

 **Metro** | *Agenda*

Meeting: Metro Council Work Session
Date: Tuesday, June 28, 2011
Time: 2 p.m.
Place: Council Chambers

CALL TO ORDER AND ROLL CALL

- | | | |
|----------------|--|---|
| 2 PM | 1. ADMINISTRATIVE/ COUNCIL AGENDA FOR JUNE 30, 2011/ CHIEF OPERATING OFFICER COMMUNICATIONS | |
| 2:15 PM | 2. SOLID WASTE ADVISORY COMMITTEE: SUMMARY OF FOOD SYSTEM POLICY ISSUES - <u>INFORMATION / DISCUSSION</u> | Korot Bruce Walker, City of Portland David White, Oregon Refuse & Recycling Assoc. |
| 3 PM | 3. ELEPHANT HABITAT AND ASSOCIATED INFRASTRUCTURE PROJECT - <u>INFORMATION / DISCUSSION</u> | Smith Stroud |
| 3:20 PM | 4. CONTRACT MANAGER/GENERAL CONTRACTOR (CM/GC) DELIVERY METHOD FOR THE ELEPHANT HABITAT AND ASSOCIATED INFRASTRUCTURE PROJECT - <u>INFORMATION / DISCUSSION</u> | Matthews Stroud |
| 3:40 PM | 5. OREGON ZOO FOUNDATION AGREEMENT - <u>INFORMATION</u> | Dresler Robinson |
| 4 PM | 6. COUNCIL BRIEFINGS/COMMUNICATION | |

ADJOURN

Agenda Item Number 2.0

**SOLID WASTE ADVISORY COMMITTEE:
SUMMARY OF FOOD SYSTEM POLICY
ISSUES**

Metro Council Work Session
Tuesday, June 28, 2011
Metro Council Chambers

METRO COUNCIL

Work Session Worksheet

Presentation Date: June 28, 2011 Time: 2:15 Length: 45

Presentation Title: Solid Waste Advisory Committee: Summary of Food System Policy Issues

Service, Office, or Center: Sustainability Center

Presenters (include phone number/extension and alternative contact information):

Matt Korot, Metro, 503-797-1760; David White, Oregon Refuse & Recycling Association, 503-690-3143; Bruce Walker, City of Portland, 503-823-7772

ISSUE & BACKGROUND

The Metro Council established the current Solid Waste Advisory Committee (SWAC) in 2010 to develop policy options for Council consideration that would serve the public interest by reducing the amount and toxicity of waste generated and disposed, or enhancing the effectiveness and sustainability of the solid waste system. SWAC's 13 members represent:

- Seven local governments
- Three solid waste-related companies or trade associations
- Oregon Department of Environmental Quality
- A non-governmental organization
- Metro

During 2010 and early 2011, SWAC focused its work on the food system, ultimately developing a set of policy options for consideration by Metro.

OPTIONS AVAILABLE

| | Council Action Type | Council Action Description |
|---|----------------------------|--|
| <p><u>Option 1</u> Metro should use regional funds to help pay personnel costs associated with new city and county food waste collection programs. These funds will leverage local government and ratepayer investments in personnel, equipment, and collection service. Preference should be given to funding options that would not raise the Regional System Fee (RSF), <u>as long as those options do not jeopardize the integrity of other waste reduction programs.</u>¹</p> | Budgetary | <p>The FY11-12 Sustainability Center base budget approved by Council included \$80,000 for this purpose, which was the same amount as in the FY10-11 budget. As a result, there is no additional impact from this option on the RSF. \$80,000 represents approximately \$0.08 of the total fee of \$17.64/ton.</p> <p>The Chief Operating Officer’s budgets for FY12-13 and FY13-14 will likely include proposals for continuing or increasing the funding included in the FY11-12 budget. Council will have the opportunity to determine whether or not to approve these proposals.</p> |
| <p><u>Option 2</u> Consistent with Regional Solid Waste Management Plan (RSWMP) priorities for food waste, Metro should increase Metro Central’s food waste transfer capacity.</p> | None at this time. | <p>Parks & Environmental Services (PES) is working with Recology, Metro Central’s contracted operator, to implement ways to increase capacity within the scope of the current operating contract. PES is also developing a Request for Proposals for transportation and processing services for commercial sector food waste received at Central. The current contract expires December 31, 2011.</p> |
| <p><u>Option 3</u> Consistent with RSWMP priorities for food waste, Metro should pursue options to provide food waste transfer service at Metro South, such as by diverting dry waste loads or self-haul customers to other facilities.</p> | None at this time. | <p>PES is working with Allied Waste, Metro South’s contracted operator, to determine whether it is feasible to accept limited amounts of food waste. Metro’s Solid Waste Roadmap discussions related to long-term planning for Metro South will include consideration of food waste transfer services.</p> |

¹ SWAC members disagreed on inclusion of the underlined text. In general, government members favor its inclusion to ensure that reallocating existing funding from other waste reduction programs to food waste collection would not undercut efforts in other waste reduction sectors. In general, industry members oppose inclusion from the belief that it would be easy to say all existing programs are valuable and thus the RSF is the only viable funding option.

| | | |
|--|---------------------------|---|
| <p><u>Option 4</u> If the milestones below are not achieved by December 31, 2013, Metro should conduct a feasibility analysis for a commercial food waste disposal ban. That analysis should be completed by June 30, 2014 and presented to SWAC, which will then determine whether to forward to Council the option of implementing a disposal ban.</p> <p><i>Milestone 1:</i> Adequate transfer or processing capacity exists within a travel-time range roughly equivalent to that for garbage, yard debris and recyclables.</p> <p><i>Milestone 2:</i> Each jurisdiction that contains areas with high concentrations of food waste-generating businesses commits, through resolution or adoption of rates, to implementing commercial food waste collection programs.</p> | <p>Direction to staff</p> | <p>Unless otherwise directed by Council, staff will plan on evaluating progress toward the milestones to determine whether to conduct the 2014 analysis.</p> |
| <p><u>Option 5</u> Metro should support the region’s food donation infrastructure. SWAC will identify specific opportunities for doing so after it reviews and discusses the findings of the food donation system barriers and benefits analysis that Metro staff will complete in July 2011.</p> | <p>Budgetary</p> | <p>Potentially approve or reject a budget proposal for FY11-12 (as an amendment) or for FY12-13. The proposal will be determined after SWAC reviews the barrier/benefits study findings.</p> |
| <p><u>Option 6</u> Metro should advocate for regulatory options to reduce the life cycle carbon intensity of products, which could include the pricing signals² identified by the Oregon Global Warming Commission in its <i>Roadmap to 2020</i> report.</p> | <p>Advocacy</p> | <p>Provide input to the Oregon Global Warming Commission on the <i>Roadmap to 2020</i> report.</p> <p style="text-align: center;">and/or</p> <p>Consider this option when developing Metro’s legislative agenda for future Oregon legislative sessions.</p> |

² From the *Roadmap to 2020* report: “A price on carbon across the full life cycle (resource extraction, manufacturing, transport, use, and end-of-life) offers the potential for significant reductions in greenhouse gas emissions associated with the life cycle of products and materials. The Materials Management Committee did not evaluate the relative advantages and disadvantages of capping emissions (either via “cap-and-trade,” “cap-and-dividend” or some variation) vs. taxing emissions.”

IMPLICATIONS AND SUGGESTIONS

1. Option 1 has no immediate implications for Council to consider. If the Sustainability Center proposes additional funding in its FY 12-13 proposed base budget, it will provide the COO and Council with information on funding options and implications.
2. Metro staff will continue its work on options 2 and 3 and engage Council in the context of the Solid Waste Roadmap and contracting processes.
3. Any discussions and work around the disposal ban outlined in option 4 will be of intense interest to public and private sector stakeholders. The roughly sketched process outlined in the option will allow for multiple engagements with these stakeholders.
4. Staff suggests that Council discussion of the food donation infrastructure option be held after SWAC completes its discussion of this topic.
5. The subject of regulatory options related to carbon emissions (option 6) is complex and subject to strong opinions. If Council would like to consider this option, staff suggests that a contractor be hired to compile existing information about these options and the arguments for and against them.

QUESTION(S) PRESENTED FOR CONSIDERATION

1. Are there any options that you would like removed from consideration?
2. Are there any options for which you would like additional information?
3. Regarding Option 6, what actions, if any, would you like staff or Council to take now?
4. SWAC needs to have its next focus area identified. Metro management and SWAC members recommend that the Metro Solid Waste Roadmap be the next topic on which to engage, pending additional scoping work by staff. Does Council concur with this recommendation or is there another subject on which it would direct SWAC to focus?

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION __Yes __No
DRAFT IS ATTACHED __Yes __No

Agenda Item Number 3.0

**ELEPHANT HABITAT AND ASSOCIATED
INFRASTRUCTURE PROJECT**

Metro Council Work Session
Tuesday, June 28, 2011
Metro Council Chambers

METRO COUNCIL

Work Session Worksheet

Presentation Date: June 28, 2011 Time: 3 pm Length: 20 min.

Presentation Title: Elephant Habitat and Associated Infrastructure Project

Service, Office, or Center: A Better Zoo program

Presenters: Kim Smith, 503 220-2450 and Craig Stroud, 503 220-2451

ISSUE & BACKGROUND

At the February 1, 2011 Metro Council work session, the Oregon Zoo Bond Program presented a fast-tracked approach for the New Elephant Habitat project. That approach focused early design attention on concepts to expand the elephant habitat, the largest scope of the Oregon Zoo Bond Program improvements, to maintain construction momentum and to allow staff to move forward on land-use approvals with City of Portland staff. The Metro Council supported the staff recommendation to expand the current elephant habitat along the Oregon Zoo campus' eastern edge to meet the bond commitment, as well as remove the zoo train campus loop and construct a perimeter service road to implement bond project improvements. With Metro Council support, staff worked with the master plan team to finalize schematic designs for those projects.

