A" attached hereto.

ADOPTED by the Metro Council this \_\_\_\_\_ day of January 2011.

\_\_\_\_\_  
Tom Hughes, Council President

Attest:

Approved as to Form:

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

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

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

2.01.001 Definitions

For the purpose of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

(a) "Adoption" means the act of the council to approve a motion to adopt an ordinance or resolution.

~~(b) "Clerk" means clerk of the council.~~

(~~e~~b) "Quorum" means the majority of the members of the council holding office.

(Ordinance No. 88-241, Sec. 1. Amended by Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-958A, Sec. 1.)

2.01.020 ~~Clerk of the Council~~Council Meetings and Records

~~The clerk of the council, or a~~A qualified ~~alternate~~staff ~~person~~ designated by the Chief Operating Officer, shall ~~act as recording secretary for the council, shall~~ be present at each meeting of the council and shall provide that the proceedings be recorded as specified in section 2.01.090(B). Sound recordings shall be made of each meeting. Equipment malfunction shall not be a reason to postpone the meeting and shall not negate the minutes. The ~~council clerk~~recorder may temporarily interrupt council proceedings in the event of equipment malfunction, changes of tapes or other cause of short-term loss of recording. The ~~clerk~~Chief Operating Officer shall also maintain a journal of council proceedings that shall be available to the public during regular office hours.

(Ordinance No. 79-65, Sec. 2. Amended by Ordinance No. 88-241, Sec. 1; Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-958A, Sec. 1.)

2.01.055 Participation of Council Members by Electronic Means

(a) For any regular meeting or special meeting of the council, council members may participate in the meeting by the use of a voice or data communication device that allows communication with all other meeting participants provided the following conditions are fulfilled:

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

(1) The councilor who wishes to participate by electronic means must file a written request with the Council President stating the reasons why the councilor cannot be physically present at the meeting, and why extraordinary circumstances exist that require that the councilor should participate by electronic means.

(2) The Council President files with the ~~council clerk~~Chief Operating Officer a written report explaining the circumstances and containing the Council President's determination that the physical absence of the councilor is both unavoidable and excusable and that the physically absent councilor should participate in the meeting.

(3) A majority of the council must be physically present at any special or regular meeting for a quorum to exist.

(b) Any emergency meeting may be conducted by electronic means consistent with the Oregon Public Meetings Law.

(c) Participation at any council meeting by electronic means shall not constitute attendance at a meeting of the council for the purpose of Section 23(1)(e) of the Metro Charter.

(Ordinance No. 94-559A, Sec. 1. Amended by Ordinance No. 02-958A, Sec. 1.)

2.01.090 Conduct of Meetings

(a) A quorum of the council is a majority of the members of the council holding office. If a quorum is present, the council may proceed with the transaction of its business. If fewer councilors are present they may compel absent members to attend.

(b) Minutes of each meeting shall ~~be prepared by the clerk of the council or his/her designee, and shall~~ include at least the following information:

(1) All members of the council present;

(2) All motions, resolutions, and ordinances proposed and their dispositions;



**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

(3) The results of all votes, and the vote of each councilor by name; and

(4) The substance of any discussion on any matter.

(c) Minutes of executive sessions may be limited consistent with Oregon Law.

(d) The written minutes shall be available to the public within a reasonable time after the meeting, and shall be maintained as a permanent record of the actions of the council by the ~~clerk of the council~~Chief Operating Officer.

(e) The council shall by resolution adopt rules establishing procedures governing conduct of debate on matters considered by the council at council meetings.

(f) Council members present, but not voting or not specifically abstaining, shall be counted as voting with the majority. In the event that there is no such majority, such members shall be counted as abstaining.

(g) Except for ordinances, the Council President may order the unanimous approval of any matter before the council unless there is an objection from one or more councilors. If there is an objection, then a voice vote shall be taken, unless the objecting councilor requests a roll call vote in which case a roll call vote shall be taken. At each meeting, the ~~clerk of the council~~ shall rotate the order for each roll call vote so that the councilor who voted first shall vote last on the next roll call vote, except that the Council President shall always vote last on a roll call vote.

(h) In the event a matter is the subject of a voice vote or a roll call vote, after the vote is taken the Council President shall announce the result of the votes. Prior to proceeding to the next item on the agenda, or if the item voted upon is the last item on the agenda before adjournment, any member may request that the ~~clerk of the council~~ change that member's vote in which case the change in vote shall be announced by the Council President and the result of the votes as modified shall also be announced. Upon commencement of the next agenda or adjournment, as the

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

case may be, all votes shall become final and may not be further changed without the unanimous consent of the council.

(i) Any matter not covered by this chapter or a rule adopted by the council pursuant to a resolution shall be determined by Robert's Rules of Order, newly revised. The council may by a positive vote of two-thirds of the members of the council authorize the suspension of any rule adopted by a resolution of the council.

(j) All meetings of the council, its committees and advisory committees shall be held and conducted in accordance with the Oregon Public Meetings Law.

(Ordinance No. 95-583B, Sec. 1. Amended by Ordinance No. 02-958A, Sec. 1.)

2.02.120 Ethical Requirements for Employees, Officers,  
Elected and Appointed Officials

(a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.

(b) "Public official" means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.

(c) All public officials of Metro shall strictly comply with the following requirements:

(1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.

(2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate, if elected, would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.

(3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.

(4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

(5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate, if elected, would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.

(d) The Auditor and every member of the Council of Metro shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the ~~Council Clerk~~Chief Operating Officer at the time of filing with the appropriate state agency.

(e) The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all members of the Metropolitan Exposition-Recreation Commission and all Department Directors shall file annually with the ~~Council Clerk~~Chief Operating Officer a Statement of Economic

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

Interest which is substantially consistent with that required by ORS 244.060.

(f) Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:

(1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.

(2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.

(5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

(Ordinance No. 89-305A, Sec. 3. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1; Renumbered by Ordinance No. 05-1082, Sec. 1.)

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

2.17.050 Financial Reporting Requirements

(a) Elected officials shall comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the ~~Council Clerk~~Chief Operating Officer at the time of filing with the appropriate state agency.

(b) All Department Directors and Metro commissioners shall file annually with the ~~Council Clerk~~Chief Operating Officer a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.

(c) In addition, the Statement of Economic Interest shall disclose the ownership of any real property outside the Metro boundary and within Multnomah, Clackamas or Washington County.

(Ordinance No. 99-795B, Sec. 1.)

2.18.030 Additional Campaign Finance Reporting  
Requirements

(a) Every Candidate and every Metro Elected Official who is a candidate for any public office shall file with the ~~Metro Council Clerk~~Chief Operating Officer an electronic link to any campaign finance report required to be filed pursuant to ORS 260 or any applicable federal law. Campaign finance report electronic links shall be provided to the ~~Metro Council Clerk~~Chief Operating Officer within two (2) days after they became available from the state or federal filing officer.

(b) Prior to taking any action or voting on any matter in which any person who has a legislative or administrative interest has made a campaign contribution of \$500 or more in the aggregate to the Metro Elected Official, the Metro Elected Official shall disclose the existence of the contribution on the public record, if the contribution has not been previously made available in a campaign finance report electronic link required to be filed pursuant to (a) above.

(c) A Metro Councilor shall make the disclosure of such contributions on the record required by (b) above

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

immediately prior to voting or abstaining from voting on the matter. The Metro Auditor shall disclose such contributions by filing a written notice with the ~~Metro Council Clerk~~Chief Operating Officer or the Council prior to taking action on any such matter. In all cases, the disclosure shall include the name of the donor, the amount of the contribution and the nature of the donor's legislative or administrative interest in Metro.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1; Ordinance No. 08-1180, Sec. 1.)

2.18.040 Public Dissemination of Campaign Finance Reports

The ~~Metro Council Clerk~~Chief Operating Officer shall cause all campaign finance report electronic links to be posted on Metro's website. Website access to the campaign finance report links shall be maintained on the Metro website until the earlier of the January 1 following the election or the Metro elected official's term ends.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1; Ordinance No. 08-1180, Sec. 1.)

6.01.080 Filing and Effective Date of Commission  
Resolutions

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

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

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1; and Ordinance No. 09-1229, Sec. 1.)

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

9.01.060 Method of Making Appointments

(a) Whenever a vacancy occurs in a Council position representing a subdistrict on the Council, the Council shall commence a process to fill the vacancy by appointment by a majority vote of the remaining members of the Metro Council. The appointment process shall include the following:

(1) Notification of the appointment process and of the availability of application forms in a newspaper of general circulation in the Metro Area, in local newspapers which serve the Council subdistrict, and other journals, publications and circulars deemed appropriate at least four (4) weeks prior to the appointment.

(2) Notification of the appointment process and of the availability of application forms to official neighborhood organizations, cities, civic groups, and other recognized groups with territory within the vacant Council subdistrict at least four (4) weeks prior to the appointment.

(3) Notification may be given at the direction of the Council President in advance of any formal declaration of a vacancy by the Council.

(4) The Council President may establish a deadline for the receipt of applications which shall be no earlier than one (1) week prior to the date set for the making of the appointment at the time notice is given.

(5) Conduct of a public hearing in the vacant subdistrict before a subcommittee of the Council appointed by the Council President. The subcommittee shall report all testimony received to the full Council.

(6) Conduct of interviews with applicants for the vacant position before the Council.

(7) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The ~~Council Clerk shall announce the~~ results of each ballot shall be announced following the vote and ~~shall record~~ the result of each Councilor's ballot

**Exhibit A to Ordinance No. 11-1251  
Amending the Metro Code Reassigning the  
Duties of the Clerk of the Metro Council**

shall be recorded. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two (2) applicants who receive the most votes until an applicant receives a majority vote of the Council.

(b) If a vacancy occurs in the office of Council President or Metro Auditor, the Metro Council shall appoint a person to fill the vacancy subject to the following procedure. The appointment process shall include the following:

(1) Notification of the existence of the vacancy and that the Council will be making an appointment to fill the vacancy shall be given in a newspaper of general circulation within the Metro Area and in such other manner as deemed appropriate by the Council at the time the vacancy is declared.

(2) Conduct of interviews with applicants for the vacant position before the Council.

(3) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The ~~Council Clerk shall announce the~~ results of each ballot shall be announced following the vote and ~~shall record~~ the result of each Councilor's ballot shall be recorded. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two (2) applicants who receive the most votes until an applicant receives a majority vote of the Council.

(Ordinance No. 93-517B. Amended by Ordinance No. 02-977, Sec. 1.)

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## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 11-1251, FOR THE PURPOSE OF AMENDING THE METRO CODE IN ORDER TO REASSIGN THE DUTIES OF THE CLERK OF THE METRO COUNCIL

Date: December 22, 2010

Prepared by: Dan Cooper, Metro Attorney, 503-797-1528  
Tony Andersen, Legislative Coordinator, 503-797-1878

## BACKGROUND

Because of various office reorganizations, changes in roles in the Metro Council Office and Office of the COO, and general personnel direction provided by the Metro Council from 2007-2010; the Clerk of the Council's roles and responsibilities have evolved over the years and duties once held by a single position are now shared throughout the office and delegated accordingly.

In an effort to make more efficient and update Council Office operations, this ordinance removes an outdated title from Metro code and directs the Metro Council Office and Office of the COO to manage the portfolio of duties once held by the Clerk, now a collectively shared list delegated to different team members of the office. As of January 2011, there is no single or assigned Clerk of the Council, and this ordinance updates the discrepancy.

Additionally, by adopting this ordinance efficiencies will continue to improve and best practices identified as the Council Office and Office of the COO work programs continue to transition from historically-focused administrative support positions to a more policy-centric coordination model for current staff members.

## ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code, Metro Code Title II Administration and Procedures, Chapter 2.01 Council Organization and Procedures, Section 2.01.020 Clerk of the Council.
3. **Anticipated Effects:** The Metro Code containing references to the Clerk of the Council will be amended as set forth in Exhibit "A" to Ordinance 11-1251.
4. **Budget Impacts:** None.

## RECOMMENDED ACTION

Council staff recommends the adoption of Ordinance No. 11-1251.

Agenda Item Number 7.2

**Ordinance No. 11-1252**, For the Purpose Amending Title 11  
(Planning for New Urban Areas) of the Urban Growth  
Management Functional Plan.

*Ordinances – First Reading*

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING TITLE 11 ) Ordinance No. 11-1252  
(PLANNING FOR NEW URBAN AREAS) OF THE )  
URBAN GROWTH MANAGEMENT FUNCTIONAL ) Introduced by Councilor Robert Liberty  
PLAN )

WHEREAS, Policy 1.3 of Metro's Regional Framework Plan (RFP) calls for housing choices in the region, including single-family and multi-family housing, ownership and rental housing and housing offered by the private, public and nonprofit sectors; and

WHEREAS, the RFP also calls for consideration of incentives for, and agreements with local governments, landowners and others for the provision of the full range of housing opportunities when Metro expands the urban growth boundary; and

WHEREAS, the proposed amendments to Title 11 will offer greater guidance for achieving Policy 1.3 by providing clearer objectives for the concept planning and comprehensive planning for new urban areas and by linking housing needs in new areas with those in the county, the adjoining city and the region; and

WHEREAS, the information generated in response to these provisions will aid the Metro Council in determining whether proposed additions to the Urban Growth Boundary meet the regional goals and objectives; and

WHEREAS, the Metro Council considered the proposed amendments as part of Ordinance No. 10-1244B (For the Purpose of Making the Greatest Plan and Providing Capacity for Housing and Employment to the Year 2030; Amending the Regional Framework Plan and the Metro Code; and Declaring an Emergency), adopted on December 16, 2010, but postponed action to allow further consideration by Metro's advisory committees and the public; and

WHEREAS, A subcommittee of MPAC recommended amendments to Title 11 to the full MPAC on January \_\_, 2011; and

WHEREAS, on January \_\_, 2011, MPAC recommended approval of the amendments to Title 11 by the Metro Council; and

WHEREAS, the Council held a public hearing on the proposed amendments on January 13, 2011; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Title 11 of the Urban Growth Management Functional Plan is hereby amended, as indicated by Exhibit A, attached and incorporated into this ordinance.
2. The Council directs the Chief Operating Officer to submit Title 11, as amended by Exhibit A, to the Department of Land Conservation and Development as part of the periodic review process initiated by the department to review Ordinance No. 10-1244B.

3. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, explain how the amendments to Title 11 comply with state law and the Regional Framework Plan.

ADOPTED by the Metro Council this 13th day of January, 2011.

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Tom Hughes, Council President

Attest:

Approved as to form:

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Tony Anderson, Clerk of the Council

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Daniel B. Cooper, Metro Attorney

## Exhibit A to Ordinance No. 11-1252

### TITLE 11: PLANNING FOR NEW URBAN AREAS

#### 3.07.1105 Purpose and Intent

The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. It is the purpose of Title 11 to guide such long-range planning for urban reserves and areas added to the UGB. It is also the purpose of Title 11 to provide interim protection for areas added to the UGB until city or county amendments to land use regulations to allow urbanization become applicable to the areas.

#### 3.07.1110 Planning for Areas Designated Urban Reserve

- A. The county responsible for land use planning for an urban reserve and any city likely to provide governance or an urban service for the area, shall, in conjunction with Metro and appropriate service districts, develop a concept plan for the urban reserve prior to its addition to the UGB pursuant to sections 3.07.1420, 3.07.1430 or 3.07.1435 of this chapter. The date for completion of a concept plan and the area of urban reserves to be planned will be jointly determined by Metro and the county and city or cities.
- B. A concept plan shall achieve, or contribute to the achievement of, the following outcomes:
  1. If the plan proposes a mix of residential and employment uses:
    - a. A mix and intensity of uses that will make efficient use of the public systems and facilities described in subsection C;
    - b. A development pattern that supports pedestrian and bicycle travel to retail, professional and civic services;
    - c. ~~Opportunities for a range of needed housing types~~A range of housing of different types, tenure and costs addressing the housing needs in the prospective UGB expansion area, the governing city, the county and the region if data on regional housing needs are available, in order to create economically and socially vital and complete neighborhoods and cities and avoiding the concentration of poverty and the isolation of families and people of modest means;
    - d. Sufficient employment opportunities to support a healthy economy, including, for proposed employment areas, lands with characteristics, such as proximity to transportation facilities, needed by employers;
    - e. ~~Well-connected systems of streets, bikeways, parks, recreational trails and other public open spaces, natural areas, recreational trails and public transit that link to needed housing so as to reduce the combined cost of housing and transportation;~~

e.f. A well-connected system of parks, natural areas and other public open spaces;

f.g. Protection of natural ecological systems and important natural landscape features;  
and

g.h. Avoidance or minimization of adverse effects on farm and forest practices and  
important natural landscape features on nearby rural lands.

2. If the plan involves fewer than 100 acres or proposes to accommodate only residential  
or employment needs, depending on the need to be accommodated:

a. Opportunities for a range of housing typesA range of housing of different types,  
tensure and costs addressing the housing needs in the prospective UGB expansion  
area, the governing city, the county and the region if data on regional housing  
needs are available, in order to create economically and socially vital and  
complete neighborhoods and cities and avoiding the concentration of poverty and  
the isolation of families and people of modest means;

b. Sufficient employment opportunities to support a healthy economy, including, for  
proposed employment areas, lands with characteristics, such as proximity to  
transportation facilities, needed by employers;

c. Well-connected systems of streets, bikeways, pedestrian ways, parks, natural  
areas, recreation trails;

d. Protection of natural ecological systems and important natural landscape features;  
and

e. Avoidance or minimization of adverse effects on farm and forest practices and  
important natural landscape features on nearby rural lands.

C. A concept plan shall:

1. Show the general locations of any residential, commercial, industrial, institutional and  
public uses proposed for the area with sufficient detail to allow estimates of the cost  
of the public systems and facilities described in paragraph 2;

2. For proposed sewer, park and trail, water and storm-water systems and transportation  
facilities, provide the following:

a. The general locations of proposed sewer, park and trail, water and storm-water  
systems;

b. The mode, function and general location of any proposed state transportation  
facilities, arterial facilities, regional transit and trail facilities and freight  
intermodal facilities;

- c. The proposed connections of these systems and facilities, if any, to existing systems;
  - d. Preliminary estimates of the costs of the systems and facilities in sufficient detail to determine feasibility and allow cost comparisons with other areas;
  - e. Proposed methods to finance the systems and facilities; and
  - f. Consideration for protection of the capacity, function and safe operation of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.
3. If the area subject to the concept plan calls for designation of land for industrial use, include an assessment of opportunities to create and protect parcels 50 acres or larger and to cluster uses that benefit from proximity to one another;
4. If the area subject to the concept plan calls for designation of land for residential use, the concept plan will describe the goals for meeting the housing needs for the concept planning area, the governing city, the county and the region if data are available. As part of this statement of objectives, the concept plan shall identify the general number, cost and type of market and nonmarket-provided housing. The concept plan shall also identify preliminary strategies, including fee waivers, subsidies, zoning incentives and private and nonprofit partnerships, that will support the likelihood of achieving the outcomes described in subsection B of this section;
- 4.5.Show water quality resource areas, flood management areas and habitat conservation areas that will be subject to performance standards under Titles 3 and 13 of ~~the Urban Growth Management Functional Plan~~this chapter;
- 5.6.Be coordinated with the comprehensive plans and land use regulations that apply to nearby lands already within the UGB;
- 6.7.Include an agreement between or among the county and the city or cities and service districts that preliminarily identifies which city, cities or districts will likely be the providers of urban services, as defined at ORS 195.065(4), when the area is urbanized;
- 7.8.Include an agreement between or among the county and the city or cities that preliminarily identifies the local government responsible for comprehensive planning of the area, and the city or cities that will have authority to annex the area, or portions of it, following addition to the UGB;
- 8.9.Provide that an area added to the UGB must be annexed to a city prior to, or simultaneously with, application of city land use regulations to the area intended to comply with subsection C of section 3.07.1120; and

| 9.10. Be coordinated with schools districts, including coordination of demographic assumptions.

D. Concept plans shall guide, but not bind:

1. The designation of 2040 Growth Concept design types by the Metro Council;
2. Conditions in the Metro ordinance that adds the area to the UGB; or
3. Amendments to city or county comprehensive plans or land use regulations following addition of the area to the UGB.

E. If the local governments responsible for completion of a concept plan under this section are unable to reach agreement on a concept plan by the date set under subsection A, then the Metro Council may nonetheless add the area to the UGB if necessary to fulfill its responsibility under ORS 197.299 to ensure the UGB has sufficient capacity to accommodate forecasted growth.

### 3.07.1120 Planning for Areas Added to the UGB

- A. The county or city responsible for comprehensive planning of an area, as specified by the intergovernmental agreement adopted pursuant to section 3.07.1110C(7) or the ordinance that added the area to the UGB, shall adopt comprehensive plan provisions and land use regulations for the area to address the requirements of subsection C by the date specified by the ordinance or by section 3.07.1455B(4) of this chapter.
- B. If the concept plan developed for the area pursuant to section 3.07.1110 assigns planning responsibility to more than one city or county, the responsible local governments shall provide for concurrent consideration and adoption of proposed comprehensive plan provisions unless the ordinance adding the area to the UGB provides otherwise.
- C. Comprehensive plan provisions for the area shall include:
1. Specific plan designation boundaries derived from and generally consistent with the boundaries of design type designations assigned by the Metro Council in the ordinance adding the area to the UGB;
  2. Provision for annexation to a city and to any necessary service districts prior to, or simultaneously with, application of city land use regulations intended to comply with this subsection;
  3. Provisions that ensure zoned capacity for the number and types of housing units, if any, specified by the Metro Council pursuant to section 3.07.1455B(2) of this chapter;



~~4. Provision for affordable housing consistent with Title 7 of the Urban Growth Management Functional Plan if the comprehensive plan authorizes housing in any part of the area~~If the comprehensive plan authorizes housing in any part of the area:

- a. -Provision for a range of housing – including ownership and rental housing; single-family and multi-family housing; and a mix of public, nonprofit and private market housing – needed in the prospective UGB expansion area, the governing city, the county and the region if data are available; and
- b. Implementing strategies that increase the likelihood that needed housing types – which may include housing options for households with incomes at or below 80, 50 and 30 percent of median family incomes – will be market feasible or provided by nonmarket housing developers within the 20-year planning period.

4. This subsection is intended to encourage local governments to consider a range of policies and incentives that could facilitate development of a broader range of housing types and affordability than might otherwise occur. The comprehensive plan may include such provisions and requirements as the city or county deems necessary to ensure the provision of needed housing types and to implement the strategies identified in the plan.

5. Provision for the amount of land and improvements needed, if any, for public school facilities sufficient to serve the area added to the UGB in coordination with affected school districts. This requirement includes consideration of any school facility plan prepared in accordance with ORS 195.110;
  6. Provision for the amount of land and improvements needed, if any, for public park facilities sufficient to serve the area added to the UGB in coordination with affected park providers.
  7. A conceptual street plan that identifies internal street connections and connections to adjacent urban areas to improve local access and improve the integrity of the regional street system. For areas that allow residential or mixed-use development, the plan shall meet the standards for street connections in the Regional Transportation Functional Plan;
  8. Provision for the financing of local and state public facilities and services; and
  9. A strategy for protection of the capacity and function of state highway interchanges, including existing and planned interchanges and planned improvements to interchanges.
- D. The county or city responsible for comprehensive planning of an area shall submit to Metro a determination of the residential capacity of any area zoned to allow dwelling units, using the method in section 3.07.120, within 30 days after adoption of new land use regulations for the area.

### 3.07.1130 Interim Protection of Areas Added to the UGB

Until land use regulations that comply with section 3.07.1120 become applicable to the area, the city or county responsible for planning the area added to the UGB shall not adopt or approve:

- A. A land use regulation or zoning map amendment that allows higher residential density in the area than allowed by regulations in effect at the time of addition of the area to the UGB;
- B. A land use regulation or zoning map amendment that allows commercial or industrial uses not allowed under regulations in effect at the time of addition of the area to the UGB;
- C. A land division or partition that would result in creation of a lot or parcel less than 20 acres in size, except for public facilities and services as defined in section 3.07.1010(ww) of this chapter, or for a new public school;
- D. In an area designated by the Metro Council in the ordinance adding the area to the UGB as Regionally Significant Industrial Area:
  - 1. A commercial use that is not accessory to industrial uses in the area; and
  - 2. A school, a church, a park or any other institutional or community service use intended to serve people who do not work or reside in the area.

### 3.07.1140 Applicability

Section 3.07.1110 becomes applicable on December 31, 2011.

Agenda Item Number 8.1

**Resolution No. 11-4222**, For the Purpose of Improving the Efficiency and Effectiveness of the Regional Solid Waste Management System, Protecting the Environment, and Conserving Natural Resources by Supporting Statewide Legislation to Eliminate Single-use Plastic Bags at Retail Checkout.

