 **Metro** | *Agenda*

Meeting: Metro Council
Date: Thursday, October 23, 2014
Time: 2 p.m.
Place: Metro, Council Chamber

CALL TO ORDER AND ROLL CALL

- 1. CITIZEN COMMUNICATION**
- 2. NON-CAPITAL ASSET MANAGEMENT AUDIT** **Suzanne Flynn, Metro**
- 3. SELF ENHANCEMENT, INC. PRESENTATION: YOUTH ENGAGING IN NATURAL SCIENCES** **Molly Chidsey, Metro**
Jacqueline Murphy, SEI
- 4. WILLAMETTE LOCKS:** **Andy Cotugno, Metro**
 - **ECONOMIC POTENTIAL REPORT**
 - **OPERATING COST SCENARIOS**
 - **ARMY CORPS OF ENGINEERS HISTORIC IMPACT ASSESSMENT****Sandy Carter, Oregon**
Willamette River Coalition
Peggy Sigler, National Trust for Historic Preservation
- 5. CONSIDERATION OF COUNCIL MEETING MINUTES FOR OCTOBER 16, 2014**
- 6. ORDINANCES (FIRST READ)**
 - 6.1 Ordinance No. 14-1343**, For the Purpose of Amending Metro Code Chapter 2.17 In Order to Comply with Current State Law and Declaring an Emergency
 - 6.2 Ordinance No. 14-1347**, For the Purpose of Amending Metro Code Chapter 2.09 (Contractor's Business License Program)
 - 6.3 Ordinance No. 14-1348**, For the Purpose of Annexing to the Metro District Boundary Approximately 14.59 Acres Located North of NW Brugger Road and West of NW Kaiser Road in the North Bethany Area of Washington County
- 7. ORDINANCES (SECOND READ)**
 - 7.1 Ordinance No. 14-1345**, For the Purpose of Amending Metro Code Chapter 2.04 to Update Metro Contract Policies and Procedures **Tim Collier, Metro**
 - 7.1.1 Public Hearing on Ordinance No. 14-1345**

8. RESOLUTIONS

8.1 **Resolution No. 14-4510**, For the Purpose of Approving a Process for Entering Into Contracts with Not-For-Profit Organizations to Support Parks and Natural Areas Local Option Levy Goals **Kathleen Brennan-Hunter, Metro**

8.2 **Resolution No. 14-4560**, For the Purpose of Adopting a List of Solid Waste Designated Facilities Pursuant to Metro Code Chapter 5.05 **Roy Brower, Metro**

9. **CHIEF OPERATING OFFICER COMMUNICATION** **Martha Bennett, Metro**

10. **COUNCILOR COMMUNICATION**

ADJOURN

AN EXECUTIVE SESSION WILL BE HELD IMMEDIATELY FOLLOWING THE PUBLIC MEETING PURSUANT TO ORS 192.660(2)(h), TO CONSULT WITH LEGAL COUNSEL CONCERNING THE LEGAL RIGHTS AND DUTIES OF A PUBLIC BODY WITH REGARD TO CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED.

Television schedule for October 23, 2014 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Thursday, October 23, 2:00 p.m.</p>	<p>Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtnv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> Sunday, October 26, 7:30 p.m. <i>Date:</i> Monday, October 27, 9 a.m.</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> Monday, October 27, 2 p.m.</p>	<p>Washington County and West Linn Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Friday, October 24, 12 p.m. <i>Date:</i> Sunday, October 26, 11 p.m.</p>
<p>Oregon City and 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>	

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានក្បួនលើសអើងសម្រាប់សេវាសេវា www.oregonmetro.gov/civilrights។
បើលោកអ្នកត្រូវការការបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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Agenda Item No. 3.0

**SELF ENHANCEMENT, INC. PRESENTATION: YOUTH
ENGAGING IN NATURAL SCIENCES**

Presentations

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

YOUTH ENGAGING IN NATURAL SCIENCES

PARTNERSHIP

A Self Enhancement, Inc. (SEI) and Metro pilot partnership
Supported by the Parks and Natural Areas Levy, Partners in Nature program

85% SEI Summer Academy students participated

GOALS

Support implementation of the Parks and Natural Areas Levy goals including: "Increase opportunities for communities of color and children from low income families to experience the region's parks and natural areas."

Provide a positive learning experience for SEI students with "on the ground" projects consistent with SEI's Science, Technology, Engineering and Math (STEM) curriculum. Expose students to careers in related fields and help build the pipeline of diverse and underserved youth entering environmental related careers.