Since that time, the master plan consultant team has made substantial progress on the overall bond project planning. The schematic designs for elephants, polar bears, and the conservation discovery zone, the projects of greatest cost and scope, are nearly finished and the remaining designs are close behind.

The master plan team presented their first allocation of estimated soft costs (design, permits, contingency, etc.) and direct construction costs for all the bond projects in early April to Oregon Zoo management and the Oregon Zoo Bond Advisory Group (OZBAG). The team presented refined scopes and cost estimates to OZBAG and the Oregon Zoo Bond Citizens' Oversight Committee in early June 2011. The June 2011 OZBAG presentation included project scopes and cost estimates totaling the \$110 million of remaining bond funds (see Attachment 1 for abridged version).¹

The master plan schedule calls for delivery of all bond project scopes, schedule, and budget information in a comprehensive draft at the end of July 2011. The package will then be reviewed by stakeholders, including the Metro Council, through Aug. 2011. Bond program staff plans to return to the Metro Council in Sept. 2011 to seek adoption of the vetted complete package of bond improvements via council resolution.

Elephant Habitat, Train, Wildlife Live Mews, and Perimeter Road Project

The master plan consultant team has substantially completed and delivered the elephant habitat, train relocation, wild life live mews relocation, and perimeter service road pre-schematic design submittal.² The combined project cost estimate, including design and construction costs, totals

¹ The veterinary medical center project, penguin filtration project, comprehensive capital master planning, land use approval, administrative, other minor improvement projects are forecast to expend approximately \$15 million of the \$125 million of authorized bonds.

² Submittal titled, "Asian Elephants and Water & Energy Saving Measures and Related Projects" and dated May 20, 2011.

\$54 million. This is approximately half of the remaining bond funds. The elephant habitat improvements represent approximately \$44 million of this amount, with the remaining improvements totaling \$10 million. It was always expected that the elephant habitat expansion would be the most costly and complicated bond improvement given the built-out condition of the Oregon Zoo campus, the commitment in the bond to expand the habitat to six acres, and the complex habitat needs of these majestic and powerful animals.

QUESTION PRESENTED FOR CONSIDERATION

Staff seeks Metro Council Resolution to accept the elephant habitat, train, wildlife live, and perimeter road project design submittals.

OPTIONS AVAILABLE

The Metro Council can either accept the elephant habitat, train, wildlife live, and perimeter road design submittal via resolution or ask staff to perform additional work. Staff believes the design work for all remaining bond projects has progressed adequately to allow this project to continue moving ahead without introducing substantial budget risk to the remaining bond projects. If circumstances arise that require the reallocation of funds across the remaining bond projects, that information would be known by July 2011 and this project could still be incorporated into any reallocation of funds. Any changes to this project could be incorporated into the forthcoming complete package of bond improvements expected to be proposed to the Metro Council for acceptance via council resolution in Sept. 2011.

IMPLICATIONS AND SUGGESTIONS

Accepting the elephant habitat, train, wildlife live, and perimeter road project design submittal via resolution earmarks \$54 million for the project and allows staff to begin the Request for Proposal (RFP) process to hire the design team to complete project design through construction documents. That action would continue the fast-tracked approach for this project. For the reasons stated above, staff believes accepting the submittal does not introduce substantial budget risk to the remaining bond projects. While the design team hiring process is underway, there is still time for decisions that result in scope or budget changes.

**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION - YES
DRAFT IS ATTACHED - YES**

BEFORE THE METRO COUNCIL

| | | |
|------------------------------------|---|--|
| FOR THE PURPOSE OF AUTHORIZING THE |) | RESOLUTION NO. 11-4277 |
| CHIEF OPERATING OFFICER TO BEGIN |) | |
| PROCURING THE DESIGN AND |) | |
| CONSTRUCTION OF THE NEW ZOO |) | Introduced by Acting Chief Operating Officer |
| ELEPHANT HABITAT AND ASSOCIATED |) | Daniel B. Cooper, with the concurrence of |
| INFRASTRUCTURE PRIOR TO COMPLETION |) | Council President Thomas Hughes |
| AND ADOPTION OF THE OREGON ZOO |) | |
| COMPREHENSIVE CAPITAL MASTER PLAN |) | |

WHEREAS, at the General Election held on November 4, 2008, the Metro Area voters approved Oregon Zoo Bond Measure 26-96, entitled “Bonds to Protect Animal Health And Safety; Conserve and Recycle Water,” a major component of which is the construction of a new elephant habitat, which includes associated infrastructure work such as constructing a new perimeter service road, relocating the zoo train route and train snow shed, relocating birds of prey mews and upgrading utilities (the “New Elephant Habitat”); and

WHEREAS, in 2010, the Zoo launched the Oregon Zoo Comprehensive Capital Master Plan process, to ensure that the Oregon Zoo Bond Measure is implemented within budget, in a fashion that effectively integrates bond projects with existing exhibits, preserves opportunities for future non-bond funded projects and made the maximum use of existing and proposed infrastructure, which plan will be completed in September 2011, and presented to the Metro Council for review and adoption; and

WHEREAS, with the exception of the Oregon Zoo Veterinary Medical Center and Penguin Water Filtration projects, which were authorized for development prior to the completion of the Oregon Zoo Comprehensive Capital Master Plan, the Oregon Zoo Bond projects will be implemented as set forth in the Oregon Zoo Comprehensive Capital Master Plan; and

WHEREAS, in June 2011, Oregon Zoo Comprehensive Capital Master Plan consultant team substantially completed and delivered the New Elephant Habitat combined project cost estimate, including design and construction costs, which totals \$54 million, approximately half of the remaining bond funds; and

WHEREAS, the Oregon Zoo desires to begin the design phase of the New Elephant Habitat project as soon as possible, prior to the Metro Council’s adoption of the Oregon Zoo Comprehensive Capital Master Plan, so that construction may begin no later than in fiscal year 2012, and be completed by the end of fiscal year 2014, and accepting the New Elephant Habitat pre-design submittal via Metro Council resolution would allow staff to begin the process to procure the design team allowing design to beginning as early as August 2011; now therefore

BE IT RESOLVED that the Metro Council hereby:

Accepts and approves the New Elephant Habitat portion of the Oregon Zoo Comprehensive Capital Master Plan, and authorizes the Chief Operating Officer to begin procuring design and construction of the new Zoo Elephant Habitat and Associated Infrastructure prior to completion and Metro Council adoption of the Oregon Zoo Comprehensive Capital Master Plan.

///

ADOPTED by the Metro Council this _____ day of June 2011.

Thomas Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Acting Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 11-4277, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO BEGIN PROCURING THE DESIGN AND CONSTRUCTION OF THE NEW ZOO ELEPHANT HABITAT AND ASSOCIATED INFRASTRUCTURE PRIOR TO COMPLETION AND ADOPTION OF THE OREGON ZOO COMPREHENSIVE CAPITAL MASTER PLAN

Date: June 14, 2011

Prepared by: Craig Stroud 503 220-2451

BACKGROUND

At the February 1, 2011 Metro Council work session, the Oregon Zoo Bond Program presented a fast-tracked approach for the New Elephant Habitat project. That approach focused early design attention on concepts to expand the elephant habitat, the largest scope of the Oregon Zoo Bond Program improvements, to maintain construction momentum and to allow staff to move forward on land use approvals with City of Portland staff. The Metro Council supported the staff recommendation to expand the current elephant habitat along the Oregon Zoo campus's eastern edge to meet the bond commitment, as well as remove the Oregon Zoo train campus loop and construct a perimeter service road to implement bond project improvements. With Metro Council support, staff worked with the Oregon Zoo Comprehensive Capital Master Plan team to finalize schematic designs for those projects.

Since that time, the master plan consultant team has made substantial progress on the overall bond project planning. The schematic designs for elephants, polar bears, and the conservation discovery zone, the projects of greatest cost and scope, are nearly finished and the remaining designs are close behind.

The master plan team presented their first allocation of estimated soft costs (design, permits, contingency, etc.) and direct construction costs for all the bond projects in early April 2011 to Oregon Zoo management and the Oregon Zoo Bond Advisory Group (OZBAG). The team presented refined scopes and cost estimates to OZBAG and the Oregon Zoo Bond Citizens' Oversight Committee in early June 2011. The June 2011 OZBAG presentation included project scopes and cost estimates totaling the \$110 million of remaining bond funds (see Attachment 1 for abridged version).¹

The master plan schedule calls for delivery of all bond project scopes, schedule, and budget information in a comprehensive draft at the end of July 2011. The package will then be reviewed by stakeholders, including the Metro Council, through Aug. 2011. Bond program staff plans to return to the Metro Council in Sept. 2011 to seek adoption of the comprehensive complete package of bond improvements via Metro Council resolution.

¹ The veterinary medical center project, penguin filtration project, comprehensive capital master planning, land use approval, administrative, other minor improvement projects are forecast to expend approximately \$15 million of the \$125 million of authorized bonds.