Metro Council Meeting  
Thursday, Jan. 6, 2011  
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF IMPROVING THE	)	RESOLUTION NO. 11-4222
EFFICIENCY AND EFFECTIVENESS OF THE	)	
REGIONAL SOLID WASTE MANAGEMENT	)	Introduced by Chief Operating Officer
SYSTEM, PROTECTING THE ENVIRONMENT	)	Michael J. Jordan, with the concurrence of
AND CONSERVING NATURAL RESOURCES	)	Council President Tom Hughes
BY SUPPORTING STATEWIDE LEGISLATION	)	
TO ELIMINATE SINGLE-USE PLASTIC BAGS	)	
AT RETAIL CHECKOUT	)	

WHEREAS, Metro's goals and values include protecting and enhancing the region's natural assets, ensuring quality habitat for fish, wildlife and people, and reducing and managing waste in an environmentally sound and cost-effective manner; and

WHEREAS, as the solid waste planning authority for the Metro region, Metro is charged with preserving and enhancing the quality of life and environment for the residents of the Metro region and for future generations; and

WHEREAS, the Regional Solid Waste Management Plan, 2008-2018 (RSWMP), identifies reduction of the amount and toxicity of solid waste for the next 10 years as a key program area that will require coordination and collaboration among Metro, local and state governments, service providers and the public; and

WHEREAS, Metro has pursued a collaborative approach to reducing the problem of single-use plastic bags contaminating curbside recycling, but the improper recycling of this waste stream continues to adversely affect the operations of material recovery facilities and thereby reduce the efficiency and effectiveness of the solid waste system; and

WHEREAS, governments and non-profit organizations across Oregon, including Metro, are incurring the cost of cleaning up single-use plastic bags in waste water treatment facilities, roads, waterways and beaches; and

WHEREAS, the Metro region includes more than 900 river miles that drain into the Willamette and Columbia rivers and eventually enter the Pacific Ocean, and plastic bags that enter these rivers travel downstream where they pollute the ocean and endanger animals that become entangled in or eat them; and

WHEREAS, single-use plastic bags are unnecessary in light of reusable alternatives; and

WHEREAS, in 2011 the Oregon Legislature will consider a prohibition on the distribution of single-use plastic check-out bags by retail stores; and

WHEREAS, Metro support of state legislation to ban single-use plastic bags is consistent with Metro's goals, values and the RSWMP; and

WHEREAS, joint action and collaboration with other local governments is the most effective way to support state legislation that prohibits retailers from providing single-use plastic bags; now therefore

BE IT RESOLVED that the Metro Council supports state legislation that prohibits retailers from providing single-use plastic bags.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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Tom Hughes, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

## **STAFF REPORT**

### **FOR THE PURPOSE OF IMPROVING THE EFFICIENCY AND EFFECTIVENESS OF THE REGIONAL SOLID WASTE MANAGEMENT SYSTEM, PROTECTING THE ENVIRONMENT AND CONSERVING NATURAL RESOURCES BY SUPPORTING STATEWIDE LEGISLATION TO ELIMINATE SINGLE-USE PLASTIC BAGS AT RETAIL CHECKOUT**

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Date: January 6, 2011

Prepared by: Scott Klag  
503-797-1665

## **BACKGROUND**

Metro has been a strong supporter of reducing problems caused by plastic bags in our recycling system and the wider environment. Plastic bags are an especially severe problem for the curbside recycling system. Even after extensive joint efforts over the past several years by Metro, local governments, haulers and material recovery facilities (MRFs) to educate the public, far too many plastic bags find their way into curbside bins. At the MRFs these bags clog sorting equipment - costing time and money to clean them out and thereby reducing the efficiency of the region's recycling system. The bags also find their way into recovered materials (e.g., paper bales), reducing their value and passing a problem down the line to the paper mills that use these materials as manufacturing feedstocks.

Plastic bags are also a significant litter and ecological problem. Blowing plastic bags at MRFs, transfer stations and landfills require special efforts, such as fences and cleanup crews, to keep the bags from blighting in neighboring properties. Garbage and recyclables that are taken to facilities both in our region and eastern Oregon contribute to these problems. The parks and natural areas Metro manages are also not immune to this litter problem.

The Oregon Zoo supports this resolution because of the impacts plastic bags have on wildlife. The bags find their way into our local waterways and from there into the ocean. In the ocean, they accumulate with other plastic debris and harm marine life. Animals become entangled in plastic debris and mistake plastic bags for food. Plastic bags in the ocean photo-degrade into smaller and smaller bits which absorb toxins such as PCBs (polychlorinated biphenyls) and are eaten by ocean organisms. These toxins bioaccumulate in the tissues of organisms as they move up the food chain.

This resolution supports state legislation that would prohibit retailers from providing single-use bags at checkout. The bill promotes reusable bags which are defined as those designed for multiple reuse and made of a machine-washable fabric. Prohibited single-use bags would include those made of paper, plastic or any other materials. Restaurants would be exempted. Bags provided elsewhere in a store other than at the checkout counter (e.g., the produce department) would not be prohibited. A provision to allow single-use bags for "items marked with protected health information or other confidential information" is intended to exempt prescriptions sold at pharmacies.

The legislation would encourage the use of reusable bags by only allowing retailers to provide paper bags if they charged at least five cents for them. The paper bags would also need to meet a recycled content standard. Provisions are included that would allow retailers to provide paper bags for free to qualifying low income persons.

The bill is intended to establish a level playing field – retailers and consumers would face the same regulations throughout the state. The cities of Lake Oswego and Portland have adopted resolutions similar to Resolution No. 11-4222 endorsing a statewide approach. It should be noted that the draft state bill includes a provision that would pre-empt local governments, including Metro, from imposing "any

tax, fee, assessment, surcharge or other charge” on checkout bags. This would cover checkout bags whether they are reusable or single-use, or made of recycled paper, plastic or any other material.

The bill is being introduced by Senators Mark Hass (D-Beaverton) and Jason Atkinson (R-Central Point), and is supported by the Northwest Grocery Association. The bill is similar to SB 1009 introduced in the 2010 Special Session and revised after consultation with stakeholders in the interim. Environmental organizations, including Environment Oregon and Oregon Surf Riders, are also strongly supporting legislation banning plastic bags at checkout. The Oregon Department of Environmental Quality, which supported SB 1009, also is expected to support a plastic bag ban this session. Strong opposition from the American Chemistry Council and manufacturers of plastic bags is expected.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

Strong opposition at the state legislature from the American Chemistry Council is expected.

### **2. Legal Antecedents**

During the 2010 Special Session, SB 1009 was proposed to prohibit the free provision of plastic bags. The bill created considerable discussion both at the legislature and among the public at large, but did not advance. The Metro Council supported that bill.

### **3. Anticipated Effects**

Passage of state legislation supported by the resolution should have the following effects:

- Reduce the impacts and costs that free plastic bags have on the region’s recycling system (material recovery facilities).
- Improve quality of other materials collected at curbside.
- Support the Regional Solid Waste Management Plan (RSWMP) product stewardship policy. Retailers are required to take steps that reduce “downstream” impacts of providing single use bags.
- Reduce plastic bag litter from entering the environment, causing local and downstream ecological problems.

### **4. Budget Impacts**

No significant budget impact on Metro.

## **RECOMMENDED ACTION**

Staff recommend the adoption of Resolution No. 11-4222 supporting state legislation to eliminate the use of single use plastic bags at retail checkouts.

Materials following this page were distributed at the meeting.



London



Volvo — London





Alexander Dennis Enviro — Kelowna, BC



HONG KONG

堅尼地城 104  
KENNEDY TOWN 104

KMB  
KOWLOON & MONTE CARLO

WT 6551

104

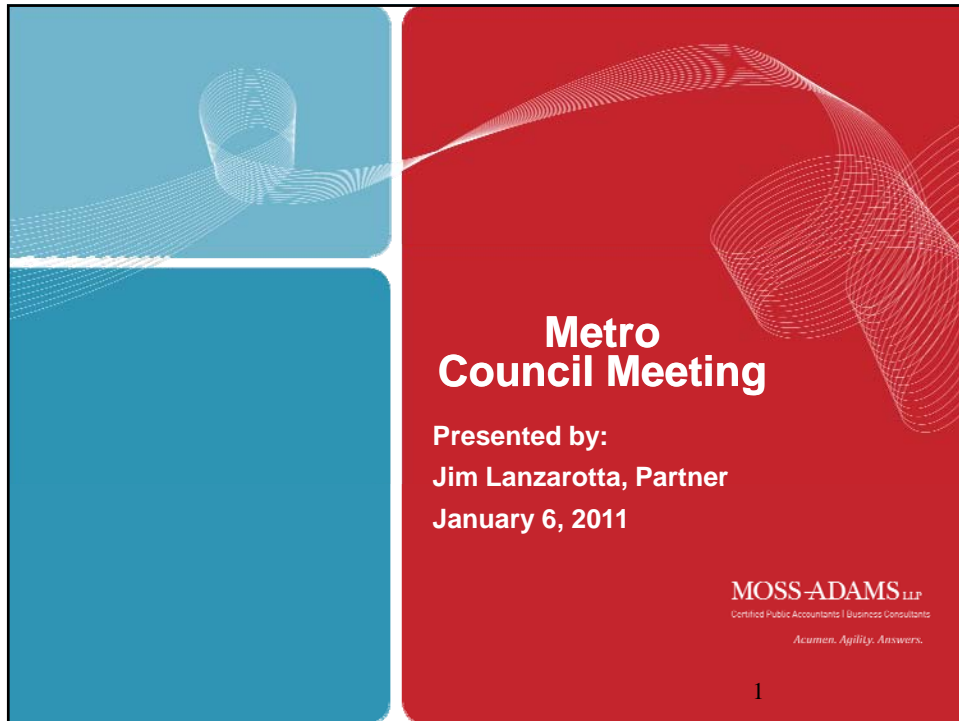
香港安老院  
Hong Kong Old People's Home



VAN HOOL

LONDON





## WHAT WE WILL COVER

- Scope of services provided
- Audit results
- Status of prior year observations and recommendations
- Current year observations and recommendations
- Comments
- Acknowledgements



## NATURE OF SERVICES PROVIDED

- **Audit of the financial statements** of Metro (which include MERC) under Generally Accepted and Government Audit Standards
- **Technical review** of the CAFR for compliance with GAAP as well as GFOA Certificate of Excellence requirements
- Compliance testing/reporting under **Oregon Minimum Audit Standards**
- Single **Audit of federal grant programs** under OMB Circular A-133 and the Single Audit Act
- Special reports for Metro's compliance with the Natural Areas and Zoo **bond expenditures**

3

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## AUDIT RESULTS

### Unqualified opinion

- Reasonable, but not absolute, assurance
- Financial statements presented in accordance with GAAP

## AUDIT RESULTS

- Compliance testing/reporting under Oregon Minimum Audit Standards
  - One instance in ten contracts sampled with approval by individuals in excess of the amount of their authority



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## AUDIT RESULTS

- Audit Federal Grant Compliance
  - (clean) opinion on compliance
  - One significant deficiency and non-compliance matter noted
    - Federal contract language missing from federal contracts (repeat)



6

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## AUDIT RESULTS

- Natural Areas/Zoo Bond Compliance
  - No findings of non-compliance of nature of approved expenditures



7

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## SIGNIFICANT DEFICIENCIES - LAST YEAR

Significant Deficiencies – prior year:

Resolved:

- Accurate SEFA preparation – ability to identify and report all federal programs

Repeat

- Federal contract language

**SCHEDULE OF  
EXPENDITURES OF  
FEDERAL AWARDS  
(SEFA)  
&  
SUPPLEMENTARY  
INFORMATION  
SCHEDULE**

8

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## SIGNIFICANT DEFICIENCIES – CURRENT YEAR

### Significant Deficiencies – current year:

- Providing accurate consensus data to OPEB actuary
- Review adjustments to payroll expenses related to the Zoo bond fund (ZIAW)



9

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## BEST PRACTICES / RECOMMENDATIONS

### Prior Year:

- Resolved - Posting and approving journal entries by the same user
- Resolved - Accounts Payable cut-off



10

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## BEST PRACTICES / RECOMMENDATIONS

Current Year:

- Timely bank reconciliations for MERC bank accounts



11

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## COMMENTS

## Questions?

12

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## ACKNOWLEDGEMENTS

Thanks to Suzanne Flynn, Margo Norton, and Tim Collier for their leadership; Don Cox, Karla Lenox, Diane Arakaki, and Julia Fennel for their excellent facilitation of our audit procedures; members of the Audit Committee for their guidance and oversight

## METRO COUNCIL MEETING

January 6, 2011  
Jim Lanzarotta, Partner



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[www.oregonmetro.gov](http://www.oregonmetro.gov)

# 2010 Outcomes Summary

Metro Central Enhancement Grant  
Program

December 2010

## About Metro

Clean air and clean water do not stop at city limits or county lines. Neither does the need for jobs, a thriving economy, and sustainable transportation and living choices for people and businesses in the region. Voters have asked Metro to help with the challenges and opportunities that affect the 25 cities and three counties in the Portland metropolitan area.

A regional approach simply makes sense when it comes to making decisions about how the region grows. Metro works with communities to support a resilient economy, keep nature close by and respond to a changing climate. Together we're making a great place, now and for generations to come.

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[www.oregonmetro.gov/connect](http://www.oregonmetro.gov/connect)

### **Metro Council President**

Tom Hughes

### **Metro Councilors**

Shirley Craddick, District 1

Carlotta Collette, District 2

Carl Hosticka, District 3

Kathryn Harrington, District 4

Rex Burkholder, District 5

Robert Liberty, District 6

### **Auditor**

Suzanne Flynn

---

## METRO CENTRAL ENHANCEMENT GRANT PROGRAM

### 2010 project highlights

The people who live and work here are the best source of ideas about important public investments. That is why Metro solicits grant proposals from residents, nonprofit organizations, schools, community groups and others that want to strengthen their communities and make them more sustainable. Grants act as a catalyst by encouraging individuals and organizations with good ideas to step forward and get involved.

With support for grass-roots projects, Metro helps make neighborhoods safer and more livable by giving residents tools to fix up their homes and improve their property values, protect habitat, encourage outdoor opportunities for kids and families, and support skills training programs so that people can get good, steady jobs. The right investments today can make a difference for our children and our future.

The Metro Central grant program began in early 1991 with the opening of the Metro Central Transfer Station, 6161 NW 61<sup>st</sup> Ave., Portland. Funds are generated from a 50-cent surcharge collected on each ton of garbage processed at the Metro Central transfer station. Monies compensate the community around the facility

During the 2010 funding cycle, Metro invested \$105,000 into 27 local neighborhood improvement projects. Monies were awarded to local organizations that deliver aid to local residents and to groups that look after our natural environment. Special consideration was given to applicants with matching funds and partnerships that leverage other support. In some instances, the choice was to get the most out of what we have by maintaining and enhancing some existing programs. It will cost more tomorrow if we do not address problems today.