SUMMER 2014

- 240 MIDDLE SCHOOL STUDENTS
- 15 HIGH SCHOOL STUDENTS
- 8 POST HIGH SCHOOL INTERNS & COACHES
- 35 SEI STAFF
- 7 METRO STAFF
- 58 VOLUNTEER NATURALIST HOURS



"I asked him if he ever went hiking, and he responded "no," and said that this was his first time out in the forest."



15%
MIDDLE SCHOOL STUDENTS
now interested
in a natural
resources
career

32%
MIDDLE SCHOOL STUDENTS
now have more
appreciation
for nature

67%
HIGH SCHOOL STUDENTS
like to be
outside more
now

Agenda Item No. 4.0

**WILLAMETTE LOCKS: ECONOMIC POTENTIAL REPORT,
OPERATING COST SCENARIOS, AND ARMY CORPS OF
ENGINEERS HISTORIC IMPACT ASSESSMENT**

Presentations

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers



Willamette Locks Economic Potential Report

August 2014

PREPARED BY:

ECONorthwest
ECONOMICS • FINANCE • PLANNING



Ed MacMullan, Lisa Rau, and Carsten Jensen prepared this report.

ECONorthwest is solely responsible for its content.

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INTRODUCTION

On January 1, 1873, the Willamette Falls Locks (WFL) opened and allowed passage around Willamette Falls, the second largest waterfall by volume in the US behind Niagara Falls. The WFL were one of the first multi-lift tandem navigation locks¹ built in the US.² The initial design for the way the WFL gates are beveled upstream came directly from drawings by Leonardo da Vinci. The locks were considered an engineering marvel at the time and dramatically reduced transit times and transportation costs.³

Fast-forward 138 years. In response to dwindling commercial tonnage passing through the WFL, and a mounting bill for deferred maintenance and repairs, the US Army Corps of Engineers (ACoE) changed the operational status of the WFL from “caretaker status” to “non-operational status” in December 2011.⁴ That decision effectively cut the Willamette River in two. Commercial and recreational users upstream from Oregon City and Willamette Falls (Falls) can no longer access markets, customers, or recreation sites downstream via the river. Likewise, downstream business and recreational river users can no longer access sites upstream from the Falls.



Willamette Locks, 1894.

¹Each of the WFL’s four tandem or adjacent lift-chambers provide 10-12 feet of elevation change.

²Lewis, Alan. No Date. Conquering the Falls, The Willamette Falls Locks. Willamette Falls Heritage Foundation. www.willamettefalls.org/hisLocks; Willamette River Initiative. Willamette Falls. <http://willametteinitiative.org/topics/willamette-falls>.

³Clackamas County Historical Society. 2013. Willamette Falls Locks: Past, Present, and Future — Army Corps of Engineers at MOOT. OregonLive blog. http://blog.oregonlive.com/my-oregon-city/print.html?entry=/2013/09/willamette_falls_locks_past_pr.html. September 27; Dungca, Nicole. 2009. Second Chance for Willamette Falls Locks, An Oregon Treasure. OregonLive blog. http://blog.oregonlive.com/clackamascounty_impact/print.html?entry=/2009/10/second_chance_for_an_oregon_tr.html. October 28.

⁴Oregon Solutions. Willamette Falls Locks. <http://orsolutions.org/osproject.willamette-falls-locks>, accessed July 2014; Clackamas County Historical Society, 2013; In a December 1, 2011 press release, the ACoE indicated that “caretaker status” involved operating the locks at least once a month for maintenance. “Non-operational status” means they will not operate the locks at all. US Army Corps of Engineers, Portland District. News Release. Corps Changes Status of Willamette Falls Locks. Release Number 11-076, December 1, 2011; As we understand, the ACoE changed the locks status from “operational” to “caretaker” sometime prior to 2011. This change reduced funding, operations and number of lockages., and effectively began the process of shutting down the locks, which occurred with the change from “caretaker” to “non-operational” status.

“The recreational boating use (both motorized and non-motorized) and commercial tourist boating on the Willamette River will grow and could become a significant tourism asset for Oregon and the Willamette Valley region.” -Travel Oregon

The ACoE’s decision to close the WFL does not reflect their historical and navigational significance, especially to Oregonians. In 1974, the WFL were listed on the National Register of Historic Places.⁵ In 1991, they were designated a State Historic Civil Engineering Landmark by the American Society of Civil Engineers.⁶ In 2012, the WFL were named a National Trust for Historic Preservation “National Treasure,” and the Historic Preservation League of Oregon (now Restore Oregon) named it one of the ten “Most Endangered Places.” The WFL facilitates movement on the Willamette River, which has been designated both an American Heritage River and a National Water Trail.⁷

Local interest in the WFL is also reflected in the efforts taken by Oregonians to keep them open and to describe their navigation and economic significance. These efforts include:⁸

- In 2005, then U.S. Representative Darlene Hooley convened a Willamette River United conference, which explored ideas for keeping the WFL open.
- Governor Ted Kulongoski designated keeping the WFL open an Oregon Solutions project. This led to a Declaration of Cooperation in May 2006, signed by more than 20 public and private organizations, to collectively commit to keep WFL open.