Elephant Habitat, Train, Wildlife Live Mews, and Perimeter Road Project

The master plan consultant team has substantially completed and delivered the elephant habitat, train relocation, wild life live mews relocation, and perimeter service road pre-schematic design submittal.² The combined project cost estimate, including design and construction costs, totals \$54 million. This is approximately half of the remaining bond funds. The elephant habitat improvements represent approximately \$44 million of this amount, with the remaining improvements totaling \$10 million. It was always expected that the elephant habitat expansion would be the most costly and complicated bond improvement given the built-out condition of the Oregon Zoo campus, the commitment in the bond to expand the habitat to six acres, and the complex habitat needs of these majestic and powerful animals.

Staff believes the design work for all remaining bond projects has progressed adequately to allow this project to continue moving ahead without introducing substantial budget risk to the remaining bond projects. If circumstances arise that require the reallocation of funds across the remaining bond projects, that information would be known by July 2011 and this project could still be incorporated into any reallocation of funds. Any changes to this project could be incorporated into the forthcoming complete package of bond improvements expected to be proposed to the Metro Council for acceptance via council resolution in Sept. 2011.

Accepting the new elephant habitat, train, wildlife live, and perimeter road project design submittal via Metro Council resolution would allow staff to begin the Request for Proposal (RFP) process to hire the design team to complete project design through construction documents.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** Ballot Measure No. 26-96: Bonds to Protect Animal Health and Safety; Conserve, recycle water
3. **Anticipated Effects:** Accepting the New Elephant Habitat, train, wildlife live, and perimeter road project design submittal via resolution would allow staff to begin the Requests for Proposals process to hire the design team to complete project design through construction documents.
4. **Budget Impacts:** This resolution earmarks \$54 million of the remaining bond funds to design and construct the elephant habitat, train relocation, wild life live mews relocation, and perimeter service road project.

RECOMMENDED ACTION

Metro Council approve the elephant habitat, train relocation, wild life live mews relocation, and perimeter service road project via resolution to enable staff to hire design consultants.

² Submittal titled, "Asian Elephants and Water & Energy Saving Measures and Related Projects" and dated May 20, 2011.

Attachment 1



OREGON ZOO
A SERVICE OF METRO

COMPREHENSIVE CAPITAL MASTER PLAN

OZBAG PRESENTATION

SRG + clr + ATELIER DREISEITL

06.06.11 Main Street Design KPFF PAE Equilibrium

Abridged for 6/28/2011 Council Work Session and 6/30/2011 Meeting








BOND PROJECT PHASING

SOFT COST SUMMARY

| Item # | Service or Contract | Approximate % of Const. Cost | Contract Value of Cost |
|--------------------------|--------------------------|------------------------------|------------------------|
| 1 | Bldg. Permit & SDC | 1.50% | \$1,135,000 |
| 2 | SDC - in above | 0.00% | \$0 |
| 3 | Advertising & Printing | 0.05% | \$38,000 |
| 4 | Abatement | 0.50% | \$378,000 |
| 5 | Animal relocation | 0.00% | \$0 |
| 6 | Fund raising expenses | 0.00% | \$0 |
| 7 | Surveying | 0.10% | \$76,000 |
| 8 | Structural Inspections | 0.20% | \$151,000 |
| 9 | Geotechnical Inspections | 0.20% | \$151,000 |
| 10 | Telecom | 1.00% | \$757,000 |
| 11 | Moving expenses/storage | 0.20% | \$151,000 |
| 12 | Commissioning | 0.25% | \$189,000 |
| 13 | Architect/Engineer | 14.00% | \$10,591,000 |
| 14 | Furnishings | 4.00% | \$3,026,000 |
| 15 | Fixed equipment | 2.00% | \$1,513,000 |
| 16 | Utility Connections | 0.40% | \$303,000 |
| 17 | Management costs | 2.00% | \$1,513,000 |
| 18 | Project Contingency | 15.00% | \$11,348,000 |
| 19 | Owner cost estimator | 0.00% | \$0 |
| 20 | Percent for art | 1.00% | \$757,000 |
| 21 | Interpretive | 3.00% | \$2,270,000 |
| 22 | | 0.00% | \$0 |
| Subtotal | | 45.4% | \$34,347,000 |
| Construction Cost | | | 75,653,000 |
| | | | \$110,000,000 |

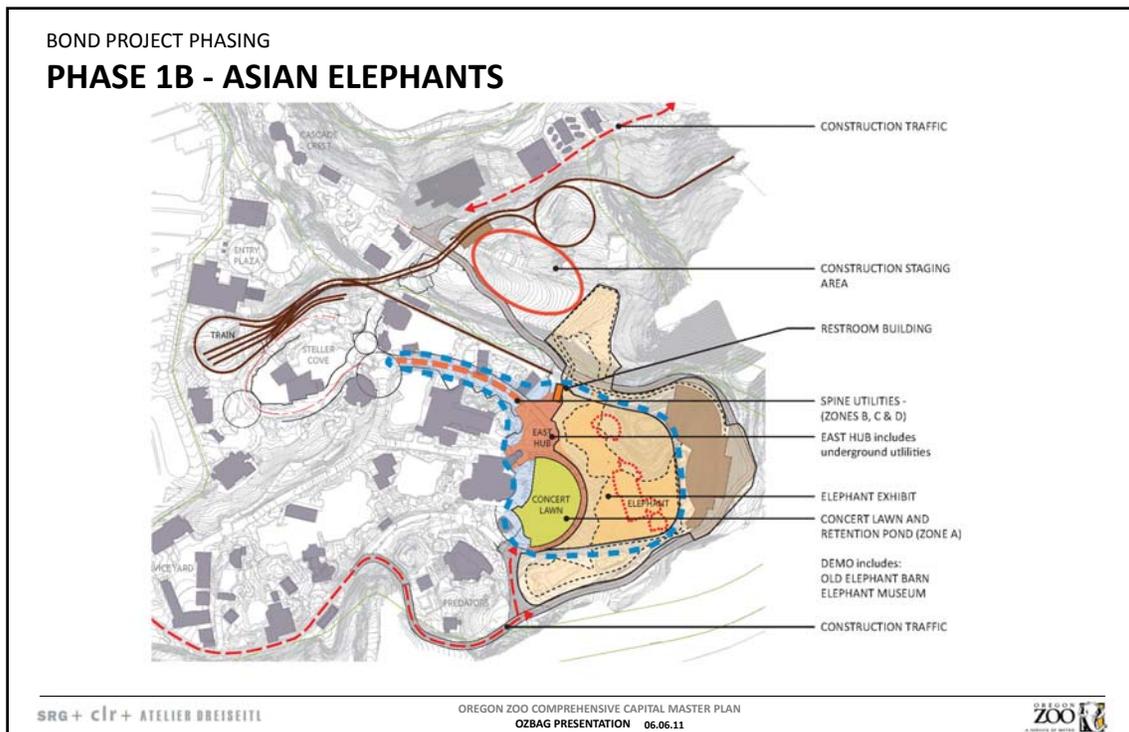
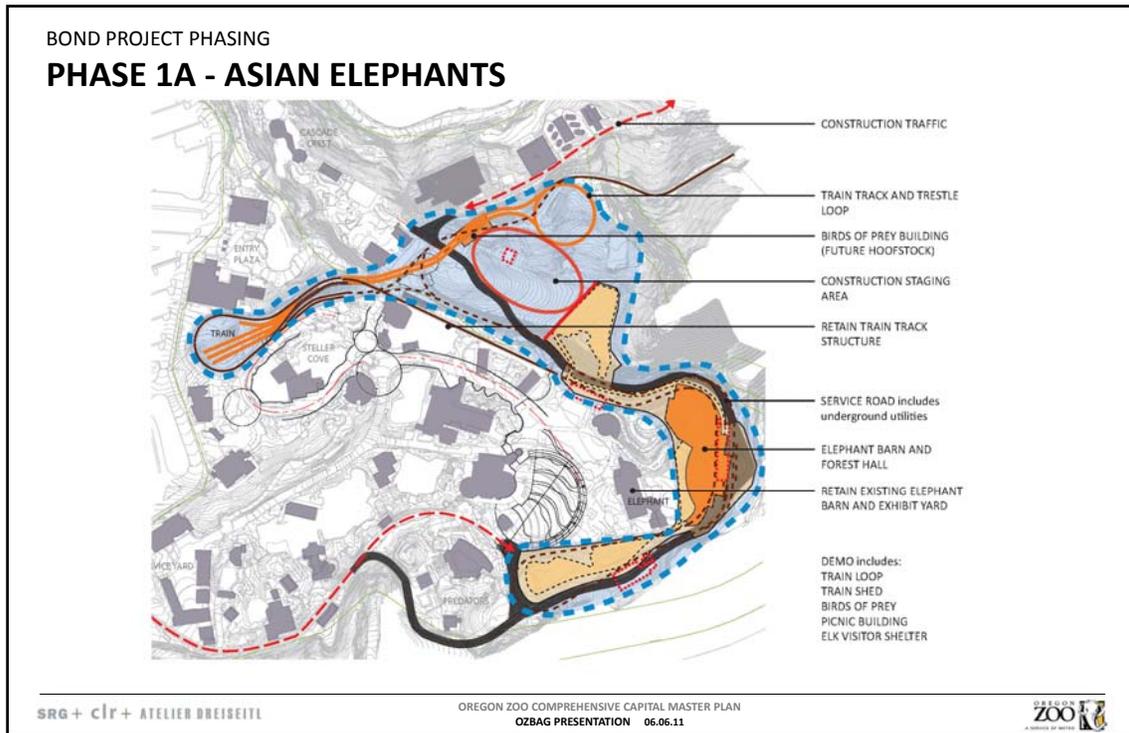
Assumptions and Clarifications:

- 10 Cost includes cabling and equipment related to Telecom infrastructure
- 18 Includes both construction and soft cost contingencies.