Projects align with one or more of Metro's funding goals (FG 1 – 8):

1. rehabilitation, upgrading or direct increase in the real and or personal property owned or operated by a nonprofit organization with Internal Revenue Code 501(c)(3) status
2. the preservation or enhancement of wildlife, riparian (streamside) zones, wetlands, forest lands and marine areas, and improve public awareness and the opportunities to enjoy them
3. improvement to, or increase in, recreational areas and programs
4. improvement in the safety of the area
5. improvement of the appearance, cleanliness or environmental quality of the area neighborhood
6. benefits to youth and seniors
7. benefits to low-income persons



## 8. recycling opportunities

The 2010 grant cycle marks the 19th year funds have been awarded through the Metro Central program. During that time, more than \$3.1 million has been invested in 316 neighborhood improvement projects. Through partnerships with local organizations, Metro is able to support bold new ideas and help maintain programs that respond to vital needs in the community.

This report offers highlights from some of the projects funded in 2010 in relation to Metro's programmatic goals. For more information about these or other projects, or for details about Metro's grant resources, visit Metro's website ([www.oregonmetro.gov/grants](http://www.oregonmetro.gov/grants)). Metro is proud to help inspire real change by awarding grants to support local improvements – large and small. Congratulations to our 2010 award recipients on project accomplishments. There is much of which to be proud, and still much work to be done.

---

### FUNDING GOAL 1

**Rehabilitation, upgrading or direct increase in real and or personal property owned or operated by a nonprofit organization with Internal Revenue Code 501(c)(3) status**

**Grantee: Golden Harvesters**

**Award: \$11,500**

Last year, a record number of Oregon families turned to emergency food sources for help. In North Portland, one relatively small and entirely volunteer-driven nonprofit was poised to respond. With funds from Metro for a new walk-in cooler and two new upright freezers, Golden



Harvesters food pantry distributed 110,600 pounds of foodstuff to families, elders and disabled meeting Federal poverty guidelines. The additional storage space increased the amount of fresh produce, dairy products and frozen foods for members from 35 to 50 lbs each visit (twice a week), and allowed the organization to enroll 305 new member households. Instead of spending close to \$1,200 on repairs to the old cooler, this year Golden Harvesters has additional storage for 1,200 lbs of frozen food alone.



## **FUNDING GOAL 2**

**Preservation or enhancement of wildlife, riparian zones, wetlands, forest lands and marine areas, and improve public awareness and the opportunities to enjoy them**

**Grantee: Forest Park Conservancy**

**Award: \$7,500**

Break out your boots and dust off your pack - a 5,400-acre park beckons. Sheltering an ancient forest and the headwaters of more than a half-dozen creeks and streams, Forest Park provides essential habitat to an estimated 112 species of birds and 60 species of mammals. Offering 70 miles of nature, hiking, running and biking trails, it serves an outdoor classroom where thousands of people experience nature. Volunteers have always played a critical role in restoring, maintaining and improving the natural area and trails; the Forest Park Conservancy coordinates the majority of that work. Metro invested in the organization's outreach efforts to help create a larger, more sustainable pool of park stewards and help add new crew leadership to support the growing number of volunteers. As a result, a new hike program brought five different school-aged groups to explore the area, and twice-a-week work parties and other special volunteer events brought in more.



## **FUNDING GOAL 3**

**Improvement to, or increase in, recreational areas and programs**

**Grantee: Audubon Society**

**Award: \$5,000**

Affectionately referred to as, "the bat roost," Audubon's education center is not exactly a secluded place where winged mammals might find a quiet corner to hang upside down and sleep. In fact, the 1,000 sq. ft. area is usually a blur of activity where more than 30,000 community members pass a year on their way to summer, spring and winter break camps, attend trainings to become volunteer sanctuary tour guides, or sift through research materials in a well-used library. Metro grant funds replaced severely worn linoleum and carpet with durable and sustainable pre-finished bamboo flooring. Volunteers logged 196 hours helping out on the project.



## FUNDING GOAL 4

### Improvement in the safety of an area

Grantee: **Josiah Hill**

Award: **\$2,000**

Bisphenol A Perfluorinated chemicals. Phthalates. Hard to pronounce, harder yet to imagine these are common household toxics found in canned food, upholstered furniture and rubber duckies. In response and out of concern for the community's safety, Josiah Hill III Clinic used Metro's grant award to carry out its Healthy Homes Healthy People Healthy Environment project. Targeting low income families of color living in older, potentially substandard housing that are even more vulnerable to higher exposures to these pollutants and toxins (Multnomah County, 2000), Josiah Hill recruited and trained bilingual community leaders to work with 10 families to identify and minimize hazards, change behaviors and address structural issues their homes. Educational materials were designed and printed in three languages, distributed to more than 350 families at numerous events and community fairs. Related workshops are scheduled for this year.

## FUNDING GOAL 5

### Improvement of the appearance, cleanliness or environmental quality of the area/neighborhood

Grantee: **Neighbors for Clean Air**

Award: **\$2,000**

Parents want their kids to get the best education available. Some diligently research local options which is when Mary Peveto made a startling discovery: seven schools in her neighborhood were ranked in the bottom 2 percent nationally for air pollution due to nearby toxic industrial emissions. A self-proclaimed "accidental activist," Mary and other Northwest Portland parents were enraged and determined to do something about it. Metro's funds helped Neighbors for Clean Air launch an interactive website where visitors could map odors, find a direct link to the state's odor complaint system, get key information about risks of air toxics and sign an online petition and get regular updates. Understanding that air pollution disproportionately affects low-income communities and populations of color, the group has presented at other community meetings and offered assistance addressing common concerns. Advocacy has attracted other partner organizations, amassed hundreds of signatures on a petition asking the state to adopt stricter regulations, and led to collaboration on a statewide health survey.





## **FUNDING GOAL 6**

### **Benefits to youth or seniors**

**Grantee: Irvington Covenant Community Development Corporation**

**Award: \$5,500**

Hard hat, safety vest, goggles, gloves. Sound like a complete set of tools for a professional in the building trades? Think again, or better yet, ask one of the 13 teenagers that participated in Constructing Hope's week-long pre-apprenticeship program. From classroom lectures, guest speakers, site visits and hands-on practice, minority youth from low-income families learned it will take a mix of trade and life skills to successfully compete for and secure a family-wage job in an industry currently lacking diversity. Whether their interest lies in becoming a carpenter, a millwright, pile driver, cement mason, welder, or heavy machine operator, a strong work ethic and professional conduct are essentials. So what about that dreaded high school math class? According to several participants, an absolute necessity!



## **FUNDING GOAL 7**

### **Benefits to low income persons**

**Grantee: Theodore Roosevelt Woman's Scholarship Association**

**Award: \$2,500**

Ever since her freshman year at Roosevelt high school in North Portland, Emily Walters knew that if she wanted to pursue her dream of becoming a medical professional, she would need a financial scholarship. "If you do your best in everything, it pays off in the end," she said. Fortunately for Emily and other dedicated students, there is a Theodore Roosevelt Woman's Scholarship Association to help them pursue their dreams. Metro's grant was used to send one senior class valedictorian to Oregon State University, where she qualified for an additional scholarship worth \$20,000 a year.



## **FUNDING GOAL 8**

### **Increase recycling opportunities**

**Grantee: Community Warehouse**

**Award: \$2,500**

The method used by the Community Warehouse is really quite simple: collect from donors with more than they want and give to others in need. The results from this straight-forward approach are stunning – each week 65 families get essential items to turn their house into a home. Clients, from more than 90 local social service agencies, include women escaping domestic violence, the elderly, people with mental and physical disabilities, refugee families from all over the world, youth and adults recovering from substance abuse, and the working poor. A dedicated group of volunteers takes regular shifts (32,400 hours donated in 2010 alone) and a contribution from Metro ensures that warehouse operations continue seven days a week.



PRE-APPRENTICESHIP PROGRAM  
**2010 Spring Break Youth Camp**



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[www.iccdc.org](http://www.iccdc.org)

## Constructing Hope Youth 2010 Spring Break Report

Constructing Hope Spring Break Youth Camp was housed at Irvington Covenant CDC facility, March 22 through March 26, 2010. This one week program encompassed low-income youth ages 13 to 20, with efforts to increase their knowledge and understanding of apprenticeship and construction career opportunities.

Thirteen students were selected from partner agencies including Roosevelt High School Portland Opportunities Industrialization Center (POIC), Youth Employment Institute (YEI), Jefferson High School and Harriett Tubman Young Women Academy.

Student Ethnicity: Nine (9) African American, Two (2) Hispanic and Two (2) Caucasian  
Gender: Five (5) Females and Eight (8) Males

Ages	Number of Youths
13	2
15	1
16	3
17	2
18	3
19	2
20	1
Total	13 Youths

The program outline was very aggressive with classroom lectures, discussions, guest speakers, hands-on projects and site-visits. Students explored alternative employment opportunities with the following agencies; Northwest College of Construction, Pacific NW Carpenters Institute, City of Portland Transportation, Water Bureau, and Environmental Services Wastewater Treatment Plant.

During our tour at Northwest College of Construction, students had the opportunity to see Cement Masons poured a slab of sidewalk, explored HVAC systems, Welding and Sheet Metal apprentice training. Northwest instructor's shared and discussed the many work duties of a laborer and their role in highway construction and bridge work. Upon completion of the tour, students were familiar with the educational and skill requirements necessary to enter all of the trades available at NW College of Construction.



At Pacific NW Carpenters Institute, students were introduced to Carpentry, Millwrights, Pile Driving, Interior/Exterior Specialists, Scaffold Erecting, Trade Show Exhibition career opportunities. For every career listed, Bob Calwhite, Assistant Director discussed how math requirements are very important and necessary part for successfully entering the trades.

At the City of Portland Transportation Maintenance Department, Derrick Brooks, Public Works Supervisor II, provided an in-depth tour for students discussing the many career opportunities that the maintenance department alone offers, which leads to meaningful careers. They began at the sign department discussing how sign making is an apprenticeship, as well as, heavy equipment operating. Students saw small to massive size equipment that the maintenance department use in their daily operation. Lastly, Vincent Woods, an HR Manager also shared how to apply for youth internships with the City of Portland. Upon conclusion of the tour students, were well aware of the skills necessary for City of Portland maintenance and highway construction.



The Portland Water Bureau tour focused on how the City monitor's and maintains Portland's drinking water system. Students saw technology in the computer lab necessary for monitoring the reservoir. Participants were overwhelmed with the computer technology necessary to run the plant, which was extremely impressive. One student commented that "I have never seen so many computers in one room." However, students made the connection to skilled training and educational requirements for going green.

At the Environmental Services, Water Treatment Plant students were able further understand why we treat water and see the process first hand. Matt Youmans said "I am impressed with how the cities clean the river water and released it back into the rivers." They talked with five (5) different engineers about the educational requirement and how they got their jobs.



After going to the Water Bureau, students worked with a Journeyman Plumber, Brett Griffith to build a demonstration wet wall model, to scale, of how water flows. Other classroom activities included: An Introduction to apprenticeships, Applied Construction Math, and Introduction to Blueprint Reading, which students applied to building a bird house with our Elder Craftsman instructor, Master Carpenter Mr. Samuel Riggins. Safety Training was 1 ½ hour provided by American General Contractors.

Upon completion of the Spring Break Youth Camp, a number of students wrote about the importance of education and how they saw the necessity of math, in order to be prepared to enter the workforce and/or to continue education or skill training. Exposing students to these opportunities did increase the likelihood that some will desire to pursue a career in the construction trade. Five (5) students from the Spring Break Program have expressed an interest to be considered for our four (4) week Summer Program, which is scheduled for July 12, through August 8, 2010.



**\*Students Letters \***

Jerry Williams age 18



So far we have gone on three trips to different jobs and I learned a lot from each location we visited. The city of Portland maintenance dept. was very smelly. Also I learned that most jobs on that site you should have a background in math and engineering. I think I would have to attend college for most of the jobs but I think that career's world really benefit me.

I really liked when we went to the construction and site activities. I can tell they really care about their workers

also. You have to be trained to do most of the work. Also they don't play about what time you come into work. I think that on the job you really have to be responsible on how you watch the clock. I would love to work there driving trucks but I know I have to have CDL before I'm ready to operate any vehicle.

**\*Students Letters \***

Matt Youmans age 18



What is apprenticeship?

-An industry training system with a committee or employer

Today we had a guest speaker named Mr. Riggins who is starting us off with a math lesson about how math and building a house are connected. The Pythagorean Theorem is a huge part of building a house. We learned how to read a tape measure. We also learned how to graph a kitchen layout. After we finished the kitchen graphing, we made birdhouses from scratch. When we were done with the bird houses we had lunch then we went to the City of Portland Transportation Department which is where we learned about how they work and operate the whole City of Portland. The most interesting thing I learned yesterday was it doesn't really take a collage education to work for the city.

Today we finished our designs on our birdhouses. We left about 9:30 today and went to the Portland Water Bureau and learned about how they operate the city's drinking water.

We also learned about the apprenticeships the have. At the Water Bureau we got to see a few of the section and how they operate and control the water throughout Portland. The thing that interested me was the control panel room where they start and stop water levels in and tanks across town. After we got done with the tour we came back and had lunch. After lunch we did some math to connect it to construction.



Anthony Allen 16





## Metro Grant Year End Report

Metro funds offer critical assistance in realizing establishment of website devoted to the reduction of air toxics through education and action.



