

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REMOVING \$367,740)	ORDINANCE NO. 04-1060
IN GRANTS, DONATIONS AND RELATED)	
EXPENDITURES FROM THE REGIONAL)	Introduced by Mike Jordan, Chief Operating
PARKS CAPITAL FUND, AND)	Officer, with the concurrence of the Council
TRANSFERRING \$58,500 FROM CAPITAL)	President
OUTLAY TO CONTINGENCY IN THE)	
REGIONAL PARKS CAPITAL FUND; AND)	
DECLARING AN EMERGENCY)	

WHEREAS, the Metro Council, through ordinance 04-1044B enacted June 17, 2004, adopted the FY 2004-05 annual budget, making appropriations and levying ad valorem taxes; and

WHEREAS, at the time of budget adoption an action was taken that inadvertently resulted in a violation of Oregon Budget Law; and

WHEREAS, the Tax Supervising and Conservation Commission has identified and requested remedy of this violation; and

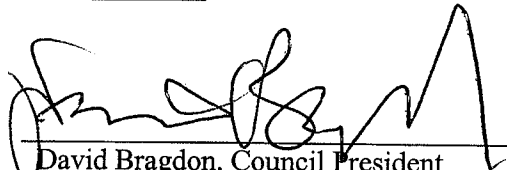
WHEREAS, the Metro Attorney has advised on the best course of action to remedy the violation; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2004-05 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of removing \$367,740 in grants, donations and related capital expenditures from the Regional Parks Capital Fund and transferring \$58,500 from capital outlay to Contingency in the Regional Parks Capital Fund. Both actions being necessary to remedy a violation of budget law that occurred at the time of budget adoption in June 2004.
2. That the Chief Operating Officer, or his/her designee, shall forward a signed certified copy of this action to the Tax Supervising and Conservation Commission as evidence of the remedy of the violation of Oregon budget law.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

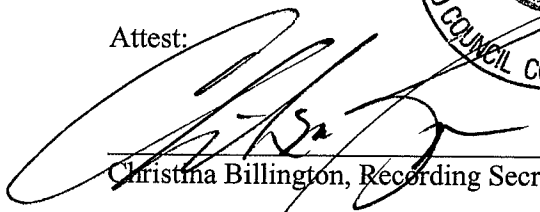
ADOPTED by the Metro Council this 28th day of October, 2004.





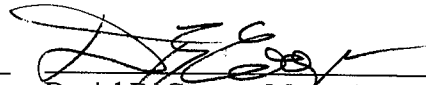
David Bragdon, Council President

Attest:



Christina Billington, Recording Secretary

Approved as to Form:



Daniel B. Cooper, Metro Attorney

Exhibit A
Ordinance No. 04-1060

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks Capital Fund							
RESOURCES							
<i>GRANTS Grants</i>							
4100	Federal Grants-Direct		216,872		(216,872)		0
4110	State Grants-Direct		300,000		0		300,000
4115	State Grants-Indirect		116,877		(116,877)		0
<i>DONAT Contributions from Private Sources</i>							
4750	Donations and Bequests		33,991		(33,991)		0
<i>EQTREV Fund Equity Transfers</i>							
4970	Transfer of Resources						
	* from Regional Parks		1,489,822		0		1,489,822
<i>INTSRV Internal Service Transfers</i>							
4980	Transfer for Direct Costs						
	* from Regional Parks		120,000		0		120,000
	* from Open Spaces		125,000		0		125,000
	* from Parks Special Accounts		70,000		0		70,000
TOTAL RESOURCES			\$2,472,562		(\$367,740)		\$2,104,822
REQUIREMENTS							
<u>Materials & Services</u>							
<i>CAPMNT Capital Maintenance</i>							
5261	Renewal & Replacement - CIP		345,000		0		345,000
5262	Renewal & Replacement - Non-CIP		275,000		0		275,000
Total Materials & Services			\$620,000		\$0		\$620,000
<u>Capital Outlay</u>							
<i>CAPCIP Capital Outlay (CIP Projects)</i>							
5715	Improve-Oth thn Bldg (CIP)		807,740		(367,740)		440,000
5725	Buildings & Related (CIP)		280,000		(58,500)		221,500
Total Capital Outlay			\$1,087,740		(\$426,240)		\$661,500
<u>Contingency and Ending Balance</u>							
<i>CONT Contingency</i>							
5999	Contingency		0		58,500		58,500
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance						
	* Unappropriated Balance		594,822		0		594,822
	* Renewal & Replacement Reserve		170,000		0		170,000
Total Contingency and Ending Balance			\$764,822		\$58,500		\$823,322
TOTAL REQUIREMENTS			\$2,472,562		(\$367,740)		\$2,104,822