SRG + clr + ATELIER DREISEITL

OREGON ZOO COMPREHENSIVE CAPITAL MASTER PLAN
OZBAG PRESENTATION 06.06.11





BOND PROJECT PHASING

PHASE 1 - ASIAN ELEPHANTS

Phase 1 - Bond Project Scope

| Description | Estimate | Alternates | Revised Estimate | Comments |
|-----------------------------------|----------------------|-----------------------|----------------------|---|
| Elephant Exhibit | \$ 32,300,000 | \$ (2,300,000) | \$ 30,000,000 | Bunker View; 1 less Enrichment tower; 1 less stall; etc. |
| Perimeter Service Road | \$ 800,000 | | \$ 800,000 | Utilities covered in Water & Energy Savings |
| Toilets and Support | \$ 600,000 | | \$ 600,000 | 1,200 gsf building |
| Water & Energy Savings | | | | |
| Concert Lawn/Zone A | \$ 1,400,000 | | \$ 1,400,000 | Water storage; Surface treatment and utilities at perimeter of elephant habitat |
| Spine/Zone B | \$ 450,000 | | \$ 450,000 | Finishes around concert lawn and pavilion platforms - includes electrical |
| Spine Zone C & D | \$ 350,000 | | \$ 350,000 | Utilities and pavement patched to meet existing grade |
| Other Projects | | | | |
| Birds of Prey | \$ 500,000 | | \$ 500,000 | 5,000 GSF Replacement |
| Railroad Relocation | \$ 5,900,000 | \$ (2,900,000) | \$ 3,000,000 | Add alternates 1, 2 and 3 = \$2.9 million |
| Total | \$ 42,300,000 | \$ (5,200,000) | \$ 37,100,000 | |

General Contractor Mark-ups Included in Estimate

| | |
|---------------------|-------|
| General Conditions | 12% |
| Overhead and Profit | 5% |
| Bonds and Insurance | 2.50% |
| Design Contingency | 15% |
| CMGC Contingency | 2.50% |

BOND PROJECT PHASING

PHASE 2 - CONSERVATION DISCOVERY ZONE



Attachment 1

BOND PROJECT PHASING

PHASE 2 - CONSERVATION DISCOVERY ZONE

Phase 2 - Bond Project Scope

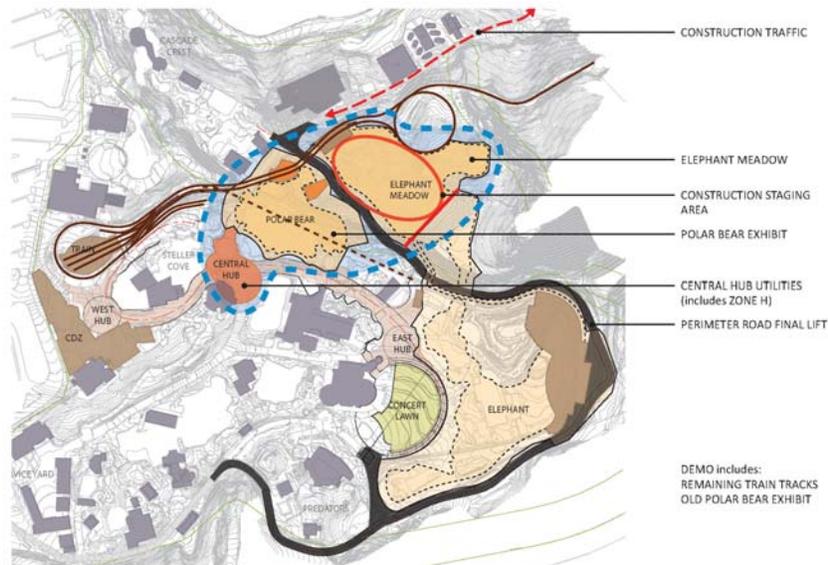
| Description | Estimate | Alternates | Revised Estimate | Comments |
|-----------------------------------|---------------------|---------------------|---------------------|--|
| Conservation Discovery Zone | \$ 8,400,000 | \$ (1,307,000) | \$ 7,093,000 | Reduce gross floor area; shell some space with minimal finishes; Green roof; |
| Water & Energy Savings | | | | |
| Spine/Zone G, F and E | \$ 400,000 | \$ - | \$ 400,000 | Utilities and pavement patched to meet existing grade. |
| Photo-Voltaics at CDZ | | \$ 800,000 | | PV array may be identified as an add alternative |
| Total | \$ 8,800,000 | \$ (507,000) | \$ 7,493,000 | |

General Contractor Mark-ups Included in Estimate

| | |
|---------------------|-------|
| General Conditions | 12% |
| Overhead and Profit | 5% |
| Bonds and Insurance | 2.50% |
| Design Contingency | 15% |

BOND PROJECT PHASING

PHASE 3 - POLAR BEARS



BOND PROJECT PHASING

PHASE 3 - POLAR BEARS

Phase 3 - Bond Project Scope

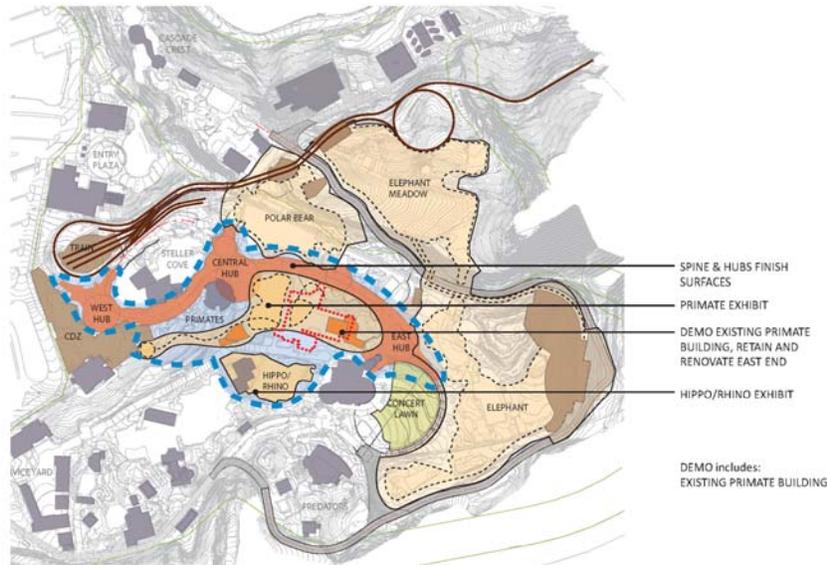
| Description | Estimate | Alternates | Revised Estimate | Comments |
|----------------------------------|----------------------|---------------------|----------------------|--|
| Polar Bear | \$ 14,500,000 | \$ (500,000) | \$ 14,000,000 | Elephant Meadow habitat cost should be moved into this phase |
| Water & Energy Savings Zone H | \$ 60,000 | \$ - | \$ 60,000 | Connect electrical infrastructure to north perimeter road |
| Total | \$ 14,560,000 | \$ (500,000) | \$ 14,060,000 | |

General Contractor Mark-ups Included in Estimate

| | |
|---------------------|-------|
| General Conditions | 12% |
| Overhead and Profit | 5% |
| Bonds and Insurance | 2.50% |
| Design Contingency | 15% |
| CMGC Contingency | 2.50% |

BOND PROJECT PHASING

PHASE 4 – PRIMATES & HIPPO/RHINO



Attachment 1

BOND PROJECT PHASING

PHASE 4 – PRIMATES & HIPPO/RHINO

Phase 4 - Bond Project Scope

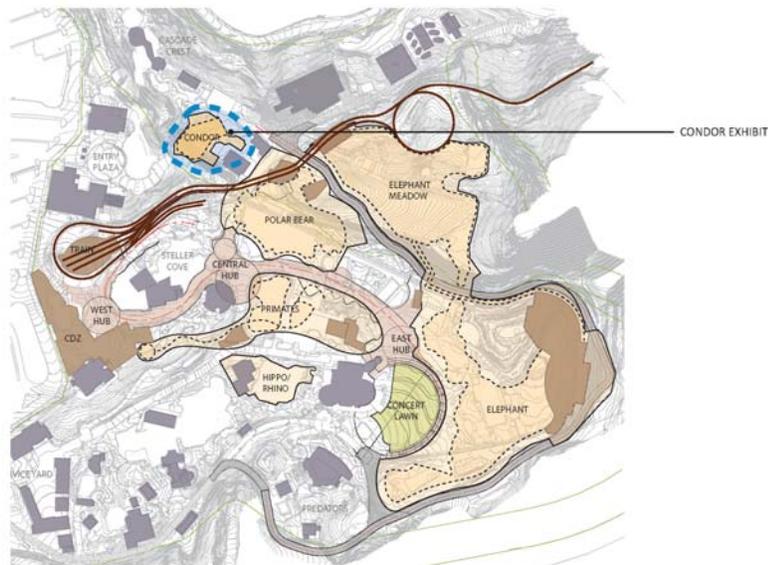
| Description | Estimate | Alternates | Revised Estimate | Comments |
|-----------------------------------|----------------------|-------------|----------------------|---|
| Primates | \$ 7,000,000 | \$ - | \$ 7,000,000 | Mandrill and Chimp habitat only. Full build-out is \$20 million |
| Hippo/Rhino | \$ 1,000,000 | \$ - | \$ 1,000,000 | Minimal existing habitat/Holding modification |
| Water & Energy Savings | | | | |
| Spine Zones B, C, D, E, F and G | \$ 2,500,000 | \$ - | \$ 2,500,000 | Spine Finishes - Concrete and asphalt paving; Terraces; curbs; Low walls; Site furniture etc. |
| Total | \$ 10,500,000 | \$ - | \$ 10,500,000 | |