- The ACoE signed an agreement with Oregon Department of Transportation (ODOT) and Clackamas County to accept funds raised locally and provided by state agencies, that helped keep the locks open during 2006 and 2007.
- The City of West Linn submitted annual Congressional Budget requests, which provided O&M funding. The funding amount in the fiscal year 2008 appropriations was \$157,000.
- The Willamette Falls Heritage Foundation provides public education and outreach regarding the WFL and their historical significance. Their work includes sponsoring the annual Lock Fest celebration, which included rides through the locks prior to the ACoE shutting them down.
- Clackamas County coordinated with the Willamette Falls Heritage Foundation and took on the responsibility and cost of nominating the WFL as a National Historic Landmark.
- Inca Engineering undertook a \$50,000 engineering study that provided the first assessment of the locks’ structural and operational conditions. The Clackamas Heritage Partners managed and administered the funds donated for the study commissioned by the One Willamette River Coalition, which came from: The Kinsman Foundation, Metro, Oregon Department of Parks

and Recreation, Oregon State Marine Board, Columbia River Yachting Association, Clackamas County, and the City of Keizer.

- Travel Oregon provide \$26,000 to fund public outreach and education about WFL. This project also produced a new name for partners collaborating to keep the locks open: The One Willamette River Coalition.
- ODOT contributed \$118,000 to fund the ACoE’s inspection of the locks.
- The Oregon Solutions partnership secured \$1.8 million in stimulus funding to complete needed structural inspections.

In 2009, the Oregon Solutions project organized another Declaration of Cooperation, signed by public and private parties in support of keeping the WFL open. Signers included: Clackamas County, Wilsonville Concrete, the Governor’s Economic Revitalization Team, ODOT, Clackamas Heritage Partners, Oregon Marine Board, the City of Oregon City, Oregon Department of Parks and Recreation, Portland General Electric, Travel Oregon, Willamette Falls Heritage Foundation, Northwest Oregon Resource Conservation & Development Council, ACoE, the Port of Portland, and the City of West Linn. A number of signers noted the significance of keeping WFL open including:

⁵Clackamas County Historical Society, 2013.

⁶Lewis, A. 2004. “The Willamette Falls Canal,” American Canals, Bulletin of the American Canal Society. Vol. 33, No. 2, Spring, pp 1 – 4.

⁷Clackamas County Historical Society, 2013.

⁸Oregon Solutions. Declaration of Cooperation, The Willamette Falls Locks’ Oregon Solution, May 2009.



believe the revitalized locks at Willamette Falls can play a key role in the reintroduction of thriving commercial river traffic along the entire navigable length of the Willamette River.”¹⁰

The efforts described above reflect local, regional and state interests in the locks and how much stakeholders value the locks’ scenic, historic, transportation, and engineering attributes.

Between 2001 and 2006, the number of lockages steadily declined. Lockages increased between 2006 and 2007, which coincided with a temporary increase in funding for WFL operations brought about by an innovative community partnership agreement that allowed an ODOT Transportation Enhancement grant to be used for operations for two years. Funding, operations and lockages declined again in 2008, and the locks were closed in 2009 for inspection. Operations and lockages increased dramatically in 2010 as a result of the funding provided through the Oregon Solutions project.¹¹ One could interpret these two episodes of lockages and use responding to increased funding and operations as indicative of pent-up demand for the types of river access that the WFL provide.

In 2005, BST Associates completed a report for the Clackamas County Tourism Development Council and Oregon Tourism Commission that described an analysis of the costs of keeping the WFL open, and the economic spending by the primarily recreational users. The authors concluded that the economic benefits of keeping the WFL open far outweighed the costs.¹² In a 2008 report for the One Willamette River Coalition, CEDER, Synergy Northwest, LLC,

■ Travel Oregon: “We continue to believe that recreational boating use (both motorized and non-motorized) and commercial tourist boating on the Willamette River will grow and could become a significant tourism asset for Oregon and the Willamette Valley region.”⁹

