

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING )  
AN INTERGOVERNMENTAL AGREEMENT )  
WITH THE CITY OF PORTLAND TO TRANSFER )  
FEDERAL TRANSPORTATION (CMAQ) FUNDS )  
FROM THE OMSI TO SPRINGWATER )  
CORRIDOR TRAIL PROJECT TO THE )  
PENINSULA CROSSING TRAIL PROJECT )

RESOLUTION NO. 97-2480

Introduced by Mike Burton  
Executive Officer

WHEREAS, funding for the proposed acquisition of property on which to build a trail connection from OMSI to the Springwater Corridor comes from Metro's Bond Measure 26-26 for Open Space, Parks and Streams which was approved by the voters of the region in May 1995; and

WHEREAS, \$584,000 in CMAQ (Congestion Mitigation Air Quality) funds from the U.S. Department of Transportation (USDOT) were originally allocated to the city of Portland to construct the OMSI to Springwater Corridor Trail; and

WHEREAS, federal deadlines require the obligation of the CMAQ funds awarded to the OMSI to Springwater Corridor by September 30, 1997; and

WHEREAS, if CMAQ funds are not obligated by the deadline, the funds could be reallocated to other transportation projects or eliminated; and

WHEREAS, Metro Parks and Greenspaces and Portland Parks staff are recommending to Metro's Transportation Department, Oregon Department of Transportation, and U.S. Department of Transportation that the CMAQ trail construction funds be transferred from the OMSI to Springwater Corridor Trail project to the Peninsula Crossing Trail project; and

WHEREAS, funding for construction of the Peninsula Crossing Trail currently comes from Metro's Bond Measure 26-26 for Open Space, Parks and Streams; and

WHEREAS, the Portland City Council approved an IGA with Metro in December 1996 accepting responsibility to operate, manage and maintain the Peninsula Crossing Trail; and

WHEREAS, Metro will reallocate certain bond funds from the Peninsula Crossing Trail project to the OMSI to Springwater Corridor Trail project; and

WHEREAS, Metro Transportation staff have been apprised of and support the proposed transfer; and

WHEREAS, Portland Parks and Recreation, Portland Department of Transportation (PDOT) and Oregon Department of Transportation (ODOT) staff have been apprised of and support the proposed transfer; and


WHEREAS, the transfer of funds will enable two regionally significant trail projects to be completed; and

WHEREAS, Metro and the city of Portland have set forth their respective agreements, rights and obligations to accomplish such transfers and fund reallocations in the attached IGA entitled, "Transfer of CMAQ funds from OMSI to Springwater Corridor Trail Project to Peninsula Crossing Trail Project."


BE IT RESOLVED

That the Metro Council approves and authorizes the Executive Officer to execute the Intergovernmental Agreement attached hereto as Exhibit A.

ADOPTED by the Metro Council this 11<sup>th</sup> day of September 1997.

  
Jon Kvistad, Presiding Officer

Approved as to Form:

  
Daniel B. Cooper, General Counsel

## Exhibit A

### INTERGOVERNMENTAL AGREEMENT

#### Transfer of CMAQ Funds from OMSI to Springwater Trail Project to Peninsula Crossing Trail Project

This Intergovernmental Agreement ("Agreement"), dated this \_\_\_ day of June, 1997, is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, Oregon, 97232-2736 ("Metro") and the City of Portland, located at 1220 S.W. Fifth Avenue, Portland, Oregon, 97204 ("the City").

#### WITNESSETH

WHEREAS, Metro is working cooperatively with the City to promote the objectives of the Metro Bond Measure 26-26 OMSI to Springwater Corridor Trail Corridor Refinement Plan, by negotiating the acquisition of lands for the OMSI to Springwater Corridor Trail (the "OMSI to Springwater Trail"), working with the City to identify a trail corridor on the east bank of the Willamette River, and working with the City to secure additional funding for OMSI to Springwater Trail design and construction; and

WHEREAS, Metro will acquire real property and the city will design, construct and manage the OMSI to Springwater Trail; and