General Contractor Mark-ups Included in Estimate

| | |
|---------------------|-------|
| General Conditions | 12% |
| Overhead and Profit | 5% |
| Bonds and Insurance | 2.50% |
| Design Contingency | 15% |
| CMGC Contingency | 2.50% |

BOND PROJECT PHASING

PHASE 5 - CONDOR



BOND PROJECT PHASING

PHASE 5 - CONDOR

Phase 5 - Bond Project Scope

| Description | Estimate | Alternates | Revised Estimate | Comments |
|------------------|---------------------|-----------------------|---------------------|--|
| Condor (Phase 1) | \$ 2,500,000 | \$ (1,000,000) | \$ 1,500,000 | Holding Building and 5,000 SF habitat. Total buildout is \$2.5 million |
| Total | \$ 2,500,000 | \$ (1,000,000) | \$ 1,500,000 | |

General Contractor Mark-ups Included in Estimate

| | |
|---------------------|-------|
| General Conditions | 12% |
| Overhead and Profit | 5% |
| Bonds and Insurance | 2.50% |
| Design Contingency | 15% |

BOND PROJECT PHASING

SUMMARY OF BOND FUND ALLOCATION

| Item # | Service or Contract | Total Construction Cost | Total Including 45.4% Soft Cost |
|--------|--|-------------------------|---------------------------------|
| 1 | Elephant Exhibit | \$ 30,000,000 | \$ 43,620,000 |
| 2 | Conservation Discovery Zone | \$ 7,093,000 | \$ 10,313,222 |
| 3 | Polar Bear Exhibit | \$ 14,000,000 | \$ 20,356,000 |
| 4 | Primates Exhibit | \$ 7,000,000 | \$ 10,178,000 |
| 5 | Hippo/Rhino Exhibit | \$ 1,000,000 | \$ 1,454,000 |
| 6 | Condor Exhibit | \$ 1,500,000 | \$ 2,181,000 |
| 7 | Water & Energy Savings/Infrastructure | \$ 5,160,000 | \$ 7,502,640 |
| 8 | Off Site Elephants Habitat | \$ 5,000,000 | \$ 7,270,000 |
| 9 | Birds of Prey Relocation | \$ 500,000 | \$ 727,000 |
| 10 | Train Relocation | \$ 3,000,000 | \$ 4,362,000 |
| 11 | Perimeter Access Road | \$ 800,000 | \$ 1,163,200 |
| 12 | Replacement Toilets/Support | \$ 600,000 | \$ 872,400 |
| | Subtotal | \$ 75,653,000 | \$ 109,999,000 |

Bond Projects are in Bold. Other projects are necessary for constructing the Bond Projects

Agenda Item Number 4.0

**CONTRACT MANAGER/GENERAL
CONTRACTOR (CM/GC) DELIVERY
METHOD FOR THE ELEPHANT
HABITAT AND ASSOCIATED
INFRASTRUCTURE PROJECT**

Metro Council Work Session
Tuesday, June 28, 2011
Metro Council Chambers

METRO COUNCIL

Work Session Worksheet

Presentation Date: June 28, 2011 Time: 3:20 pm Length: 20 min.

Presentation Title: Contract Manager/General Contractor (CM/GC) Delivery Method for the Elephant Habitat and Associated Infrastructure Project

Service, Office, or Center: A Better Zoo Program

Presenters: Darin Matthews, 797-1626; Craig Stroud, 220-2451

ISSUE & BACKGROUND

The Oregon Zoo plans to construct a new elephant habitat as part of executing the 2008 capital improvements bond, including associated infrastructure work; a new perimeter service road, relocating the zoo train route, relocating birds of prey mews and upgrading utilities. Recognizing the complexity of this project, Metro contracted with Pinnell Busch, a project management consulting firm, to research a recommended procurement and construction delivery method.

Pinnell Busch collaborated with the Oregon Public Contracting Coalition¹ whose findings concluded a Construction Manager General Contractor (CM/GC) would be the best contracting method for the new elephant habitat and related projects. The CM/GC recommendation is supported by the Oregon Zoo Bond Advisory Group as well as the Oregon Zoo Bond Citizens' Oversight Committee and is a common procurement practice used by public agencies. Area agencies such as City of Portland, Tri-Met, and Port of Portland utilize the CM/GC process for their large, complex projects.

Many members of the minority business community have suggested the use of CM/GC procurement by Metro. Leaders from the National Association of Minority Contractors and the Oregon Association of Minority Entrepreneurs suggested this method for the Veterinary Medical Center last year. The CM/GC offers a better ability for public agencies to increase the use of minority, women and emerging small businesses (MWESB) in sub-contracting opportunities.

The attached resolution and findings in Exhibits A and B describe the specialized nature of this project. Based on these findings, the procurement officer believes that a value-based selection process is more appropriate than a traditional, competitive bid (which solely considers lowest bid price). Zoo bond management staff and the Office of Metro attorney concur.

¹ Oregon Public Contracting Coalition is comprised of industry experts, from both the private and public sectors, who collaborated on this project to assess and recommend delivery methods for the zoo bond projects.

Therefore, it is recommended to Council that the CM/GC alternative procurement process be authorized. This will allow Metro to consider cost as well as experience and expertise in completing similar projects and in selecting the most advantageous contractor for this project.

QUESTION(S) PRESENTED FOR CONSIDERATION

Staff seeks Council authorization to pursue the alternative procurement process known as CM/GC for the elephant habitat and associated infrastructure project. Questions include:

- Does Council agree that the CM/GC process is the best approach for this project?
- Is there additional information staff can provide to assist the Council?
- If approved, are there specific expectations from Council regarding the use of an alternative procurement process?

OPTIONS AVAILABLE

The Metro Council can either affirm the pursuit of the CM/GC procurement process for this project or ask staff to perform additional work and return with alternative approaches. The Council can also direct the use of a traditional low-bid procurement process.

IMPLICATIONS AND SUGGESTIONS

Metro Council's acceptance of the CM/GC procurement process via resolution allows staff to begin the RFP process to select the CM/GC contractor to assist with project design and ultimately construct the project. The CM/GC RFP issuance is expected to occur approximately six weeks after issuance of the RFP for design services. Such timing will allow for a more collaborative process between the architect and contractor than what is typically afforded in a traditional bid process.

**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION - YES
DRAFT IS ATTACHED - YES**

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN) RESOLUTION NO. 11-4267
EXEMPTION FROM COMPETITIVE BIDDING)
AND AUTHORIZING PROCUREMENT BY)
REQUEST FOR PROPOSALS FOR THE) Introduced by Acting Chief Operating Officer
CONSTRUCTION OF THE NEW ZOO) Daniel Cooper, with the concurrence of
ELEPHANT HABITAT AND ASSOCIATED) Council President Thomas Hughes
INFRASTRUCTURE)

WHEREAS, at the General Election held on November 4, 2008, the Metro Area voters approved Oregon Zoo Bond Measure 26-96, entitled “Bonds to Protect Animal Health And Safety; Conserve and Recycle Water,” a major component of which is the construction of a new elephant habitat, which includes associated infrastructure work such as constructing a new perimeter service road, relocating the zoo train route and train snow shed, relocating birds of prey mews and upgrading utilities (the “New Elephant Habitat”); and

WHEREAS, construction of the New Elephant Habitat is planned for Metro fiscal years 2012 through 2014; and

WHEREAS, ORS 279C.335 and Metro Code 2.04.054 require that all Metro public improvement contracts shall be procured based on competitive bids, unless exempted by the Metro Council, sitting as the Metro Contract Review Board; and

WHEREAS, the Oregon Zoo wishes to obtain an exemption from competitive bidding, and instead procure the construction of the New Elephant Habitat by an alternative contracting method known as Construction Manager/General Contractor (CM/GC); and

WHEREAS Metro Code Section 2.04.054(c) authorizes the exemption of a public improvement contract from competitive bidding and the appropriate use of alternative contracting methods that take account of market realities and modern innovating contracting and purchasing methods, so long as they are consistent with the public policy of encouraging competition, subject to the requirements of ORS 279C.335; and

WHEREAS, ORS 279C.335(4) requires that the Metro Contract Review Board hold a public hearing adopting written findings showing that: the exemption of a public improvement contract from competitive bidding is unlikely to encourage favoritism in the awarding of the public improvement contract associated with the exemption; said exemption is unlikely to substantially diminish competition for public improvement contracts; and that said exemption will likely result in substantial cost savings to Metro; now therefore

BE IT RESOLVED THAT THE METRO CONTRACT REVIEW BOARD:

1. Exempts from competitive bidding the procurement and award of a public improvement contract for the construction of the New Elephant Habitat; and
2. Adopts as its findings in support of such exemption the justifications, information and reasoning set forth on the attached Exhibits A and B, which are incorporated by this reference as if set forth in full; and

3. Authorizes the Chief Operating Officer to prepare a form of Request for Proposals for Construction Management/General Contractor that includes as criteria for contractor selection the contractor's proposed contract management costs, contractor's demonstrated public improvement project experience and expertise, the contractor's demonstrated Construction Manager/General Contractor project experience, the contractor's completion of projects of similar scale and complexity, the contractor's experience in incorporating sustainability construction practices and design into projects, and the use of minority, women and emerging small businesses (MWESB) and any other criteria that ensures a successful, timely, and quality project, in the best interest of Metro and the Oregon Zoo; and
4. Following the approval of said form of Request of Proposals by the Office of the Metro Attorney, to issue such approved form, and thereafter to receive responsive proposals for evaluation; and
5. Following evaluation of the responses to the Request for Proposals, authorizes the Chief Operating Officer to execute a contract with the most advantageous proposer to construct the New Elephant Habitat.