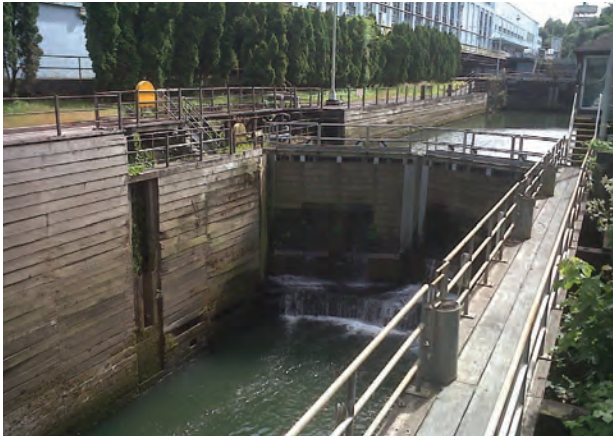
■ Port of Portland: “The Port of Portland is pleased to support the repair and refurbishment of the locks at Willamette Falls. Our hope is that this investment will allow a historical piece of infrastructure to contribute to the economic growth of the region for another 100 years to come. Moreover, we

⁹Oregon Solutions, 2009, p. 13.

¹⁰Oregon Solution, 2009, p. 17.

¹¹U.S. Army Corps of Engineers, Lock Performance Monitoring System, <http://www.ndc.iwr.usace.army.mil/lpms/lpms.htm>; U.S. Army Corps of Engineers, Corps of Engineers Financial Management System year-end 3011a reports.

¹²BST Associates. 2005. Willamette Falls Locks Economic Impact Analysis Final Report. Prepared for Clackamas County Tourism Development Council and Oregon Tourism commission. March.



and Chenoweth Consulting described the results of a case study of transferring ownership and operations of the WFL from the ACoE to another entity. The authors reviewed the transfer of three other locks from ACoE and the associated transfer issues, challenges and lessons learned.¹³ In July of 2011, Michael Bernert outlined the economic and environmental advantages of shipping municipal waste, pulp and paper, steel, bulk agricultural commodities and bulk building materials such as sand and gravel via barge vs. rail or truck.¹⁴

Our report describes the economic potential of the WFL if they were functioning and operating on a regular schedule. By economic potential we mean describing the types of demand for river access that the WFL would facilitate. Our analysis builds on past studies of the WFL and includes three major parts. First, we summarized and updated the description by CEDER et al. (2008) of the three transfers to date of ACoE locks to other entities.

The ACoE's decision to change the status of the WFL to non-operational makes more challenging an assessment of the future economic potential of the WFL. Hence, we review experiences of other lock transfers for insights into the WFL's future economic potential. Second, we describe the results of our assessment of the demand for WFL services based on key-informant interviews we conducted with representatives from various stakeholder groups. Third, we outline three potential operating scenarios for the WFL with varying number of lockages, operating costs, and revenues.

The remaining sections of this report are as follows. In Section 2, *River Locks Transfers*, we describe the issues behind the ACoE transferring ownership or operations of three sets of locks to state or regional groups. The circumstances that led to the transfers are similar to conditions at the WFL today. All of the locks were built at a time when rivers provided the main transportation mode for commerce. Eventually rail and then road systems competed with river transport. As a result, the amount of commerce transported by river and through the locks gradually declined. As commercial lockages declined, however, recreational lockages increased. In spite of the increased recreational use, the ACoE, guided by the WFL's strictly "navigation authorization," eventually decided that the small amounts of commerce passing through the locks did not justify the expense of operating them. Prior to closure in 2011, recreational boaters were the dominant users of the locks' services, with limited commercial use.

In Section 3, *The Locks and River Users*, we describe the results of our assessment of the demand for the types of river access that the WFL provide. Our assessment relies on our interviews with key-informants from stakeholder groups including: recreational users; commercial or industrial users; economic development officials from area jurisdictions; and county and state emergency managers.

In Section 4, *Operating Scenarios*, we describe three operating scenarios. The assumptions in our scenarios reverse the ramp down in WFL operations that the ACoE implemented over the previous years. That is, we start with limited service during summer months, increase service to six months, then increase to twelve months of operations. The first two scenarios rely primarily on recreational users. We assume that for the most part, commercial shippers will not begin using the WFL until they have some assurances that the locks will operate on a regular basis, so our third scenario assumes both recreational and commercial users. We include in our operating scenarios estimated lockages, operations and maintenance costs, revenues generated by user fees, and revenues that could be generated by a transportation district established to support the WFL. The spreadsheet accompanying this Section has the details of our assumptions, analyses and results.

In Section 5, *Economic Potential*, we describe our conclusions based on information in the proceeding Sections.