WHEREAS, the Metro Bond Measure 26-26 budget approved by the Metro Council currently includes one million dollars (\$1,000,000) for acquisition of certain real property on the east bank of the Willamette River, identified in the OMSI to Springwater Corridor Trail Refinement Plan, on which the proposed OMSI to Springwater Corridor Trail will be built; and

WHEREAS, at the City's request, \$584,000, in the form of U.S. Department of Transportation (USDOT) Congestion Mitigation Air Quality funds (hereafter, "CMAQ Funds") were reserved by USDOT and the Oregon Department of Transportation ("ODOT") to pay for the City's design and construction of the OMSI to Springwater Trail, and \$200,000 in local matching funds were earmarked by the City to pay for design and construction of the OMSI to Springwater Trail; and

WHEREAS, USDOT/ODOT deadlines require that the City obligate the CMAQ funds reserved for the OMSI to Springwater Trail by September 30, 1997, and if said CMAQ funds are not so obligated, the funds may be either reallocated to other transportation projects outside the Portland metropolitan region or eliminated; and

WHEREAS, due to circumstances beyond City or Metro control, the City is unable to obligate the CMAQ funds toward design and construction of the OMSI to Springwater Trail by the federal deadline; and

WHEREAS Metro and the City are also working together to construct the future Peninsula Crossing Trail, a regionally significant trail project identified and funded by Metro's Bond Measure 26-26, and have entered into an IGA for that trail, dated December 11, 1996, describing the duties and responsibilities for designing constructing and maintaining the Peninsula Crossing Trail; and

WHEREAS, to prevent the possibility that the CMAQ funds that USDOT/ODOT reserved to pay for the City's design and construction of the OMSI to Springwater Trail will be reallocated to a project outside the region, and to protect the viability of the OMSI to Springwater Trail Project, the City has, through Charles Jordan, Director of the Portland Parks and Recreation Bureau, by letter dated 4/14/97, requested that ODOT transfer the CMAQ funds currently reserved for the proposed OMSI to Springwater Trail to the Peninsula Crossing Trail; and

WHEREAS, Metro Parks and Greenspaces staff recommends that, in return for the City's request that the CMAQ funds reserved for the proposed OMSI to Springwater Trail be transferred to Metro's Peninsula Crossing Trail, and in return for the City's cooperation with the application of the CMAQ funds towards the costs of constructing Metro's Peninsula Crossing Trail, Metro should transfer and reserve a comparable amount of funds to pay for the City's future design and construction of the OMSI to Springwater Trail; and

WHEREAS, the current \$1,600,000 allocated for Metro's design and construction of its portion of the Peninsula Crossing Trail is currently funded by Metro's Bond Measure 26-26, for Open Spaces, Parks and Streams; and

WHEREAS, Metro and the City acknowledge that, even if CMAQ funding for the OMSI to Springwater Trail design and construction is preserved through an exchange of Bond Measure 26-26 funding for CMAQ funds, there will be insufficient funds allocated to design and construct the future OMSI to Springwater Trail; and

WHEREAS, to reduce the OMSI to Springwater Trail design and construction budget shortfall, Metro Parks and Greenspaces Staff recommends that Metro reallocate \$300,000 from Metro's OMSI to Springwater Corridor Trail Target Area land acquisition budget to help meet the design and construction budget shortfall; and

WHEREAS, Metro and the City wish to enter into this Agreement both to provide for the transfer of funds, and to apportion the accompanying responsibilities and obligations of the parties with respect to the transfer and reallocation of funds, the use of the transferred and reallocated funds for both trail design and construction, and the City's future management, maintenance and operation of the OMSI to Springwater Trail improvements,

Now therefore, the parties hereby agree as follows:

**A. Reallocation of CMAQ Funds from OMSI to Springwater Trail to Peninsula Crossing Trail (Federal CMAQ Trail - to - Trail Reallocation)**