ADOPTED by the Metro Council this _____ day of June 2011.

Thomas Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Acting Metro Attorney

EXHIBIT A

Findings in Support of an Exemption from Competitive Bidding

Pursuant to ORS 279C.335(2) and (4), and Metro Code Section 2.04.054(c), the Metro Contract Review Board makes the following findings in support of exempting the procurement of the New Elephant Habitat from competitive bidding, in favor of an RFP solicitation for a Construction Manager/General Contractor public improvement construction contract:

1. The exemption is unlikely to encourage favoritism or substantially diminish competition.

The Metro Contract Review Board finds that exempting the procurement of the construction of the New Elephant Habitat from competitive bidding is “unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts” as follows: The RFP will be formally advertised with public notice and disclosure of the planned CM/GC alternative contracting method and made available to all qualified contractors. Award of the contract will be based on the identified selection criteria and dissatisfied proposers will have an opportunity to protest the award. Full and open competition based on the criteria set forth in the Metro Contract Review Board resolution will be sought, with the contract award going to the most advantageous proposer. Competition will be encouraged by: contacting local sub-contractors, including MWESB firms and notifying them of any opportunities within their area of expertise; utilizing the Oregon Daily Journal of Commerce and a minority business publication for the public advertisement; performing outreach to local business groups representing minorities, women and emerging small businesses; and by contacting contractors known to Metro to potentially satisfy the RFP criteria.

2. The exemption will likely result in substantial cost savings to Metro.

The Metro Contract Review Board finds that exempting the procurement of the construction of the New Elephant Habitat from competitive bidding will likely result in substantial costs savings to Metro, considering the following factors:

- a. **Operational, budget and financial data:** Utilizing an RFP process to select a CM/GC will allow Metro to obtain guaranteed maximum price project costs from the construction contractor(s), and also allow for cost reductions through pre-construction services by the contractor during the design phase, including a constructability review, value engineering, and other services. Given the high degree of complexity of the project improvements, the need to integrate with pre-existing infrastructure, and challenging environmental and topographical site constraints, involving the contractor early during the design process fosters teamwork that results in a better design, fewer change orders, and faster progress with fewer unexpected delays, resulting in lower costs to Metro. Faster progress and an earlier completion date will also help Metro avoid the risk of inflationary increase in materials and construction labor costs.
- b. **Public Benefits:** The expeditious completion of the project by using the CM/GC process will help ensure that the new expanded habitat is available for the Zoo’s elephants and for viewing by the public as soon as possible, thus more quickly bringing economic benefits to the Zoo and to the Metro Area. In addition to the public benefits from the cost savings noted above, the procurement of a CM/GC construction contract through RFP process will help realize Metro’s aspirational goal of obtaining 15 percent MWESB participation.

- c. **Value engineering:** The CM/GC process will enable the contractor to work with the project architect and the Zoo bond staff to help reduce construction costs by providing early input and constructability review to designers, avoiding costly redesigns and change orders, and providing opportunities for the architects and contractor to work together on both practical and innovative solutions to complex design issues. This type of contract will allow the designers to more easily explore with the contractor the feasibility of innovative design solutions and incorporate ongoing value engineering. Such solutions are expected to result in a more innovative project, at a lower cost, with shortened project completion time.
- d. **Specialized expertise required.** The construction of complex animal habitats like the New Elephant Habitat requires special expertise, knowledge, and experience, all of which can be factored into the contractor selection in the RFP process. The selection of a contractor with such specialized expertise to construct the project will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on or ahead of schedule, resulting in lower costs and increased benefit to elephants and Zoo patrons. The ability to factor expertise and experience into contractor selection is inherent in the RFP process, but is not normally part of the traditional competitive bid process.
- e. **Public safety:** The New Elephant Habitat is a large, complex project subject to a tight construction schedule. Construction will occur while the Elephants remain on exhibit and the rest of the Zoo continues to be safely open to the public. The CM/GC contracting process will enable the contractor to work with the project architect and the Zoo construction and design staff to plan for minimizing safety hazards and conflict between the project and ongoing Zoo operations, by providing early input into issues of project phasing, construction staging areas, construction access corridors, and scheduling. Such integrated early planning efforts are expected to limit delay causing conflicts and decrease risks to public safety, thus reducing the risk of delays and costly injury claims.
- f. **Market conditions:** As stated above, the CM/GC contracting process involves the contractor early during the design process, resulting in a better design, fewer change orders, and faster progress with fewer unexpected delays, resulting in lower costs to Metro. Faster progress and an earlier completion date is expected to allow Metro to take advantage of a lingering downturn in construction and materials costs resulting from the economic recession and slow economic recovery.
- g. **Technical complexity:** The design and construction of large animal zoo exhibits requires technical expertise, knowledge, and experience, all of which can be factored into the contractor selection in the RFP process. The selection of a contractor with demonstrated experience and success in implementing such projects will result in a substantially lower risk to Metro, because it increases the likelihood of the project being completed on budget, with fewer construction delays and change orders, resulting in lower costs and increased benefit to elephants and Zoo patrons. The RFP process will take into account each contractor's past performance and technical knowledge. Based on the necessary quality of the finished habitat, and the technical complexity of the undertaking, the Procurement Officer believes an alternative contracting process to be necessary and in the best interest of the agency.

EXHIBIT B

Findings in Support of Use of Alternative Contracting Method

In February 2011, Pinnell/Busch, Inc., an experienced construction management firm in Portland, Oregon, worked with the Zoo's bond project team and a number of industry experts in alternative contracting methods (primarily members of the Oregon Public Contracting Coalition) to survey industry practices and results. The team's final report, recommending Construction Management/General Contractor (CM/GC) as a beneficial contracting process for zoo bond projects, was presented to the Oregon Zoo Bond Advisory Group (OZBAG) in March 2011. OZBAG supported the group's findings and the recommendation to pursue a CM/GC contract for the new elephant habitat and associated infrastructure project.

Utilizing an RFP process will not diminish competition, as it will allow for open competition among contractors experienced in CM/GC projects. The RFP will be formally advertised in local publications and posted on Metro's web site, as well as mailed to known experienced contractors. CM/GC is now the most widely used contracting method for large, mission-critical, public building projects in Oregon.

Properly implemented CM/GC contracting provides a process that ensures a successful project. Frequently cited benefits of the method include:

1. Results in a better design that meets the owner's objectives
2. Encourages competition, especially for Minority, Women, and Emerging Small Business (MWESB) subcontractors
3. Can be completed in a faster time frame
4. Costs less than a design-bid build project that is designed and constructed in the traditional manner
5. Reduces the risks of delays, cost overruns, and disputes
6. Limits the number of change orders for unforeseen conditions

These benefits would likely be particularly present for projects constructed in the Zoo's working environment which is complicated by the following factors:

1. Continual operations (24/7 basis)
2. Widespread public access and need for a quality visitor experience to maintain current revenues
3. Extremely sensitive and dangerous occupants
4. Very difficult site layout, work site access, and geotechnical conditions
5. Highly specialized exhibit construction means and methods
6. Extensive program goals with somewhat limited budget for the anticipated scope and quality

A key benefit of CM/GC is involving a contractor during the design process. Pre-construction services offered during this process include a constructability review, value engineering, and other services during design. Involving a contractor during the design fosters teamwork that results in a better design, faster progress with fewer delays, and less costs.

In addition, the use of an alternative contracting process will also satisfy the requirement set forth in ORS 279B.085(6) that the contract will be awarded to the entity that is "the most advantageous to the contracting agency."

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 11-4267, METRO COUNCIL,
ACTING AS THE METRO CONTRACT REVIEW BOARD, FOR THE
PURPOSE OF AUTHORIZING AN EXEMPTION FROM COMPETITIVE
BIDDING AND AUTHORIZING THE REQUEST FOR PROPOSALS OF
PROCUREMENT FOR THE CONSTRUCTION OF THE NEW ZOO
ELEPHANT HABITAT AND ASSOCIATED INFRASTRUCTURE

Date: May 19, 2011

Prepared by: Darin Matthews, 503 797-1626
Craig Stroud, 503 220-2451

BACKGROUND

The Oregon Zoo plans to construct a new elephant habitat as part of executing the 2008 capital improvements bond, including associated infrastructure work; a new perimeter service road, relocating the zoo train route, relocating birds of prey mews and upgrading utilities.

The project conceptual design was created as part of the master plan prepared under a separate contract with SRG Architects. Recognizing the complexity of this project, Metro contracted with Pinnell Busch, a project management consulting firm, to research a recommended procurement method. Pinnell Busch collaborated with the Oregon Public Contracting Coalition whose findings concluded a Construction Manager General Contractor, CM/GC, would be the best contracting method for the new elephant habitat. The CM/GC recommendation is supported by the Oregon Zoo Bond Advisory Group as well as the Oregon Zoo Bond Oversight Committee and is a common procurement practice used by public agencies when a construction project is identified with the criteria stated in Exhibit A and B.

The Zoo Bond Program Director and Construction Manager have reviewed the recommendation developed by Pinnell Busch and the Oregon Public Contracting Coalition and agree the CM/GC procurement method is the most beneficial to Metro.