## Report Contents

**Sect 1** Use of Metro funds

**Sect 2** Community Outreach

**Sect 3** Project Results

## Connect

Information



People



Action

## Change

## [www.whatsinourair.org](http://www.whatsinourair.org)

Neighbors for Clean Air is a citizen action group population in the nation at risk of excess cancer due founded in May 2009 with the purpose of mobilizing to toxic air emissions. In addition, 35 area schools individuals to participate in the air pollution were ranked in the worst 5% nationwide of schools regulatory process.

The intention of the website is to help safeguard the public's health, especially that of the most vulnerable including children, elderly and low income residents from toxic air pollution that our state and federal government currently estimates

exceeds the health-safety goals of the U.S. Clean Air Website content follows the guidelines of the federal Act (CAA) by a factor of 72, and according to the Emergency Planning and Community Right-to-Know 2010 Presidential Cancer Panel report, the Act of 1996 that states all citizens have a right to carcinogenicity of Portland's air is twice the national know the chemicals to which they may be exposed average, with Oregon having the 3<sup>rd</sup> largest in their daily living.

cited in industrial air pollution toxic hot spots. NCA believes we can enhance the livability of our communities, by providing better access to information about the toxic emissions from neighboring industrial facilities, and other sources of toxic air emissions.



## Section 1



## Use of Metro funds for project

Neighbors for Clean Air successfully launched [www.whatsinourair.org](http://www.whatsinourair.org) on April 22, 2010. After receiving funding from the Metro Community Enhancement program, NCA contracted with The Swift Collective, a national class website development agency ([www.swiftcollective.com](http://www.swiftcollective.com)) located at NW 18th/Upshur in Northwest Portland. Swift Collective agreed to the terms to develop the website for the grant monies awarded: \$2000. Actual cost of initial development, with a four-person workgroup, was valued at \$17,000.

Key elements include:

1. Interactive mapping for odor complaints, which helps identify neighborhoods and local industrial sources.
2. Direct link to DEQ odor complaint system.
3. Key information about risks of air toxics.
4. Information about NCA, email sign-up, social media links
5. Page for actionable items; eg: petition.

## Section 2

### Community Outreach through building alliances with key partners

*Northwest District Association*

*Chapman ES*

*Emerson ES*

*Cathedral School*

*Childpeace Montessori*

*Fruit & Flower*

*Friendly House*

*Food Front*

*Linnton Neighborhood*

*NE Coalition of Neighborhoods*

*Portsmouth Neighborhood Association*

*Stand for Children NW Chapter*

*Lewellen Neighborhood Association*

*Oregon Environmental Council*

*Oregon Physicians for Social Responsibility*

*Activistas.com*

*The Mother PAC*

*Northwest Environmental Defense Center*



Website helps forge key Neighborhood Association partnerships.

## Community Outreach

NCA was founded by a group of parents in NW Portland who became alarmed to find that the seven schools in the neighborhood were ranked in the bottom 2% in the nation for bad air due to toxic industrial emissions.

The website has greatly assisted outreach efforts by helping the NW neighborhood activists and other communities who perceived the problem of industrial pollution to either be "just a NW neighborhood" issue, or more commonly: just an isolated problem not connected to a broader regulatory framework. The website has successfully linked our efforts to the bigger issue of regional air toxics exceedences making our work more effective both in realizing local pollution reductions and reform statewide necessary to ensure broader long term protection from toxic air pollution.

The website has also established NCA as a leading air pollution advocate, and created opportunity to work with other partner organizations to focus on air toxics reductions; such as: local organizations: NEDC, PSR, OEC, Stand for Children, Activistas and The Mother PAC; and national organizations: Center for Health, Environment and Justice, and Healthy Child, Healthy World.



## Section 2, cont...

### Key Outreach Activities in the Community assisted by the Website:

1. Food Front/Neighbors for Clean Air EARTH DAY celebration – April 22, 2010  
**Food Front Cooperative** has been an engaged and supportive partner in all of our outreach efforts in the northwest neighborhood. Food Front has always been willing to accommodate NCA representatives to table with petitions or just find space on their bulletin board for signs. This year, the coop co-organized an **Earthday celebration with Neighbors for Clean Air** to celebrate a year of community activist work and to launch the new website. This led to Food Front later featuring Neighbors for Clean Air for their **September cash register donations and raising over \$400** to support the ongoing effort.
2. Stand for Children/Neighbors for Clean Air Rally – June 30, 2010  
Greatly assisted by the new website, featuring the online petition, Neighbors for Clean Air amassed over 50 people, parents and children, to deliver 600+ signatures asking DEQ to adopt stricter air toxics benchmarks.

### Portland neighborhood group demands tighter pollution controls

Published: Wednesday, June 30, 2010, 5:11 PM Updated: Wednesday, June 30, 2010, 5:21 PM



Scott Learn, The Oregonian

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A Northwest Portland citizens group presented more than 600 petitions to the **Department of Environmental Quality** this afternoon asking the agency to protect children from short-term spikes in industrial air pollution.

About 50 members of the group, **Neighbors for Clean Air**, rallied with their children in front of DEQ's downtown headquarters. Its leaders have raised **questions about pollution at a nearby ESCO foundry** and say the state's air quality benchmarks, which focus on lifetime exposures, aren't adequate to protect children.

14

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5 Comments

DEQ says its **scientific advisory will consider setting short-term benchmarks**, but the work won't until mid-2011. The evaluation is to take two years, the agency sa

State regulators "have been saying the right things" of late about studying short-term exposures, said Mary Peveto, a co-founder of the citizens group and a mother of three. "When it's going to happen is a whole different concern."

-- Scott Learn

## Section 2, cont...

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### 3. NW Neighborhood priorities:

NCA has established ongoing relationships with NWDA and Linnton, regularly meeting and collaborating on key air pollution reduction efforts including the ESCO permit renewal process, and the Petroleum tank farm permit renewals. NCA also represents the neighborhood concerns as a sitting member of the Portland Air Toxics Solution Advisory Committee.

### 4. North Portland/NE Portland:

With a population that is 85% white, pollution in the Northwest neighborhood is not often seen as an environmental justice issue. However, it is widely understood that air pollution disproportionately affects low-income communities and populations of color. Portland is no exception. Residents in the public housing situated in the "buffer zone" or the Thurman-Vaughn corridor that separates the NW Industrial neighborhood from the NW neighborhood are severely impacted by the heavy metal emissions from the steel foundry located on NW Vaughn. NCA has also established working relationships with Northeast Neighborhood Coalition (representing a population of 55,799; comprised of 57.8% white, 29% black, 7.5% Hispanic) and the Portsmouth Neighborhood Association (population 8,304; 53.3% white, 14.4% black, 17.4% Hispanic). These neighborhoods have similar or worse industrial pollution profiles, and also specifically deal with emissions associated with steel manufacturing. NCA has presented at three community meetings on the east side and in North Portland to present the website and offer assistance in addressing the concerns of industrial toxic air pollution.

### 5. Lewellen Neighborhood, Milwaukee:

Citing specifically research through [whatsinourair.org](http://whatsinourair.org), neighborhood leaders from Milwaukee approached NCA to assist with their effort to fight toxic styrene emissions emitted by McClure Industry, a company who is facing a renewal of their air discharge permit. NCA has publicized the experience of McClure neighbors and participated in the public hearing held by DEQ.



# Section 3 - Project Results

## Media--

[www.whatsinourair.org](http://www.whatsinourair.org) has been featured in local and national media, through coverage of the work of Neighbors for Clean Air.

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### IN THE NEWS

NPR series on workplace Resil (3/10)  
Work-life balance: Can that it  
The Gift of Flexibility (New York Times)  
Australia gets first national parental leave scheme (The Australian)  
How, Dad feels as stressed as I (New York Times)

### RECENT POSTS

Introducing: The Mother PAC, Oregon original  
You're invited! NW Mothers' Alliance benefit event: Thursday 9/21  
Who are your kids' media role models?

Guest post: The part-time worker blues | Main | Tell Congress to Protect Our Children From Toxic Chemicals

### LOCAL MOM ACTIVIST WRITES ABOUT PORTLAND'S TOXIC AIR (YES, IT'S TRUE)

Mary Peveto is a mom on a mission. And she's informed - very informed. And organized. So organized that she co-founded local action group Neighbors for Clean Air. If you missed her recent OpEd piece in The Oregonian, "Portland's air pollution: The hidden danger in our midst" - it's well worth a read.



Here's how she concludes her excellent piece:

"As the nation watches the catastrophe in the Gulf of Mexico continue to play out, we're learning that we cannot let unfettered economic interests override every other metric of reasonable precautionary investments, including protecting the health of our children. We can change this picture. We need to sit down with industry, their watchdogs, scientists and concerned citizens and

### Portland's air pollution: The hidden danger in our midst

Published: Tuesday, June 15, 2010, 9:00 AM

Guest Columnist  
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By Mary Peveto

Last week, I sat in a meeting at the Kenton Historic Firehouse among dozens of residents of North and Northeast Portland. The meeting was billed as "Meet Oregon's Air-Quality Cops" -- representatives from the Oregon Department of Environmental Quality and assistant attorneys general from the Oregon Department of Justice's newly minted environmental crime unit.

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By its nature, air pollution is a local issue. Members of the audience

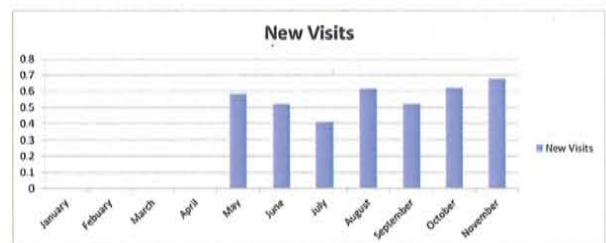
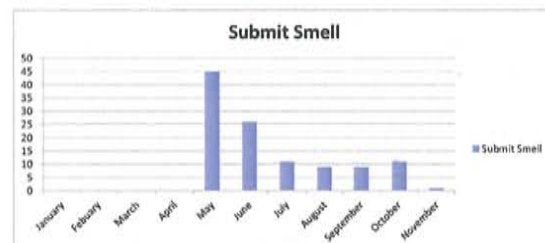
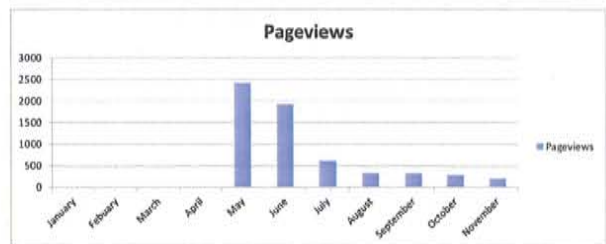
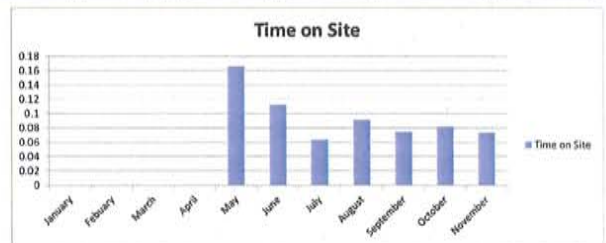
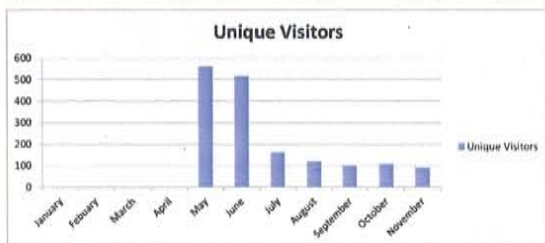
## Section 3 - Project Results

### Whats in our air website analysis

January 1st, 2010 - November 18th, 2010

- Most KPIs have decreased over the beginning of the website launch in May.
- Percentage of new visitors has increased MoM to close to 70% in November.
- 49% of visits were direct, 34% were from referring sites and 18% of were from search engines.
- The majority of keywords were brand related.

Month	Unique Visitors	Visits	New Visits	Pageviews	Time on Site	Average Page Time	Bounce Rate	Submit Smell	Address Submit	Submit Smell	Address Submit	Submit Smell
January	0	0	0	0	0	0	0	0	0	0	0	0
February	0	0	0	0	0	0	0	0	0	0	0	0
March	0	0	0	0	0	0	0	0	0	0	0	0
April	0	0	0	0	0	0	0	0	0	0	0	0
May	562	960	58.44%	2418	3:59	2:52	54.69%	45	9	223	10	10
June	516	880	52.27%	1924	2:42	2:18	51.82%	26	9	39	0	0
July	163	312	41.03%	613	1:32	1:96	66.99%	11	0	12	0	0
August	120	143	61.54%	325	2:11	2:27	59.44%	9	0	12	0	0
September	99	157	52.23%	319	1:47	2:03	65.61%	9	0	9	0	0
October	108	137	62.04%	286	1:58	2:09	58.39%	11	0	13	0	0
November	90	71	67.78%	199	1:46	2:21	53.33%	1	0	1	0	0
Totals	1471	2679	54.68	6084	2:53	2:27	56.22%	112	18	309	10	10



Analytics demonstrate that the initial launch of the site was extremely successful and met the goals of action intended, with over 1000 new visitors in May and June with goal conversions of nearly 50% on submitting address and 10% submitting odors.



## Section 3 - Project Results



Next Steps:



1. Community collaborative health study – understanding there are limitations to data available regarding environmental health exposures, NCA is working with Oregon Physicians for Social Responsibility, and County and State health officials to design an collaborative health survey to better understand children's exposure to the toxic air emissions.
2. Work with DEQ to assist in locating the sources causing high monitored levels of cadmium, arsenic, and lead that have been found at the North Roselawn test site and the EPA's test site: Harriet Tubman.
3. Continued development of website to expand communication capabilities and community customization. Better integration of blog and website content. Develop more flexible platform for citizen actions.