1. Metro shall amend the Metro area Transportation Improvement Program (MTIP), removing the OMSI to Springwater Trail from Metro's list of CMAQ funded projects, and substituting Metro's Peninsula Crossing Trail as a CMAQ funded project.
2. Metro and the City shall pursue and fully cooperate with USDOT/ODOT's amendment of its State Transportation Improvement Program (STIP), removing the OMSI to Springwater Trail from ODOT's list of CMAQ funded projects, and substituting Metro's Peninsula Crossing Trail as a CMAQ funded project. Metro and the City shall pursue and fully cooperate with ODOT in obtaining USDOT approval of the funding shift.
3. Metro and the City shall pursue and fully cooperate with USDOT/ODOT to finalize and execute a "Congestion Mitigation and Air Quality Project - Local Agency Agreement" (hereafter "Local Agency Agreement") with ODOT, permitting Metro and the City of Portland to co-administer the Peninsula Crossing Trail Project as a CMAQ funded project.

**B. Metro's Peninsula Crossing Trail funds reserved to replace the OMSI to Springwater Trail CMAQ funds reallocated to the Peninsula Crossing Trail (Metro Trail - to - Trail Funding Reallocation)**

1. Upon execution of the Local Agency Agreement by Metro, the City of Portland and ODOT, as set forth in Section A above, Metro shall reallocate \$533,975 from Metro's Peninsula Crossing Trail budget to the OMSI to Springwater Trail Project (the "Trail Reallocation Sum"). The net difference in the exchange is accounted for by subtracting the \$50,025 in additional costs Metro expects to incur as a result of accepting federal CMAQ funding for the Peninsula Crossing Trail project.
2. The \$533,975 Trail Reallocation Sum shall be applied to the City's costs of designing and constructing a bicycle and pedestrian trail along the eastside of the Willamette River, connecting the Oregon Museum of Science and Industry (OMSI) to the Springwater Corridor, as identified in the Metro Open Spaces Bond Measure 26-26 Fact Sheet and the OMSI to Springwater Corridor Trail Refinement Plan.
3. Expenditures on design and construction may only begin after a final trail alignment is designated by mutual agreement of Metro and the City.

**C. Metro's OMSI to Springwater Corridor Trail Target Area Acquisition Funds reallocated to fund future design and construction of the OMSI to Springwater Trail (Metro Acquisition - to - Funding Reallocation)**

1. Upon execution of the Local Agency Agreement by Metro, the City of Portland and ODOT, as set forth in Section A above, Metro shall reallocate \$300,000 out of Metro's \$1,000,000 OMSI to Springwater Corridor Trail Target Area Acquisition Budget (the "Construction Reallocation Sum") to reduce the OMSI to Springwater Trail design and construction budget shortfall.
2. The \$300,000 Construction Reallocation Sum shall be applied to reimburse the City for the cost of designing and constructing a bicycle and pedestrian trail along the east bank of the Willamette River, connecting the Oregon Museum of Science and Industry (OMSI) to the Springwater Corridor, as envisioned in the Metro Open Spaces OMSI to Springwater Corridor Trail Refinement Plan.
3. Expenditures on design and construction may begin only after a final trail alignment is designated by mutual agreement of Metro and the City.

**D. City of Portland CMAQ local matching funds to be preserved, applied to future design and construction of the OMSI to Springwater Trail**

1. Upon execution of the Local Agency Agreement by Metro, the City of Portland and ODOT, as set forth in Section A above, the City shall reserve and maintain at least \$170,000 of the City's own funds, dedicated to satisfying the cost of designing and constructing a bicycle and pedestrian trail along the east bank of the Willamette River, connecting the Oregon Museum of Science and Industry (OMSI) to the Springwater Corridor, as envisioned in the Metro Open Spaces OMSI to Springwater Corridor Trail Refinement Plan.
2. The \$170,000 sum represents the City's original \$200,000 required CMAQ local match, less \$30,000 reimbursed to the State of Oregon for ODOT project expenses to date.
3. Expenditures on design and construction may only begin after a trail alignment is designated by mutual agreement of Metro and the City.

**E. Acquisition of OMSI to Springwater Corridor Lands**

Metro shall be responsible for the acquisition of lands within the OMSI to Springwater Corridor for the OMSI to Springwater Trail with Open Spaces Bond Measure 26-26 funds, limited by current or future amended budgets.