The resolution and attached findings describe the specialized nature of this project. Based on these findings, the Procurement Officer believes that a value-based selection process is more appropriate than a traditional, competitive bid (which looks solely at lowest bid price). Therefore, it is recommended to Council that an alternative procurement process, Construction Manager General Contractor, be authorized. This will allow the Oregon Zoo to consider cost, as well as experience and expertise in completing similar projects in selecting the most advantageous contractor for this project.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** Metro Code 2.04.054, 2.04.054(c); Oregon Revised Statutes 279C.335(4).
3. **Anticipated Effects:** Procurement process will be open and competitive, but items other than cost will be considered in the awarding of the contract. Increased use of MWESB subcontractors is anticipated.

4. **Budget Impacts:** The CM/GC process offers safeguards for cost control of the project, including early involvement by construction contractor in the design process, as well as a limited change orders.

RECOMMENDED ACTION

Metro Council, acting as Public Contract Review Board, approves the use of a Construction Manager General Contractor process and exempts this project from traditional competitive bidding. Further, Council authorizes the execution of the resulting contract by the Chief Operating Officer in a form to be approved by the Office of the Metro Attorney.

Agenda Item Number 5.0

OREGON ZOO FOUNDATION AGREEMENT

Metro Council Work Session
Tuesday, June 28, 2011
Metro Council Chambers

Materials following this page were distributed at the meeting.

 **Metro** | *Agenda*

Meeting: Metro Council
Date: Thursday, June 30, 2011
Time: 2 p.m.
Place: Metro Council Chambers

REVISED

CALL TO ORDER AND ROLL CALL

1. **INTRODUCTIONS**
2. **CITIZEN COMMUNICATIONS**
3. **2011-12 RECOMMENDED SLATE OF GRANT AWARDS FOR METRO'S NORTH PORTLAND ENHANCEMENT GRANT PROGRAM** Blauer
4. **CONSENT AGENDA**
 - 4.1 Consideration of the Minutes for June 23, 2011
 - 4.2 **Resolution No. 11-4267**, For the Purpose of Authorizing an Exemption From Competitive Bidding and Authorizing the Preparation and Release of Requests For Proposals For the Construction of the New Zoo Elephant Habitat and Associated Infrastructure.
 - 4.3 **Resolution No. 11-4273**, For the Purpose of Amending Article III of the Metro Policy Advisory Committee Bylaws.
 - 4.4 **Resolution No. 11-4277**, For the Purpose of Authorizing the Chief Operating Officer to Begin Procuring the Design and Construction of the New Zoo Elephant Habitat and Associated Infrastructure Prior to Completion and Adoption of the Oregon Zoo Comprehensive Capital Master Plan.
5. **CHIEF OPERATING OFFICER COMMUNICATION**
6. **COUNCILOR COMMUNICATION**
7. **EXECUTIVE SESSION HELD PURSUANT WITH ORS 192.660(2)(d). DELIBERATIONS WITH PERSONS DESIGNATED BY THE GOVERNING BODY TO CARRY ON LABOR NEGOTIATIONS.**

ADJOURN

Television schedule for June 30, 2011 Metro Council meeting

| | |
|--|---|
| <p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 11 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> 2 p.m. Thursday, June 30 (Live)</p> | <p>Portland Channel 11 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> 8:30 p.m. Sunday, July 3 <i>Date:</i> 2 p.m. Monday, July 4</p> |
| <p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> 2 p.m. Monday, July 4</p> | <p>Washington County Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> 11 p.m. Saturday, July 2 <i>Date:</i> 11 p.m. Sunday, July 3 <i>Date:</i> 6 a.m. Tuesday, July 5 <i>Date:</i> 4 p.m. Wednesday, July 6</p> |
| <p>Oregon City, Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p> | <p>West Linn Channel 30 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p> |

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

Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov 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).

METRO – OREGON ZOO FOUNDATION AGREEMENT

This Metro-Oregon Zoo Foundation Agreement (“Agreement”), effective _____, 2011 (the “Effective Date”) is entered into by and between Metro, a municipal corporation and political subdivision of the state of Oregon, organized in accord with state law and the Metro Charter (“Metro”), and the Oregon Zoo Foundation, an independent Oregon non-profit public benefit corporation, recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code (“OZF”), also collectively referred to herein as (“Party” or “Parties”).

PURPOSE OF AGREEMENT

The purpose of this Agreement is to formalize the working relationship between the Oregon Zoo Foundation and Metro. Metro desires to continue to receive the support of the foundation, its board members, members and employees. The OZF and Metro wish to assure the continued success and prosperous growth of the Oregon Zoo in the future.

RECITALS

- A. Metro, a municipal corporation, owns and operates The Oregon Zoo (also, the “Zoo”), pursuant to Oregon law and Metro Charter. The terms “Metro” and “Zoo” are used interchangeably herein.
- B. OZF is an independent tax-exempt Oregon nonprofit public benefit corporation organized to support the Zoo via fundraising, advocacy and community relations in consultation and collaboration with Metro.
- C. Metro and OZF are committed to working collaboratively to achieve the shared goal of making the Zoo a world-class institution and a world-wide leader in best practices for animal welfare, guest services, conservation action and education.
- D. Metro acknowledges that OZF is an invaluable asset to the Zoo, and OZF’s historic fund-raising and support has made it an essential on-going partner in sustaining the Zoo and its mission. OZF’s independent 501(c)(3) status provides the Zoo with the opportunity to benefit from charitable giving that Metro would otherwise not receive, and the flexibility of this funding, applied to facilitate work that Metro could not otherwise perform, has provided much needed assistance to the Zoo.
- E. Both Metro and OZF wish to restate and replace that certain agreement between the OZF and Metro dated March 29, 1985, amended as of March 28, 1989 and April 2, 1997, further amended and fully restated as of May 9, 2002, and entitled “Amended and Fully Restated Agreement.”
- F. The purpose of this Agreement is to establish the roles and responsibilities of Metro and OZF with respect to each other and their shared goals.

NOW, THEREFORE:

- 2.7 Undertake the activities set forth in this Section 2 at OZF's expense except as provided in this Agreement or as otherwise agreed to by the Parties.
- 2.8 Operate in compliance with Metro policies and code provisions governing Metro Facilities, including those policies and provisions pertaining to naming rights and sponsorships set forth in Metro Code, Chapter 2.16, "Naming of Facilities," and Metro Code, Chapter 2.04, Section 2.04.054(b)(16).
- 2.9 Duties on Dissolution. Upon dissolution of OZF, after payment or provision for payment of all OZF liabilities, assets of OZF shall be distributed to Metro, or the tax-exempt successor operating the Oregon Zoo, to be used for zoological purposes at the Oregon Zoo that qualify as exclusively public purposes.
- 2.10 Changes to Articles and Bylaws. OZF shall promptly provide Metro with written notice and an updated copy of its articles of incorporation and corporate bylaws any time they are amended, restated or otherwise changed.
- 2.11 OZF Annual Operating Budget. Maintain all fiscal records relating to its activities in accordance with generally accepted accounting principles. The OZF shall adopt and publish an annual operating budget on or before June 7 of each fiscal year.
- 2.12 Upon termination of this Agreement, cease using the Oregon Zoo name, and cease representing the Zoo in fundraising activity.
- 2.13 The OZF shall purchase and maintain at OZF's expense, the types of insurance listed below covering OZF, its employees and agents. The OZF shall provide Metro with a certificate of insurance complying with this Agreement within thirty (30) days of executing this Agreement. Notice of any material change or policy cancellation shall be provided to Metro thirty (30) days prior to any change.
- 2.13.1 The most recently approved ISO (Insurance Services Offices) Commercial General Liability policy, or its equivalent, written on an occurrence basis, with limits of not less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate, providing coverage against claims for bodily injury, death, personal injury, property damage, contractual liability, premises and products /completed operations. Said Commercial General Liability policy shall name Metro, its elected officials, officers, employees and agents as additional insureds. OZF's coverage will be primary as respects Metro.
- 2.13.2 Workers' Compensation insurance providing coverage for Oregon statutory requirements, including Employer's Liability Insurance with limits not less than \$500,000 each accident.
- 2.13.3 Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, combined single limit for bodily injury and property damage including coverage for owned, non-owned, and hired vehicles, including loading and unloading operations. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. Said Automobile Liability Insurance policy shall name Metro, its elected officials, officers, employees and agents as additional insureds.