Metro Central Station Community Enhancement Committee  
2011 slate of projects

Applicant	Project Summary	Project Description	Request amount	Award	Funding goals *	New Applicant
Audubon Society of Portland	Collins Sanctuary interpretive sign project	Funds for a 2'x3' interpretive sign for the Collins Sanctuary. Covers professional services (design, fabrication and installation).	\$5,000	\$1,000	1,2,3,	N
Chess for Success	After-school chess club at James John Elementary	Funds to support 75 students mtg 2x/wk for 7 months. Covers costs of personnel (program mgr, stipend for chess coach), 75 take-home chess sets, t-shirts.	\$2,000	\$2,000	6,7	Y
Forest Park Conservancy	Volunteer crew leadership training program	Funds for personnel (salaries, overhead) for asst trails & restoration mgr, volunteer coordinator, supplies for crew leaders.	\$16,700	\$13,500	2,3,4,5,6,7	N
Friendly House, Inc.	Safety & security improvement project	Funds to purchase security system (i.e., lighting, mirrors, 2-way radios, cameras, ID card system/cards, dead bolts, window, door) and labor to install.	\$18,345	\$10,000	1,3,4,6,7	N
Northwest Children's Theater and School	Ensuring access and safety for all project	Funds of capital projects at NNCC. Covers professional services (lighting, electrician), materials (permits, inspections).	\$8,000	\$3,500	3,6,7	N
Northwest Film Center	Green Visions video project	Funds for 7-mnth program for 60 seniors, teens. Covers personnel (filmmaker, assts), overhead (marketing dvd, rentals), equipment (camera, editing).	\$8,300	\$7,000	6,7	Y
Open Meadow Alternative School	Upgrades to phone system project	Funds to purchase, install, train staff to use new phone system at high school. Covers equipment, supplies (parts, installation).	\$2,000	\$2,000	1,6,7	N
Oregon Student Association	Student Alliance & Leadership project	Funds to support 45 students in a leadership development program. Covers costs for camp (food, activities, supplies), professional services (child care), stipends for 2 mentors.	\$7,100	\$7,100	3,4,6,7	Y
Portland Festival Symphony	Classical concert in Cathedral Park	Funds to pay up to 65 local professional musicians to perform a free classical concert in Cathedral Park on July 31, 2010.	\$6,000	\$4,000	3,4,6,7	N
Sauvie Island Center	Expanding farm-based opportunities for youth	Funds for 2 field trips for 45 students, 5-day camp for 15-20 youth. Covers personnel (ed mgr, asst, youth intern), overhead (field trip fees), supplies, transportation.	\$5,732	\$5,732	3,6,7	N

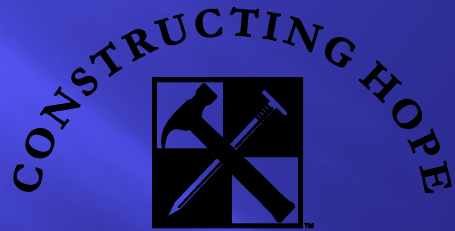
Metro Central Station Community Enhancement Committee  
2011 slate of projects

Schoolhouse Supplies	Tools for Schools at James John ES	Funds for educational materials for 500 students. Covers personnel, overhead (utilities, advertising, rent), professional services (bookkeeping), supplies (backpacks, etc).	\$7,500	\$7,500	6,7	Y
Store to Door	Grocery shopping assistance	Funds to fill and deliver 2,000 orders for 23 clients. Covers costs of personnel, overhead, supplies, transportation, insurance.	\$5,184	\$5,184	6,7,8	N
			<b>\$91,861</b>	<b>\$68,516</b>		

Please note: A project's responsiveness to funding goals as listed in this table reflects information provided by the applicant. Metro's grant program places a priority on projects or programs that best meet the criteria and benefit the area most directly affected by Metro Central Transfer Station.

Projects will be considered that meet one or more of the following grant funding goals (the order of the list does not imply ranking or weighting):

- 1 = rehabilitation, upgrading or direct increase in the real and or personal property owned or operated by a nonprofit organization with Internal Revenue Code 501(c)(3) status;
- 2 = preservation or enhancement of wildlife, riparian (streamside) zones, wetlands, forest lands and marine areas; improved public awareness of these resources and opportunities to enjoy them;
- 3 = improvement to, or increase in, recreational areas and programs;
- 4 = improvement in the safety of the area;
- 5 = improvement of the appearance, cleanliness or environmental quality of the area neighborhood;
- 6 = benefits to youth and seniors;
- 7 = benefits to low-income persons;
- 8 = recycling opportunities.



**PRE-APPRENTICESHIP PROGRAM**

405 NE Church St.  
Portland, OR 97211  
Voice: (503) 281-1740  
Fax: (503) 719-7685

Pat Daniels Executive Director

## Constructing Hope Youth Spring Break 2010



## Program Objectives

- Career/ Apprenticeship Opportunities
  - Alternative choice for college
  - Reduce drop-out rate

## Program Statistics and Partners

Partners	Youths
Rosemary Anderson High School/Portland Opportunities Industrialization Center (RAHS/POIC)	6
Youth Employment Institute (YEI)	2
Jefferson High School	2
Harriett Tubman Young Women Academy	2
Roosevelt High School	1
Total Youth	13

## Classroom

- Apprenticeship Introduction
- Apprenticeship Survival Guide
- Employment skills
- Career Survey

Introduction to Blueprint Reading



Construction Math



## Construction Math

- Applied Construction Math
- Math its all about space.



- Built Bird houses



## Hands-On-Building



•Plumbing



•Carpentry



## Construction Apprenticeships Exploration

Northwest College of Construction



Pacific Northwest Carpenters Institute



City of Portland-Transportation Department



## City of Portland Apprenticeships

Water Bureau

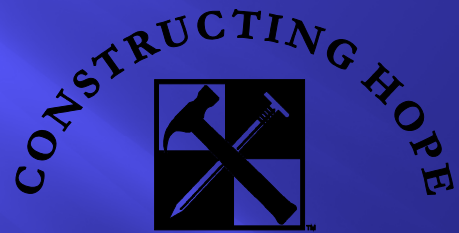


Environmental Services  
Wastewater Treatment Plant



## City of Portland Apprenticeships





**PRE-APPRENTICESHIP PROGRAM**

405 NE Church St.  
Portland, OR 97211  
Voice: (503) 281-1740  
Fax: (503) 719-7685  
[www.constructinghope.com](http://www.constructinghope.com)





# Constructing Hope

"PARTNERSHIP FOR COMMUNITY GROWTH AND CHANGE"

## Mission

Encourage self-sufficiency through a skills training and a educational program. To facilitate permanent job placement for program graduates to increase economic stability for families and the community.

## Recruitment

Recruitment efforts will specifically target people with a legal history, minorities, and low-income individuals. Eligibility requirements are:

- Minimum eighteen (18) years of age
- Must be resident of Portland Metro area
- Must be US citizen or legal resident & possess appropriate work permits (Proof required)
- Must possess high school diploma, GED or in process of completing GED requirements.
- Must demonstrate knowledge and ability; reading and performing math functions at eight (8th) grade level.
- Must be physically, socially and mentally capable of meeting training & employment expectations.
- Must be capable of passing industry required physical & drug screening test during training and at employment.
- Must possess or be capable of acquiring state drivers' license and/or auto insurance.

Constructing Hope classes are scheduled during **Fall (September)**, **Winter (January)**, and **Spring (March)** providing training and education in the following areas.

- |                                |                               |
|--------------------------------|-------------------------------|
| • Construction Applied Math    | • Certifications              |
| • Intro. Blue Print Reading    | -Fork-Lift                    |
| • Apprenticeship & Trade Info. | -Flagging                     |
| -Guest Trade Speakers          | -First Aid/CPR                |
| -Site visits                   | • Sustainable Green Training  |
| • Life Skills                  | • Hands-On Training           |
| -Work Ethics                   | -Tool Identification & Safety |
| -Creative Financing            | -OSHA Safety Training         |

## Focus

Our primary focus is on individuals with legal history, minorities or low income, ages 18 years and older.

## Strategic Objective

- ◆ Diversifying the construction trades in our community.
- ◆ Raise employment for those with legal history within the community.
- ◆ Expand opportunities for those with low income.

Constructing Hope Pre-Apprenticeship Program Offers a nine (9) week training program that is FREE to the general Public. To ensure participant career success, we ask for a three (3) year commitment from individual to assist with employment retention.

## Constructing Hope Pre-Apprenticeship Program

405 NE Church Street  
Portland, Oregon 97211

Phone: 503-281-1234

Fax: 503-719-7685

E-mail: [patd@iccdc.org](mailto:patd@iccdc.org)

[www.constructinghope.com](http://www.constructinghope.com)

# CAREERS IN THE CONSTRUCTION TRADES

Careers in the construction trades are available for men and women looking for good jobs that pay well and offer opportunity for advancement.

If you are ready to support yourself and your family with a steady job and a living wage, and if you're able to work hard and are willing to learn new skills, read more about the pre-apprenticeship training programs open to you. These programs offer training and employment support services to help you get started in your new career.



## WHAT'S REQUIRED?

Each program offered has a unique curriculum and application requirements but all seek individuals who will work outdoors and perform demanding physical labor, will commit to 100 percent attendance and are drug free.

### ETAP

Phone: 503.978.5746  
[www.pcc.edu/career/etap/](http://www.pcc.edu/career/etap/)

### Constructing Hope Pre-Apprenticeship Program

Phone: 503.281.1234  
[www.constructinghope.org](http://www.constructinghope.org)

### Portland YouthBuilders

Phone: 503.286.9350 ext 254  
[www.pybpdx.org](http://www.pybpdx.org)

### Oregon Tradeswomen, Inc. (OTI)

503.335.8200 x23  
[www.tradeswomen.net](http://www.tradeswomen.net)

For more information about  
pre-apprenticeship training opportunities, contact:

**Jerry Walker, MCA**  
Assistant Director Economic Equity  
503-802-8509 (phone)  
503-802-8496 (fax)  
[jerryw2@hapdx.org](mailto:jerryw2@hapdx.org)

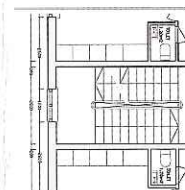


**Housing Authority of Portland**  
135 SW Ash Street  
Portland, OR 97204

(503) 802-8300  
(503) 802-8554 TTY  
[www.hapdx.org](http://www.hapdx.org)

# BUILD A SUCCESSFUL CAREER IN THE CONSTRUCTION TRADES

Learn more about family-wage job  
opportunities for men and women





(ETAP)

Classes meet Monday to Friday, 6 pm to 9 pm, and Saturdays from 8 am to 4:30 pm. ETAP staff offers support services throughout the training and up to three years after graduation. Eligible students must be 18 or older, have earned a high school diploma or GED and are able to work legally in the U.S.



(OTI)

Held six times per year, the class meets Tuesday to Thursday from 9 am to 5 pm, and includes 30 hours of hands-on training, plus one week of environmental remediation that leads to certification in specific areas. Eligible participants must be women age 18 years or older, who have a high school diploma or GED, English-language proficiency, and are able to get a driver's license and are in a stable living situation.

**BUREAU OF LABOR AND INDUSTRIES (BOLI)**  
**APPRENTICESHIP & TRAINING DIVISION**

Pre-apprenticeship programs help you learn more about the construction trades and available job opportunities, and help you acquire the skills you need to qualify for an apprenticeship program. Construction industry apprentices are paid to learn, and combine supervised on-the-job training experience with classroom instruction. Individuals interested in a construction career may enter a BOLI-approved apprenticeship program through direct application or as a graduate of a pre-apprenticeship program.

The Constructing Hope Pre-Apprenticeship Training Program, affiliated with Irvington Covenant Community Church, is a faith-based program with a focus on serving low-income men and women with a



Classes meet Monday to Thursday from 8 am to noon, and some Saturdays. Students receive case management, life skills classes, job placement assistance and mentoring from senior craftsmen. Eligible students must be 17 years or older, have a State of Oregon photo identification card or a valid Oregon State driver's license, have earned a high school diploma or able to complete their GED and meet income requirements.



(C-PAT)

Participants in the eight-week training who meet all attendance standards receive a \$180 stipend twice per month. Eligible students must be 18 to 25 years old with a high school diploma or GED.



## WHO CAN APPLY?

Are you 17 years old or older?  
Are you interested in construction?  
Do you enjoy working outside?  
Do you take pride in your work?

Constructing Hope invites males, females, low-income residents, and people with a legal history to apply.

Tuition is free - We do ask you to make a three-year commitment to work.

Classes: Fall & Winter. 146 hours of classroom and hands on training.

Winter Semester: January - April  
Fall Semester: September - December

Classes are held Monday-Wednesday, 8:00 a.m. - 12 noon with occasional hands-on training sessions held on Saturday.