**F. Design and Construction, Management, Maintenance and Operation of the OMSI to Springwater Corridor Trail**

1. Metro shall take the lead in negotiating the acquisition of land and/or easements with property owners and other parties which hold an interest in the corridor.

2. The City shall be solely responsible for the design, construction and ongoing management, maintenance and operation of the future OMSI to Springwater Trail, in accordance with the terms of this agreement.
3. The City shall design, construct, manage, maintain, and operate the OMSI to Springwater Trail in accordance with its intended use as a pedestrian and bicycle trail with natural environmental qualities. Said OMSI to Springwater Trail design and alignment shall be subject to Metro approval.
4. Once a Trail design and alignment has been mutually approved by Metro and the City, Metro shall reimburse the City for OMSI to Springwater Trail design and construction costs as work is completed, however, Metro's total obligation under this agreement to fund OMSI to Springwater Trail design and construction shall be limited to \$833,975. Reimbursement by Metro to the City for design and construction expenditures will be subject to the procedures set forth in attachment "B" to this Agreement, entitled, "Procedures for Payment of Funds by Metro to Recipient of Open Spaces Bond Measure Local Share."
5. The City shall design, construct, manage, maintain, and operate the OMSI to Springwater Trail in accordance with and in a manner consistent with this Agreement, Metro's Greenspaces Master Plan and the City's Springwater Corridor Trail Master Plan (collectively, "the Plans"), as well as with any governing easements and encumbrances, including the PGE Transmission Line Easement and any other agreement Metro may enter in connection with purchasing the OMSI to Springwater Trail or easement rights or otherwise. The Plans shall constitute the Resource Protection Plans for the OMSI to Springwater Trail, as described in the Metro Greenspaces Master Plan.
6. The City shall manage and maintain the OMSI to Springwater Corridor Trail in perpetuity upon City's acceptance of the work from the construction contractor.
7. Metro shall have the right to review and comment on any changes in the Plans relating to the management, maintenance, or operation of the OMSI to Springwater Trail. Any changes in the Plans made or proposed by the City that relate to management, maintenance, or operation of the OMSI to Springwater Trail shall not conflict with the guidelines set forth in this Agreement, in the Greenspaces Master Plan, or with the uses and restrictions described in the Open Spaces Bond Measure. The City shall give Metro written notice as soon as possible, but in any event no less than 90 days in advance of a proposal to amend the City's Plans where such amendment would alter the City's management, maintenance or operation of the OMSI to Springwater Trail.
8. The City shall maintain security of the OMSI to Springwater Trail, and shall provide additional fencing, gates, signs, and other measures as the City and Metro may deem necessary to increase safety on the OMSI to Springwater Trail, and to preserve and protect the Trail's natural resources, without unreasonably diminishing the OMSI to Springwater Trail's effectiveness as a transportation corridor.

**G. Infeasibility**

1. If Metro Regional Parks and Greenspaces staff believes that either land acquisition for the OMSI to Springwater Trail, or design and construction of the OMSI to Springwater Trail has become infeasible, Metro Regional Parks and Greenspaces staff may recommend that the Metro Council declare the OMSI to Springwater Corridor Trail Refinement Plan and trail project infeasible. The Metro Council shall thereafter hold a public hearing to determine the infeasibility of the OMSI to Springwater Trail Corridor Refinement Plan and trail project. If, at the public hearing, the Metro Council, in its sole determination, finds the OMSI to Springwater Trail Corridor Refinement Plan and trail project to be infeasible, this agreement, and accordingly, Metro's obligation under this agreement to provide \$833,975 in funding for design and construction of the OMSI to Springwater Trail, shall terminate. Upon termination of this agreement, the Metro Council may, at its sole discretion, work with the City to identify and fund a substitute project or projects consistent with the Regional Trails and Greenways Component of Metro's Greenspaces Master Plan.