- 3.9 Provide space for special events and member events aligned with the Development Plan to the OZF free of charge. The nature and dates of these events shall be determined by the Parties' mutual agreement and in coordination with the Zoo Director and staff.
- 3.10 OZF participation in Metro benefit plans, with the exception of Flexible Spending Accounts, shall fully and finally terminate July 30, 2011. Flexible Spending Accounts benefits shall terminate December 31, 2011, subject to the reimbursement rights of OZF employees for a further 90 days. The OZF acknowledges that the Metro group health plan is a governmental plan not subject to the Employee Retirement Income Security Act (ERISA), as amended. This clause shall not be interpreted to preclude OZF participation in Metro benefit plans in the future, if a mutually satisfactory arrangement can be agreed upon.
- 3.11 If Metro receives OZF assets as a result of termination or dissolution, Metro shall maintain and distribute such funds as restricted funds for the exclusive benefit of the Zoo, and subject to any additional restrictions placed on those funds by donors.
4. Coordination Between Metro and OZF. Metro and OZF will coordinate their efforts to accomplish their goals and purposes as effectively as possible, recognizing that transparency and extensive and consistent communication between the two organizations is essential to the strength of the relationship. Specifically:
- 4.1 The Zoo Director and two Metro Councilors, appointed by the Metro Council President, shall serve as non-voting ex-officio members of the OZF Board. The Councilors shall not be counted for purposes of calculating OZF Board quorum and voting requirements. Metro and the OZF shall ensure that each are fully informed of all relevant developments occurring at their respective institutions, through one-on-one meetings between the OZF Director and the Zoo Director, and mutual participation in all relevant operational meetings of the Parties.
- 4.2 An Annual Report will be jointly published by OZF and the Oregon Zoo.
- 4.3 The OZF Board and the Metro Council shall meet semi-annually, to share information about both organizations and review accomplishments and goals. One such annual meeting shall be held for the purpose of presenting and discussing the Annual Report.
- 4.4 The OZF Director shall ensure that public information materials routinely identify the Zoo's affiliation with Metro in a manner which is consistent with Metro's communication standards.
5. OZF Memberships, Allocation of Membership Revenues, Donations, and Contributions.
- 5.1 OZF shall establish the fees charged and, the benefits extended to members at the various OZF membership levels, upon consultation with Metro, subject to the provisions of this section and section 10.2. At the inception of this Agreement, the cost of an OZF "Family" membership shall be established based on the cost of admission on the Effective Date for a family of two adults and two children multiplied by 2.5, which is the AZA acknowledged national average ratio of the price of a zoo membership to the price of admission on the date hereof. The price of a "Family" membership thus established shall be reviewed annually during the budgeting process. Unless otherwise agreed

7.2 Termination for Convenience. The party wishing to terminate for convenience shall promptly notify the other party in writing of the decision to terminate. The parties shall begin the process of non-binding mediation on the matter within 14 days, and attempt to negotiate in good faith the continuation of the relationship on the same, similar or different terms. The mediation between the parties shall be conducted by one mediator. The mediator and the ground rules for mediation shall be determined by mutual agreement, and the cost of the mediator's services shall be shared equally between the parties. If the parties are unable to agree upon the continuation of the relationship within 120 days of the date of the notice of termination, the terminating party shall notify the other party of this failure and the Agreement shall immediately terminate. The rights and obligations of the parties set forth in sections 2.11, 3.11 and 9 shall survive and not be limited by any termination of this Agreement.

8. Amendments. This Agreement may be amended at any time by a written agreement signed by both Parties.

9. Indemnification.

9.1 OZF agrees to defend, indemnify and hold harmless Metro, its elected officials, officers, agents and employees, against all loss, damage, expenses, and liability, whether arising in tort, contract or by operation of any statute or common law, relating to or arising out of any claims, demands, judgments or other determination that OZF is not an independent contractor as set forth in Section 1.1.

9.2 OZF shall defend, indemnify and hold harmless Metro, its elected officials, officers, agents and employees, against all loss, damage, expenses, judgments, claims and liability, whether arising in tort, contract or by operation of any statute or common law, arising out of OZF's performance of, or failure to perform, this Agreement.

9.3 Metro shall defend, indemnify and hold harmless OZF and its officers, agents and employees, against all loss, damage, expenses, judgments, claims and liability, whether arising in tort, contract or by operation of any statute or common law, arising out of or in any way connected to Metro's performance of, or failure to perform, this Agreement, subject to the limitations and conditions of the Oregon Constitution and the Oregon Tort Claims Act, ORS Chapter 30.

9.4 The foregoing indemnification, defense, and hold harmless provisions are for the sole and exclusive benefit of OZF, Metro, and their respective elected officials, officers, employees, and agents, and are not intended, nor shall they be construed, to confer any rights on or liabilities to any person or persons other than Metro, OZF and their respective elected officials, officers, employees and agents.

9.5 Each Party hereby waives any and every claim during the term of this Agreement or any extension or renewal thereof for any loss or damage covered by an insurance policy to the extent that such loss or damage is recovered under said insurance policy. Inasmuch as the waiver will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person) the Parties are advised to give each insurance company written notice of terms of such waiver, and to have insurance policies properly endorsed, if necessary.

third parties unless third persons are expressly described as intended to be beneficiaries of its terms.

- 10.5 Headings/Construction. Titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. In construing this Agreement, singular pronouns shall be taken to mean and include the plural and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require.
- 10.6 Waivers. No waiver made by either Party with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition inuring to either Party's benefit under this Agreement shall be considered a waiver of any other rights of that Party. No waiver by either Party of any provision of this Agreement or any breach thereof, shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver.
- 10.7 Choice of Law/Place of Enforcement. This Agreement shall be construed, governed and enforced in accord with the laws of Oregon. Any action or suit to enforce or construe any provision of this Agreement by any Party shall be brought in the Circuit Court of the State of Oregon for Multnomah County, or the United States District Court for the District of Oregon in Portland, Oregon.
- 10.8 Severability. In the event that any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, in whole or in part, or in any other respect, then such provision or provisions shall be deemed null and void and shall not affect the validity of the remainder of the Agreement, which shall remain operative and in full force and effect to the fullest extent permitted by law.
- 10.9 Entire Agreement. This Agreement and the Exhibits hereto constitute the entire agreement between the Parties, and except as otherwise set forth herein, supersede any and all other implied or express, oral or written agreements between the Parties with regard to this subject matter.
- 10.10 Successors and Assigns. Subject to and except as otherwise set forth herein, the benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors and assigns of the Parties.
- 10.11 The signature of the OZF Chair below has been duly authorized by OZF Board of Directors.

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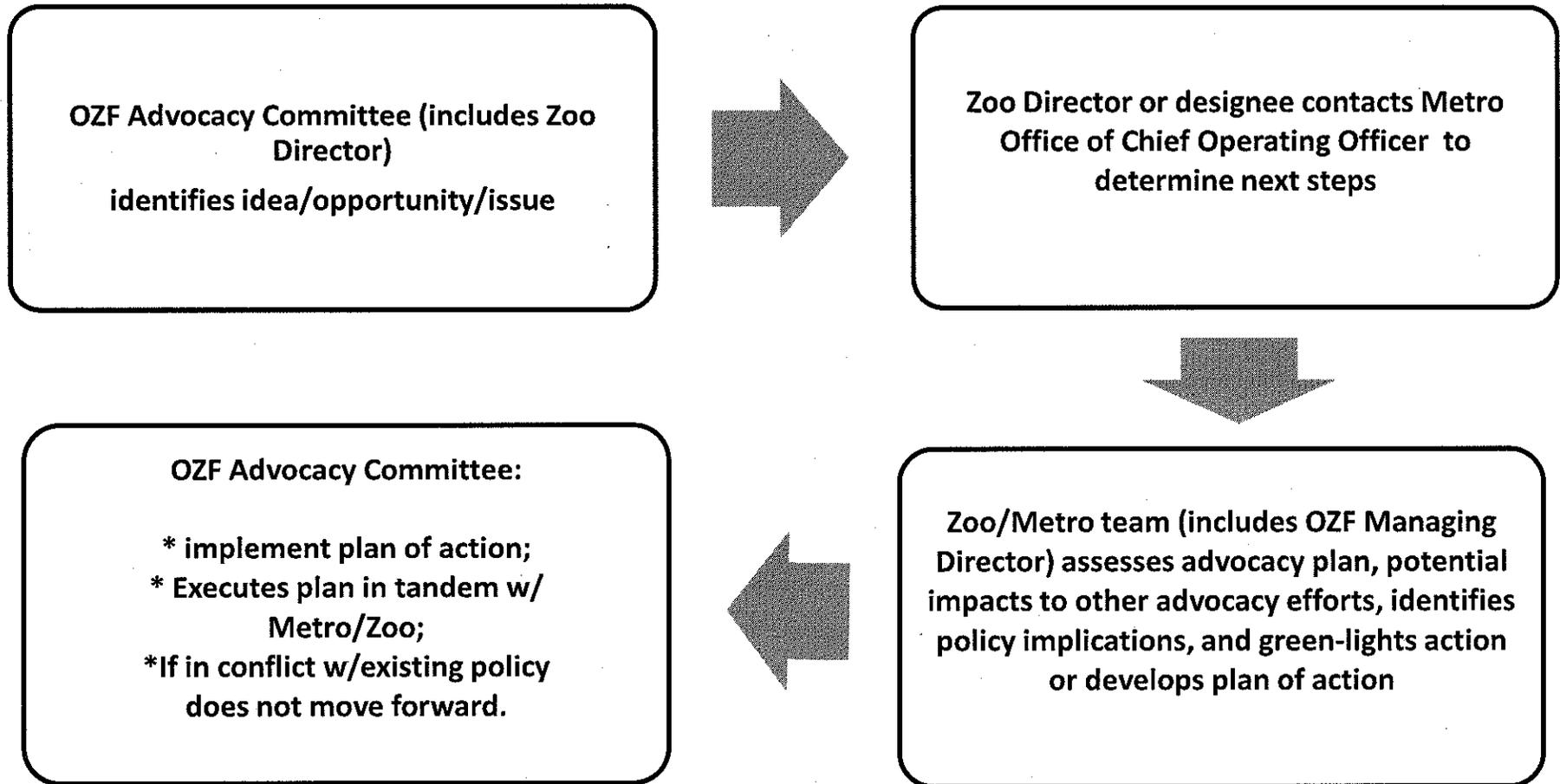
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Oregon Zoo Foundation Advocacy Process

Foundation Originated Advocacy Request



For the purposes of this discussion, "advocacy" is defined as contacting federal, state or local elected officials, boards and commissions appointed as policy making bodies, and business associations, community organizations, industry trade groups and individuals that are not directly related to the mission of the Oregon Zoo.