Exhibit B
Ordinance No. 04-1060
FY 2004-05 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
REGIONAL PARKS CAPITAL FUND			
Operating Expenses (PS & M&S)	\$620,000	\$0	\$620,000
Capital Outlay	1,087,740	(426,240)	661,500
Contingency	0	58,500	58,500
Unappropriated Balance	764,822	0	764,822
Total Fund Requirements	\$2,472,562	(\$367,740)	\$2,104,822

All Other Appropriations Remain as Previously Adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1060 FOR THE PURPOSE OF REMOVING \$367,740 IN GRANTS, DONATIONS AND RELATED EXPENDITURES FROM THE REGIONAL PARKS CAPITAL FUND, AND TRANSFERRING \$58,500 FROM CAPITAL OUTLAY TO CONTINGENCY IN THE REGIONAL PARKS CAPITAL FUND; AND DECLARING AN EMERGENCY

Date: October 4, 2004

Prepared by: Kathy Rutkowski

BACKGROUND

At the time of budget adoption in June 2004, following budget committee approval on April 29, 2004 and the Tax Supervising and Conservation Commission (TSCC) public hearing on June 9, 2004, two actions were taken to recognize additional appropriation in the Regional Parks Capital Fund. The first action recognized \$367,740 in grants and donations for a specific restoration project and increased capital outlay by a like amount. The second action transferred \$175,000 from the Regional Parks Operating or the Open Spaces Fund and increased appropriation to recognize additional capital projects in the Regional Parks Capital Fund. The total new expenditure recognized at the time of adoption was \$542,740.

Oregon Budget Law includes a provision that following budget committee approval no fund may be increased by more than 10 percent of estimated expenditures. Oregon Budget Law also includes provisions related to the budgeting of grants, gifts, bequests, and other devises received in trust for specific purposes. These provisions would indicate that, following budget committee approval, such resources are exempt from budget law provisions in the year of receipt.

In early September 2004 we received from the TSCC certification of Metro's FY 2004-05 property tax levies and notification that we had violated the 10 percent increase limitation in the Regional Parks Capital Fund. The letter, dated September 1, 2004, requested that Metro amend the adopted budget to bring it into compliance with budget law, and forward a copy of the amending ordinance to the TSCC.

In consultation with Metro Attorney Dan Cooper, it was determined that two steps would be needed to fully comply with Oregon Budget Law. The first step is to remove from the budget the \$367,740 in grants, donations and capital expenditures related to the restoration project that were recognized at the time of adoption. ORS 294.361(3) indicates that grants, gifts, bequests and other devises transferred to a municipal corporation in trust for specific purposes shall not be included in the budget unless the amount can be reasonably estimated by the time the budget committee approves the budget. Since this action occurred after budget committee approval it would have been more appropriate to amend the budget after adoption using the exemption provided in Oregon Budget Law ORS 294.326(3).

The second step is to move \$58,500 from capital outlay to contingency. With the removal of the grant and donation related expenditures, total estimated expenditures increased in the Regional Parks Capital Fund by \$175,000. The maximum increase allowed under budget law was \$116,500. Metro violated the 10 percent increase limitation by \$58,500. Moving this appropriation to contingency will fully remedy this violation. If, during the year, the Regional Parks and Greenspaces department determines it will need this appropriation they will return to the Council with an appropriate budget amendment.

Finally, a companion ordinance to this action will re-recognize the grants, donations and capital expenditures related to the restoration project using the exemption provided in ORS 294.326(3). That section provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts and bequests received by a municipal corporation in trust for a specific purpose. Such expenditures are allowed only after the governing body has enacted the appropriate amendment.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.
2. **Legal Antecedents** ORS 294.435(2) states that following budget committee approval no fund may be increased by more than 10 percent of estimated expenditures unless the amended budget is resubmitted to the tax supervising and conservation commission for another public hearing. ORS 294.361(3) indicates that grants, gifts, bequests and other devises transferred to a municipal corporation in trust for specific purposes shall not be included in the budget unless the amount can be reasonably estimated by the time the budget committee approves the budget. ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts, bequests, and other devises received by a municipal corporation in trust for a specific purpose.
3. **Anticipated Effects** This action will remedy a budget law violation that occurred at the time the budget was adopted in June 2004, and bring the FY 2004-05 into full compliance with Oregon Budget Law.
4. **Budget Impacts** This action will reduce overall resources and requirements by \$367,640 as well as transfer \$58,500 from capital outlay to contingency. These actions will remedy a budget law violation that occurred at the time of budget adoption in June 2004.

RECOMMENDED ACTION

The Chief Operating Officer, in concurrence with the Council President, recommends adoption of this Ordinance.