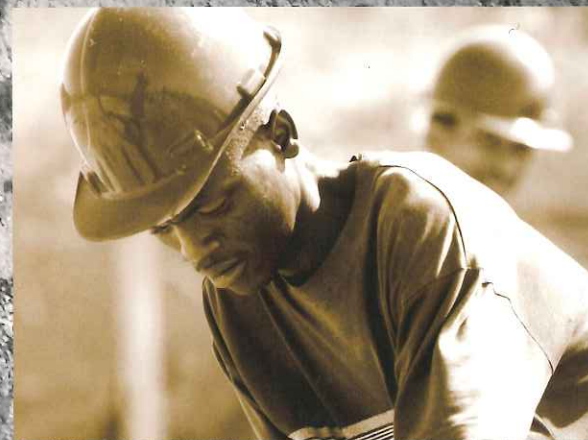
For more information about Constructing Hope, or any of our programs, give us a call at (503) 281-1234, or even just come by the office. We look forward to serving you.



CONSTRUCTING HOPE  
PRE-APPRENTICESHIP PROGRAM  
IRVINGTON COVENANT  
COMMUNITY DEVELOPMENT  
CORPORATION  
405 NE CHURCH ST.  
PORTLAND, OR 97211



PRE-APPRENTICESHIP PROGRAM



A program of  
Irvington Covenant Community  
Development Corporation (ICCDC)

405 NE Church St.  
Portland, OR 97211

[constructinghope.org](http://constructinghope.org)



**Cement Mason  
Carpenter  
Electrician  
Plumber  
Heavy Equipment  
Sheet Metal**

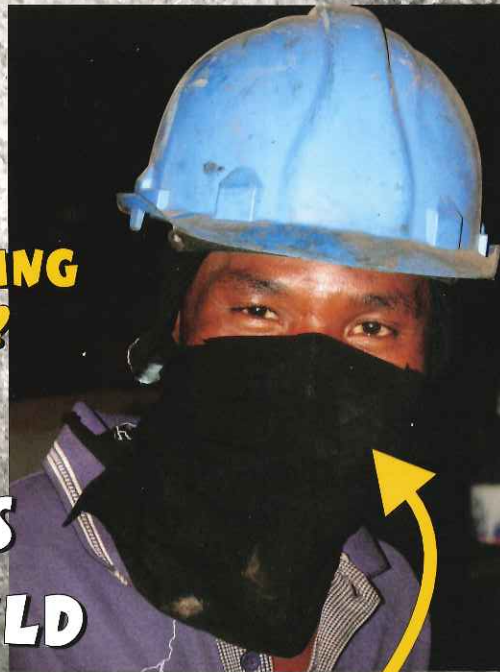
**YOU CAN HAVE A WELL-PAYING  
CAREER IN CONSTRUCTION!**



**THIS  
COULD  
BE YOU**

Constructing Hope means that we are in business of “rebuilding the lives of people in our community.” We are a community-based organization that serves the economic and community needs of the greater Portland Metropolitan area. Our mission is:

- Encourage self-sufficiency through a skills training and education program for young persons with a legal history and low income individuals from the community 17 years of age and older.
- Facilitate permanent job placement for program graduates to increase economic stability for families and the community.



**TAKE THIS  
OPPORTUNITY  
TO MAKE A  
SIGNIFICANT  
CHANGE IN  
YOUR  
LIFE**







**WHAT YOU  
SEE**

[www.whatsinourair.org](http://www.whatsinourair.org)



**WHAT YOU  
BREATHE**

**According to a national study published in USA Today, 35 Portland area schools rank in the top 5% of all US schools with the most dangerous outdoor air quality in the country.**

**According to the National Cancer Institute, Multnomah County has higher rates of breast, lung, pancreas and brain cancers than both the Oregon and the national averages.**

**According to the EPA's National Air Toxics Assessment released in July 2009, Oregon has the 3rd largest population in the nation at risk of excess cancer due to toxic air pollution.**

**Join Neighbors for Clean Air to put a stop to toxic air pollution.**

**For more information: [www.whatsinourair.org](http://www.whatsinourair.org)**





# The City of Wilting Roses

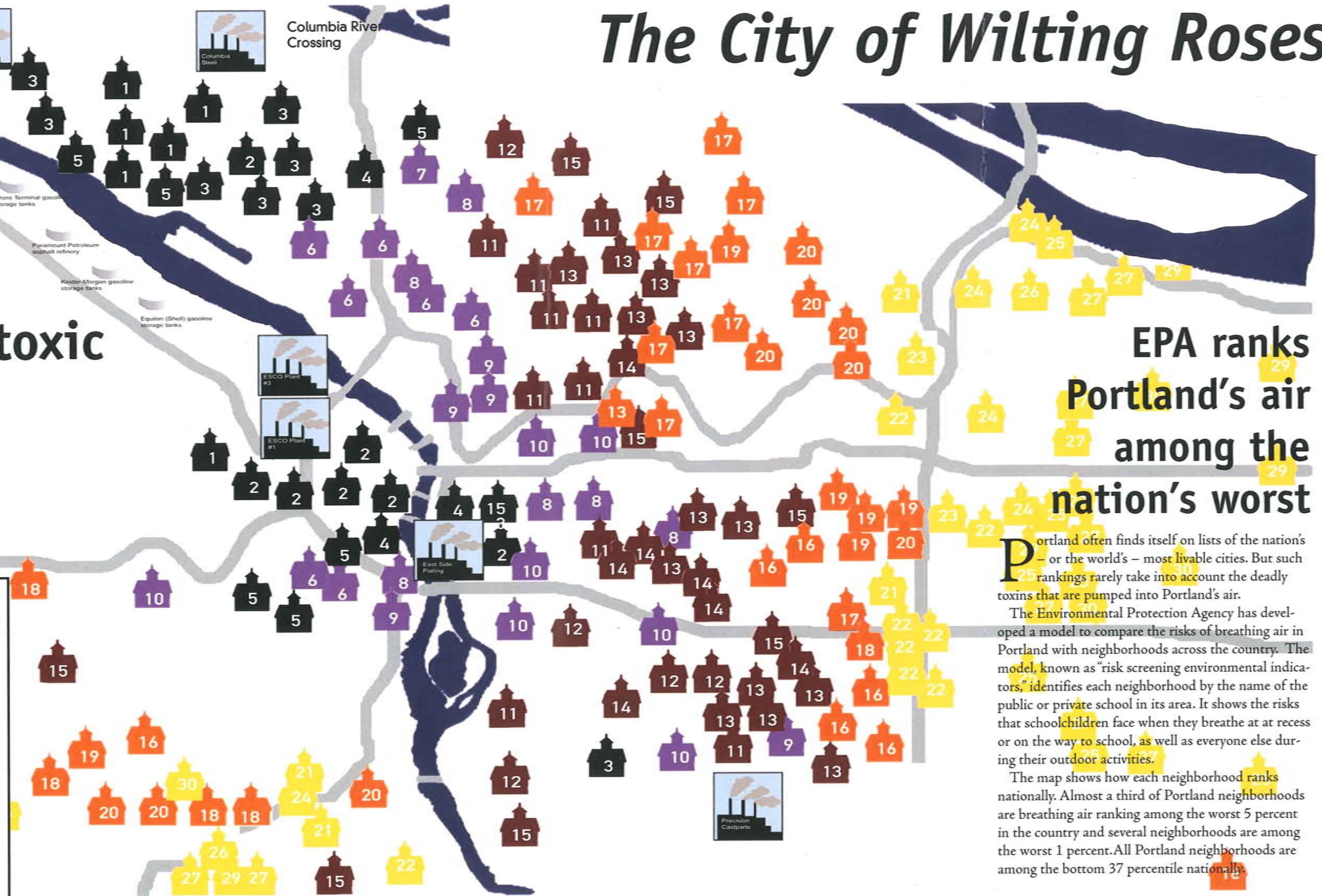
## A map of Portland's toxic hot spots



### KEY

How air quality in Portland neighborhoods ranks nationally

- Worst 1-5 percent
- Worst 6-10 percent
- Worst 11-15 percent
- Worst 16-20 percent
- Worst 21-30 percent



## EPA ranks Portland's air among the nation's worst

Portland often finds itself on lists of the nation's — or the world's — most livable cities. But such rankings rarely take into account the deadly toxins that are pumped into Portland's air.

The Environmental Protection Agency has developed a model to compare the risks of breathing air in Portland with neighborhoods across the country. The model, known as "risk screening environmental indicators," identifies each neighborhood by the name of the public or private school in its area. It shows the risks that schoolchildren face when they breathe at recess or on the way to school, as well as everyone else during their outdoor activities.

The map shows how each neighborhood ranks nationally. Almost a third of Portland neighborhoods are breathing air ranking among the worst 5 percent in the country and several neighborhoods are among the worst 1 percent. All Portland neighborhoods are among the bottom 37 percentile nationally.



# optin

## ONLINE PARTICIPATION TOOL

Metro Council presentation

Jan. 6, 2011



## What is Opt In?

### Internet public opinion research panel

A new way to engage with residents of the region and find out what is important to them.



## Objectives and outcomes

- Increased community **engagement**
- Broader **demographic** representation
- Increased representation by traditionally **underserved populations**
- **Sustained** relationships
- Increased trust in **transparency** and responsiveness
- More **effective and efficient** use of resources



## Demographic information

- **Basic Demographics (following census)**
  - Age, gender, ethnicity, income, education
- **Spatial/geographic demographics:**
  - County, Zip code
- **Employment demographics:**
  - Industry; Public employee in household
- **Political demographics**
  - Party, Ideology (e.g., liberal, middle of road, conservative)
- **Behavior demographics:**
  - Involvement in community affairs; How often people read newspapers; If they've visited Metro parks/entities in the last year
- **Attitudes:**
  - General attitudes about priorities for the region; Attitudes about Metro, Zoo, etc.

## The power of partnership



United Way of the  
Columbia-Willamette



NORTHWEST HEALTH  
FOUNDATION



## How can you help?

- Join Opt In
- Invite stakeholders and contact lists to participate in Opt In
- Share online tools to Connect with Metro
- Encourage constituents to participate
- Tell us what information will help you make effective decisions



## Learn more

Join Opt In and discover more ways  
to Connect with Metro online:

[www.oregonmetro.gov/connect](http://www.oregonmetro.gov/connect)





PORTLAND-VANCOUVER AREA ONLINE PANEL

## **Fast facts about the Opt In public opinion research panel**

**Opt In is a new way to let decision-makers know what is important to you.** Launched by Metro regional government and several community partners in January 2011, Opt In is an online research panel that gathers public opinion from residents of the Portland-Vancouver metropolitan area. The goal of the new panel is to create an easy, cost-effective way for you to provide input into decisions affecting you and your communities.

**Opt In helps Metro make the right choices.** Making a great place to live with good jobs and healthy communities takes the involvement of lots of different people with a variety of viewpoints. Residents of the region need to weigh in on issues that make a difference — issues such as schools, housing, sustainability, parks, community centers and clean drinking water.

**Opt In brings together respected partners working for the good of the community.** Metro created Opt In with three prominent community partners: Northwest Health Foundation, United Way of the Columbia-Willamette, and Portland State University's College of Urban and Public Affairs. Working with other organizations dedicated to improving health, well-being and quality of life in the region helps Metro broaden its outreach and create a panel that is more representative of the region's diverse communities and residents.

**Opt In makes the most of limited resources.** Metro's innovative online research panel uses an effective private-sector tool to make government more efficient. The panel is hosted by Davis, Hibbitts & Midghall (DHM), a Portland-based consulting firm with extensive experience in opinion research related to public policy. Creating a large, diverse research panel allows Metro and its partners to get broad-based public input faster and cheaper.

**Participating in Opt In is quick, easy, confidential – and rewarding.** Panelists will be asked to participate in two or three short online surveys each month. All personal and demographic information that panel participants submit will remain confidential; Metro and its partners will receive only aggregate reports of participants' survey responses. That means private information stays private—you share only what you want. Let Metro know what's important to you, on your time and on your terms. Join the panel now and be entered in a monthly drawing for \$100 Powell's gift certificates and other prizes.

**Opt In now. Weigh in for the future.**

**For more information, visit [www.oregonmetro.gov/connect](http://www.oregonmetro.gov/connect).**

## **Exhibit B to Ordinance No. 11-1252**

### **Findings of Fact and Conclusions of Law**

Ordinance No. 11-1252 amends Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan to improve implementation of the policies in section 1.3, Housing Choices and Opportunities, of Chapter 1 of the Regional Framework Plan (RFP). The amendments clarify the level of specificity for planning for new urban areas and connect housing needs in the new area, the city, the county and the region with Title 11 planning. Rec. \_\_\_. (Staff Report, December 21, 2010, p. 1.) The revisions will apply to concept planning of urban reserves prior to addition to the UGB (section 3.07.1110 of Title 11) and comprehensive planning after addition of land to the UGB (section 3.07.1120).

#### **Regional Framework Plan**

##### Chapter 1, Policy Section 1.1 (Compact Urban Form)

The amendments will increase the likelihood that the new areas will offer a wider range of housing choices than experienced in such areas in the past. Rec. \_\_\_. (Letter from Metro Councilor Robert Liberty to Dave Nielsen, CEO, Home Builders Ass'n of Metro Portland.) This will help achieve the policies in section 1.1 by encouraging more compact development in new urban areas.

##### Chapter 1, Policy Section 1.3 (Housing Choices and Opportunities)

The amendments will increase the likelihood that the new areas will offer a wider range of housing choices than experienced in such areas in the past. Rec. \_\_\_. (Letter from Metro Councilor Robert Liberty to Dave Nielsen, CEO, Home Builders Ass'n of Metro Portland.) This will help accomplish the policies in section 1.3.