**H. Termination of Funding Obligation**

1. Metro's obligation to provide \$833,975 in funding for design and construction of the OMSI to Springwater Trail pursuant to this Agreement shall terminate December 31, 2000. It is the intent of Metro and the City that the OMSI to Springwater Trail be either completed or declared infeasible by said date.
2. However, if the construction of the OMSI to Springwater Trail project is ongoing on December 31, 2000, the City is entitled, upon giving 90 days written notice to Metro, to extend Metro's obligation to provide funds for an additional six months. More than one six month extension may be granted if necessary to complete the OMSI to Springwater Trail project.
3. Metro may deny an extension if it finds that the City is not making good faith efforts to complete the OMSI to Springwater Trail project and that the need for an extension is due to the City's lack of good faith effort to complete the OMSI to Springwater Trail project.

**I. Permits, Assessments, Coordination with Other Public Agencies**

1. As stated in the Greenspaces Master Plan, by accepting management responsibility for the OMSI to Springwater Trail, the City agrees to be responsible for funding the operation and maintenance of the OMSI to Springwater Trail with the City's own resources. The City's management responsibility shall include responsibility for all taxes or assessments for the OMSI to Springwater Trail.
2. The City shall be responsible for obtaining any permits necessary for management, maintenance or operation of the OMSI to Springwater Trail.



3. Unless mutually approved by Metro and the City, any permits granted by the City to users of the OMSI to Springwater Trail shall not be exclusive and shall comply with the terms and limitations set forth in this Agreement and in the Plans.
4. The City shall be responsible for contacting and coordinating with other local, state or federal agencies or local property owners regarding any management, maintenance or operation issues that may arise with respect to the OMSI to Springwater Trail.

**J. General Provisions**

1. **Indemnification.** The City shall defend, indemnify and hold harmless Metro 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 the wrongful acts of the City's officers, agents and employees acting within the scope of employment or duties in performance of this Agreement, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS Chapter 30.

Metro shall defend, indemnify and hold harmless the City 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 the wrongful acts of Metro's officers, agents and employees acting within the scope of employment or duties in performance of this Agreement, subject to the limitations and conditions of the Oregon Tort Claims Act, ORS Chapter 30.

2. **Oregon Constitution and Tax Exempt Bond Covenants.** The source of Metro funds for the construction and acquisition of the OMSI to Springwater Trail is from the sale of voter-approved general obligation bonds that are to be paid from ad valorem property taxes exempt from the limitations of Article XI, section 11(b), 11(c), 11(d) and 11(e) of the Oregon Constitution, and the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The City covenants that it will take no actions that would cause Metro to be unable to maintain the current status of the real property taxes as exempt from Oregon's constitutional limitations or the income tax exempt status of the bond interest. In the event the City breaches this covenant, Metro shall be entitled to whatever remedies are available to either cure the default or to compensate Metro for any loss it may suffer as a result thereof.
3. **Funding Declaration and Signs.** The City shall provide on-site signs informing the public that the City is managing the OMSI to Springwater Trail. Metro will provide on-site signs stating that funding for each acquisition and construction came from Metro Open Spaces Bond Measure proceeds and from regional and local share bond measure contributions by Metro and the City. The City shall also document in any publication, media presentation or other presentations, that funding for acquisition of the OMSI to Springwater Trail came

from Metro Open Spaces Bond Measure proceeds. On-site signs that provide recognition of Metro funding shall be subject to prior review and approval by Metro.

4. Joint Termination for Convenience. Metro and the City may, by mutual agreement, terminate all or part of this Agreement based upon a determination that such action is in the public interest.

5. Documents are Public Property. All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs, or models which are prepared or developed in connection with the acquisition, management, maintenance or operation of the OMSI to Springwater Trail shall become public property. Nothing in this section or in any other part of this Agreement shall be construed as limiting Metro's or the City's ability to consider real property transactions in executive session pursuant to ORS 192.660(1)(e) or as requiring disclosure of records that are otherwise exempt from disclosure pursuant to the Public Records Law (ORS 192.410 to 192.505) or Public Meetings Law (ORS 192.610 to 192.690).

6. Law of Oregon. This Agreement shall be governed by the laws of the state of Oregon, and the parties agree to submit to the jurisdiction of the courts of the state of Oregon. All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, are hereby incorporated as if such provisions were a part of this Agreement including but not limited to ORS 279.015 to 279.320.

7. Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by fax and regular mail.

To Metro: Metro Parks and Greenspaces  
Mel Huie, Senior Regional Planner  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

To City: City of Portland Parks  
George Hudson, Planner  
Portland Parks and Recreation  
1220 S.W. Fifth Ave.  
Portland, OR 97204

Copy to: Metro Parks and Greenspaces  
Charles Ciecko, Director  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

8. Assignment. The City may not assign any of its rights or responsibilities under this Agreement without prior written consent from Metro, except the City may delegate or subcontract for performance of any of its responsibilities under this Agreement.
9. Severability. If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.
10. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or representations relating to the subject matter herein. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

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

CITY OF PORTLAND

METRO

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# PORTLAND PARKS AND RECREATION



1120 SW FIFTH AVE, SUITE 1302, PORTLAND, OREGON 97204-1933  
TELEPHONE (503) 823-2223

FACSIMILE (503) 823-5297



JIM FRANCESCONI, COMMISSIONER

CHARLES JORDAN, DIRECTOR

4/14/97

Michele Thom, Program Specialist  
Marty Andersen, Local Agency Program Engineer  
Oregon Department of Transportation  
9002 SE McLoughlin Blvd.  
Milwaukie, Or. 97222

Re: CMAQ Local Agency Agreement No. 13,193  
Springwater - OMSI, Bike/Ped Trail Connection

Dear Mr. Andersen & Ms. Thom,

Due to delays beyond the City's control, the City will be unable to obligate the funding for the Springwater to OMSI trail project before October of this year. It is the City's understanding that due to these delays, the CMAQ funding will be in jeopardy and could be lost. The City of Portland, Department of Parks & Recreation, therefore withdraws its request for CMAQ funding for the above project and requests that the funding be transferred to the METRO managed Peninsula Crossing Trail Project. The Springwater to OMSI segment of trail is a critical trail segment and both METRO and Parks staff remain committed to seeing the future completion of this trail. METRO and Parks staff will be entering an agreement that will hold funding in reserve to allow us more time to overcome the delays on the project and see full implementation over the next few years.

I understand METRO and City staff have met with you and have worked out the details of a three party intergovernmental agreement to facilitate the transfer of the CMAQ funds to the Peninsula Crossing Trail project. If we can be of further assistance to you on this transfer, please feel free to contact my staff. Thank-you for working with us to resolve this situation and for the State's support of our trail projects.

Sincerely,

Charles Jordan, Director

cc: Terry Whistler, Metro  
Mel Huie, Metro  
George Hudson, Parks

## STAFF REPORT

### **CONSIDERATION OF RESOLUTION NO. 97-2480 TO APPROVE AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE CITY OF PORTLAND TO TRANSFER FEDERAL TRANSPORTATION (CMAQ) FUNDS FROM OMSI TO SPRINGWATER CORRIDOR TRAIL TO PENINSULA CROSSING TRAIL**

**Date: August 14, 1997**

**Presented By:**

**Charles Ciecko  
Jim Desmond**

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#### **BACKGROUND and PROPOSED ACTION**