##### Chapter 1, Policy Section 1.4 (Employment Choices and Opportunities)

The amendments will increase the likelihood that the new areas will offer a wider range of housing choices than experienced in such areas in the past. Rec. \_\_\_. (Letter from Metro Councilor Robert Liberty to Dave Nielsen, CEO, Home Builders Ass'n of Metro Portland.) This will help achieve the balance of the number and wage levels of jobs with housing cost and availability in each part of the region, as Policy 1.4.2 strives to achieve.

##### Chapter 1, Policy Section 1.6 (Growth Management)

The amendments will increase the likelihood that the new areas will offer a wider range of housing choices than experienced in such areas in the past. Rec. \_\_\_. (Letter from Metro Councilor Robert Liberty to Dave Nielsen, CEO, Home Builders Ass'n of Metro Portland.) This will help achieve Policy 1.6.1a by encouraging an efficient urban growth form in new urban areas.

##### Chapter 1, Policy Section 1.9 (Urban Growth Boundary)

The amendments to Title 11 will encourage agreements with landowners to provide needed workforce housing in new urban areas, as Policy 1.9.1.2 strives to achieve.



## **Statewide Planning Goals**

### **Goal 1 - Citizen Involvement**

Metro established a subcommittee of the Metro Policy Advisory Committee (MPAC), composed of representatives of local governments and agencies and of public members, to develop revisions to Title 11. The subcommittee met frequently during the summer and fall of 2010. Metro notified the public of meeting times and published agendas. Rec. \_\_\_. Public comments was invited and offered at each meeting. Rec. \_\_\_. Drafts of revisions were present to MPAC on November 17, 2010. The Council postponed action on the amendments to Title 11, on December 16, 2010, to allow more opportunity for comment. After further revisions to the proposed amendments, MPAC recommended on January 12, 2011, that the Metro Council adopt the amendments. The Council held a public hearing on January 13, 2011. These efforts fulfill Metro's responsibilities under Goal 1.

### **Goal 2 - Land Use Planning**

There are two principal requirements in Goal 2: providing an adequate factual base for planning decisions and ensuring coordination with those affected by the planning decisions. The record contains information that explains why the Metro Council believed greater specificity was necessary to achieve its policies in new urban areas. These materials provide an ample basis for the amendments to Title 11.

Metro coordinated its efforts with affected governments through its MPAC and MPAC subcommittee process. Metro received written comment from affected cities and responded to them by making revisions to accommodate their interests. Rec. \_\_\_. These efforts to notify, receive comment and accommodate interests as much as possible and respond to comment fulfill the governments' responsibilities under Goal 2.

### **Goal 3 - Agricultural Lands**

The concept planning required by Title 11 for urban reserves does not change or affect comprehensive plan designations or land regulations for lands subject to Goal 3. Goal 3 does not apply to comprehensive planning required by Title 11 for areas newly added to the UGB. Thus, the amendments to Title 11 are consistent with Goal 3.

### **Goal 4 - Forest Lands**

The concept planning required by Title 11 for urban reserves does not change or affect comprehensive plan designations or land regulations for lands subject to Goal 4. Goal 4 does not apply to comprehensive planning required by Title 11 for areas newly added to the UGB. Thus, the amendments to Title 11 are consistent with Goal 4.

### **Goal 5 - Natural Resources, Scenic and Historic Areas and Open Spaces**

The planning required by the revisions to Title 11 does not change or affect comprehensive plan designations or land regulations for lands inventoried and protected as Goal 5 resource lands. Goal 5 will apply to all lands subject to Title 11 and additions of new urban areas to the UGB. The amendments to Title 11 are consistent with Goal 5.

### **Goal 6 - Air, Water and Land Resources Quality**

The planning required by the revisions to Title 11 does not change or affect comprehensive plan designations or land regulations intended to protect air, water or land resources quality. Existing

regulations intended to comply with Goal 6 will apply to all lands subject to Title 11. The amendments to Title 11 are consistent with Goal 6.

#### Goal 7 - Areas Subject to Natural Hazards

The planning required by the revisions to Title 11 does not change or affect comprehensive plan designations or land regulations intended to limit development in areas subject to natural hazards and disasters. Existing regulations intended to comply with Goal 7 will apply to all lands subject to Title 11. The amendments to Title 11 are consistent with Goal 7.

#### Goal 8 - Recreational Needs

The planning required by the revisions to Title 11 does not change or affect comprehensive plan designations or land regulations intended to satisfy recreational needs. The amendments to Title 11 are consistent with Goal 8.

#### Goal 9 - Economic Development

The planning required by the revisions to Title 11 does not change or affect comprehensive plan designations or land regulations intended to ensure a supply of employment land. The amendments to Title 11 are consistent with Goal 9.

#### Goal 10 - Housing

The amendments clarify the level of specificity desired from planning for new urban areas and connect housing needs in the new area, the city, the county and the region with new area planning. Rec. \_\_\_. (Staff Report, December 21, 2010, p. 1.) The amendments will increase the likelihood that the new areas will offer a wider range of housing choices than experienced in such areas in the past. Rec. \_\_\_. (Letter from Metro Councilor Robert Liberty to Dave Nielsen, CEO, Home Builders Ass'n of Metro Portland.) The amendments to Title 11 are consistent with, and will help achieve the objectives of Goal 10.

#### Goal 11 - Public Facilities and Services

The planning required by the revisions to Title 11 does not affect plan provisions intended to comply with Goal 11. Goal 11 will apply to new urban areas at the time they are added to the UGB and will require planning for the provision of public facilities and services to urbanize the areas at that time. The amendments are consistent with Goal 11.

#### Goal 12 - Transportation

The planning required by the revisions to Title 11 does not affect plan provisions intended to comply with Goal 12. Goal 12 will apply to new urban areas at the time they are added to the UGB and will require planning for the provision of transportation facilities and services to urbanize the areas at that time. The amendments are consistent with Goal 12.

#### Goal 13 - Energy Conservation

The amendments to Title 11 will encourage more compact development in new urban areas. As a general matter, compact development uses less energy than traditional development. The amendments are consistent with Goal 13.

#### Goal 14 - Urbanization

The concept planning required by Title 11 for urban reserves does not change or affect comprehensive plan designations or land regulations for lands outside the UGB. Goal 14 will apply to decisions to add land to the UGB. The amendments to Title 11 are consistent with Goal 14.

#### Goal 15 - Willamette River Greenway

Land subject to planning under Title 11 remains subject to acknowledged county and city plan provisions intended to protect the Willamette River Greenway. Goal 15 will apply to decisions to add land to the UGB. The amendments to Title 11 are consistent with Goal 15.

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 11-1252, FOR THE PURPOSE OF AMENDING TITLE 11 (PLANNING FOR NEW URBAN AREAS) OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

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Date: December 29, 2010

Prepared by: Ted Reid (503) 797-1768

## BACKGROUND

### Purpose of proposed legislation

Currently, Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan requires that concept plans and comprehensive plans for urban reserves and areas added to the urban growth boundary (UGB) describe public systems and facilities in a fair amount of detail. However, there is no equivalent requirement for providing details about the types of housing that are intended for the area. The proposed ordinance would add specificity to Title 11 in regards to planning for housing, particularly affordable housing, in urban reserves and areas added to the UGB.

### Existing policy guidance

The Functional Plan, including Title 11, is intended to implement the Regional Framework Plan, which states the policies of the Metro Council. The Regional Framework Plan calls for long-range planning to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities. Several clauses of policy 1.3 (Housing Choices and Opportunities) of the Framework Plan are particularly relevant to the proposed amendments to Title 11. Those clauses state that it is the Metro Council's policy to:

- Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices.” (policy 1.3.1)
- As part of the effort to provide housing choices, encourage local governments to ensure that their land use regulations:
  - Allow a diverse range of housing types;
  - Make housing choices available to households of all income levels; (policy 1.3.2)
- Integrate Metro efforts to expand housing choices with other Metro activities, including transportation planning, land use planning and planning for parks and greenspaces. (policy 1.3.9)
- When expanding the UGB, assigning 2040 Growth Concept design type designations or making other discretionary decisions, seek agreements with local governments and others to improve the balance of housing choices with particular attention to affordable housing. (policy 1.3.10)
- Help ensure opportunities for low-income housing types throughout the region so that families of modest means are not obligated to live concentrated in a few neighborhoods, because concentrating poverty is not desirable for the residents or the region. (policy 1.3.12)
- Consider investment in transit, pedestrian and bicycle facilities and multi-modal streets as an affordable housing tool to reduce household transportation costs to leave more household income available for housing. (policy 1.3.13)

### **MPAC recommendation**

During the summer and fall of 2010, an MPAC housing planning subcommittee chaired by Metro Councilor Liberty met to propose changes to Title 11. The subcommittee was charged with making recommendations to MPAC and the Metro Council about adding specificity to the housing planning requirements for both concept planning of urban reserves and comprehensive planning for UGB expansion areas. The subcommittee agreed on three principles to guide proposed revisions to Title 11. At a November 17, 2010 meeting, MPAC discussed the guiding principles with all but one MPAC member supporting the following principles:

1. Plans should describe the variety of different housing types that are intended for the area;
2. Plans should describe how they would address housing needs in the prospective UGB expansion area, in the prospective governing city, and the region; and
3. Plans should identify the types of housing that are likely to be built in the 20-year planning period and describe additional strategies to encourage the development of needed housing types that would otherwise not be built.

Similarly, all but one MPAC member supported the general proposition that the planning process should require local governments to consider and describe which income groups would be expected to live in the areas when added to the UGB and describe strategies that would be used to make those housing opportunities possible.

Though there was general agreement on the three guiding principles, several subcommittee members, MPAC members, MTAC members and stakeholders expressed apprehension over the specific Title 11 amendments that were proposed. Concerns typically centered on the level of specificity that would be called for in concept plans. In response to those concerns, Councilor Liberty worked with several MPAC subcommittee members and local planning staff to write a modified proposal for Title 11 amendments. Those modified amendments to Title 11 were originally intended to be acted upon as part of Ordinance No. 10-1244B (the "Capacity Ordinance") on December 16, 2010, but were postponed to allow adequate review by MPAC and other stakeholders.

The MPAC subcommittee will meet again on January 11, 2011 to finalize its recommendation to MPAC. At its January 12, 2011 meeting, MPAC will make a recommendation to the Metro Council on the proposed amendments to Title 11.

### **ATTACHMENTS**

None

### **ANALYSIS/INFORMATION**

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

The Homebuilders Association of Metropolitan Portland and the Portland Metropolitan Association of Realtors have expressed concern over the level of specificity that would be required in plans and whether the proposed Title 11 would run afoul of a state law that prohibits inclusionary zoning.

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

- Statewide Planning Goals 2 (Land Use Planning), 10 (Housing) and 14 (Urbanization)
- Oregon Revised Statute 197.303 ("Needed Housing" defined)
- Metro Regional Framework Plan, Chapter 1 (Land Use)

### **3. Anticipated Effects**

Adoption of the proposed legislation would lead to improved implementation of Regional Framework Plan policies pertaining to housing choices and opportunities. Local government plans for urban reserves and areas added to the UGB would be required to comply with the proposed changes to Title 11.

### **4. Budget Impacts**

Currently, Metro incurs expenses associated with staff time spent working on concept plans for urban reserves and areas added to the UGB. The proposed revisions to Title 11 are not expected to substantially alter the amount of staff time that would otherwise be spent on this activity.

### **RECOMMENDED ACTION**

Staff recommends that the Council adopt Ordinance No. 11-1252



Nastassja Pace  
Testimony  
Jan 6, 2011

For the record, I am Nastassja Pace, Chair of The Surfrider Foundation Portland Chapter. My address is 6422 SE 60<sup>th</sup> AVE Portland, OR. 97206

President Hughes and Members of Council,

Thank you for the opportunity to provide testimony in support of statewide legislation to eliminate single-use plastic bags at retail checkout.

Surfrider is dedicated to protecting the health of the world's oceans and beaches and that is why for the past four years Oregon Chapters have focused a large part of their efforts on Rise Above Plastic Campaigns such as BAN the BAG.

Plastics are entering our waterways at an alarming rate. With 60-80% of all marine debris coming from land base sources it is apparent that policies to create change and decrease plastics in the oceans are necessary and ever-present.

Plastics do not biodegrade ever, but through a process known as photo degradation, breakdown into smaller and smaller pieces. In the ocean, marine filter feeders often mistake the pieces for plankton. When consumed, plastics' organic chemicals and pollutants bioaccumulate in the species' tissue, making its way into marine food chains and eventually ours.

Unfortunately, a lot these plastics, including plastic bags, are not recyclable curbside in the Metro region. And as a result, MRFs in the area spend approximately 25-30% of their labor costs removing plastic bags and film caught in the machinery. As a certified Master Recycler, I understand the importance in educating our communities on how to eliminate this problem, but I also understand that effective policies are necessary to create change and encourage consumers to switch to reusable bags.

Surfrider Oregon Chapters have performed hundreds of public outreach initiatives to raise awareness on this issue, participated in over 50 trash clean-ups and helped distribute 25,000 reusable bags. As a result, we have built a coalition of 75 Oregon businesses and received over 6,000 signatures in support of a statewide ban on single use plastic bags.

With these efforts Surfrider's Portland, Newport, and Cannon Beach Chapters have successfully worked with their cities to pass resolutions also in support of statewide legislation.

Please support such a policy as many other cities and nations have done and help Oregonians protect our oceans' legacy for the use and enjoyment of future generations.