- Metro and the city of Portland are working together on two trails: OMSI to Springwater Corridor in southeast Portland and Peninsula Crossing in north Portland. OMSI to Springwater Corridor Trail is currently scheduled to receive federal CMAQ - Congestion Mitigation Air Quality funds for trail construction. CMAQ funds may be lost due to inability to obligate funds now because a final trail alignment has not been determined due to circumstances beyond Metro's or the City's control.
- Metro Regional Parks and Greenspaces requests Metro Council approval of the proposed transfer of \$584,000 in federal transportation CMAQ - Congestion Mitigation Air Quality funds previously allocated to city of Portland for trail design and construction from OMSI to Springwater Corridor to the Peninsula Crossing Trail which will be built by Metro.
- The reason why the transfer is needed is that the federal funds will be lost to the OMSI to Springwater Corridor Trail project if a final trail alignment cannot be determined by September 30, 1997. This deadline cannot be met due to circumstances beyond the City's control. Thus, the CMAQ funds would be lost without the transfer.
- If approved, the transfer would save \$584,000 in CMAQ funds for another regional trail project rather than be lost or reallocated to another transportation project.
- To prevent the possibility of the CMAQ funds from being lost or reallocated to another project, Charles Jordan, Portland Parks Director, has requested that ODOT transfer the \$584,000 in CMAQ funds from OMSI to Springwater to the Peninsula Crossing Trail. A letter from Portland Parks is attached as Exhibit B.
- Since the Peninsula Crossing Trail will receive the \$584,000 in CMAQ funds previously allocated to OMSI to Springwater, Metro Parks and Greenspaces staff recommends that \$533,975 in funds from the Peninsula Crossing Trail Open Spaces Bond budget be reserved for future trail design and construction along the OMSI to Springwater Corridor Trail. The net difference in the exchange is accounted for by subtracting the \$50,025 in additional costs Metro expects to incur as a result of accepting federal funds for the Peninsula Crossing Trail. The U.S. DOT and ODOT require additional tasks be completed when federal funds are part of the funding package (e.g. converting all measurements into metric; cost of having the project bid out by ODOT; and having an inspector at the site during trail construction).

- In addition to this reallocation to make up for the CMAQ transfer, Metro Regional Parks and Greenspaces staff recommends that the Council reallocate \$300,000 from the approved OMSI to Springwater Corridor Target Area acquisition budget of \$1,000,000 to future trail design and construction along the OMSI to Springwater Corridor Trail. Currently, the funds are exclusively targeted for acquisition. The requested change does not increase the total budget, but allows for a switch of a portion of the funds earmarked for acquisition to design and construction.
- The acquisition from PGE of the fee interest underneath the railroad corridor and adjacent properties is in the final stage of negotiations, and will hopefully be completed this summer, after state PUC (Public Utilities Commission) approval of PGE's sale. This was an optioned site and was cited in the bond measure fact sheets. Funds for the PGE purchase come from the \$1,000,000 OMSI to Springwater Corridor Target Area budget and will not be jeopardized by the proposed CMAQ transfer.
- The city of Portland Parks will obligate and reserve at least \$170,000 towards the design and construction of the OMSI to Springwater Corridor trail project.
- Metro and city of Portland will continue to work together to seek additional trail construction funds for the OMSI to Springwater Corridor Trail project.
- With the transfer, the deadline to obligate the federal funds can be met. Thus, the CMAQ funds can be saved for the Peninsula Crossing Trail project within the city. The public will ultimately benefit from completing both regional trail projects as proposed in Measure 26-26.
- With the transfer of Peninsula Crossing Trail bond funds to OMSI to Springwater Corridor, a pressing deadline is eliminated, thus allowing for additional and adequate time to determine a final trail alignment with the City and railroad companies.

#### **COORDINATION WITH METRO DEPARTMENTS AND OTHER AGENCIES**

- Metro and the city of Portland will work together to select a mutually acceptable final trail alignment connecting OMSI to the Springwater Corridor. Metro's goal in the bond measure package was to select a trail alignment with natural environment qualities.
- Portland Parks and Recreation has been a partner in developing the agreement for the proposed transfer. Portland Parks staff support the proposed transfer and will present the attached IGA to the Portland City Council for approval.
- Metro Transportation Department staff have been briefed and support the proposed transfer. Metro's Transportation Improvement Program (MTIP) will be amended to allow for this transfer.
- Portland Transportation Department (PDOT) staff have been briefed and support the proposed transfer.
- Oregon Department of Transportation (ODOT) staff have been briefed and support the proposed transfer. The state's Transportation Improvement Program (STIP) will be amended to allow for this transfer.

- The Peninsula Crossing Trail will be owned, operated and managed by the city of Portland in accordance with the existing IGA signed by Metro and the City on December 11, 1996.
- The OMSI to Springwater Corridor Trail will be operated and managed by the city of Portland in accordance with the terms and conditions of the attached proposed IGA.
- The attached IGA must also be approved by the Portland City Council.

**EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends approval of Resolution No: 97-2480.