¹³CEDER, Synergy Northwest, LLC, and Chenoweth Consulting. 2008. The Willamette Falls Locks: A Case Study Analysis of Potential Transfer Issues. Prepared for the One Willamette River Coalition. October 23.

¹⁴Bernert, Michael. 2011. Reclaim Our River, Environmental, Economic and Community Advantages of a United Willamette River. July 17.

RIVER LOCKS TRANSFERS

The ACoE's decision to change the status of the WFL from "caretaker status" to "non-operational status," makes more challenging the task of estimating future demand for, and use of, the WFL. For insights into the future economic potential of the WFL, we collected and reviewed information on three locks systems that the ACoE transferred to other entities. We began by reviewing the CEDER et al. (2008) report that describes transfer issues in general, and issues specific to the three locks systems. We then reviewed other sources, e.g., web sites, and contacted representatives of the locks with follow up questions and requests for information. At the end of our summary for each lock system, we describe similarities, differences and other insights relative to the WFL.

Locks Case Studies

We summarize the available information on current operations and usage details for three systems of locks that the ACoE turned over to regional or state entities:

- Muskingum River Parkway Locks in Ohio
- Kentucky River Locks in Kentucky
- Lower Fox River Locks in Wisconsin

We also summarize use and operations information

for the Hiram Chittenden Locks in Seattle. The ACoE operates these locks, but we include them in our summary because of their geographic proximity to the WFL, and because their mix of recreation and commercial users is comparable to what could be expected at the WFL. We also mention other lock systems that the ACoE currently owns and maintains in "non-operational" status that local stakeholders are interested in transferring ownership from the ACoE to other entities.

Muskingum River Parkway Locks, Ohio

The ACoE transferred ownership of the Muskingum River Parkway Locks to the State of Ohio in 1958. The flat-water lock system consists of ten, hand-operated locks distributed along a 112-mile stretch of the Muskingum River in southeast Ohio. Operating the locks employs 14 seasonal workers.¹⁵ Most of the locks are 184 feet long, 36 feet wide, and accommodate boats up to 160 feet long.¹⁶ The Ohio State Parks (OSP) department manages locks operations and maintenance.

The locks currently operate seasonally, with daytime operating hours on Saturdays and Sundays from May 10, 2013 through October 12, 2014, and additional Friday and Monday hours between Memorial Day weekend and early September. Special arrangements for lockages outside of normal operational hours can be made

with 48 hours notice and an additional fee. Public launch ramps are provided at five of the ten locks.¹⁷

The Ohio State Parks charge daily user fees of \$5, annual fees of between \$15 and \$50, and special fees for lockages outside of normal operations times of \$15 or \$25.¹⁸ Gross user fees collected in 2013 totaled \$8,501. Revenues from user fees goes into the State's general fund and does not directly offset the costs of operating and maintaining the locks. Annual maintenance costs totaled \$67,000 in recent years.¹⁹

As is the case with many of the country's older locks systems, the Muskingum River Locks have a backlog of needed repairs. Locks #7 and #10 needed emergency repair work in recent years. The Ohio Department of Natural Resources, which oversees the OSP, place a priority on bringing the locks to full operations before peak summer seasons.^{20,21} This can be challenging at times. For example, Lock #11 is currently under repair and not operational for the 2014 summer recreational season.

Today, most of the lockages are for recreational boaters and anglers who fish from boats.²² The river has a reputation among fishers for the unique "pools" between locks that contain a variety of bass and catfish species.²³ The number of recreational boaters has been estimated at roughly 7,000 per year.²⁴ Staff at the Ohio Department of Parks and

¹⁵Ohio State Parks representative, July 3rd, 2014, Interview.

¹⁶American Society of Civil Engineers. Muskingum River Navigation System. <http://www.asce.org/People-and-Projects/Projects/Landmarks/Muskingum-River-Navigation-System/>. Accessed July 2014.

¹⁷Ohio State Parks, Ohio Department of Natural Resources Division. Muskingum River State Park. <http://parks.ohiodnr.gov/muskingumriver>. Accessed July 2014.

¹⁸LAWriter Ohio Laws and Rules. 1501:41-2-30 Muskingum river parkway lock fee. <http://codes.ohio.gov/oac/1501:41-2-30>

¹⁹Ohio State Parks representative, July 3rd, 2014, Interview.

²⁰Hannahs, Nichole. 2013. Canal Leak Serious Issue. <http://www.whiznews.com/content/news/local/2013/01/15/canal-leak-serious-issue>. January 15.

²¹Ohio State General Assembly. Balderson Announces Funding For Emergency Repairs To The Muskingum River Parkways Lock. 2012. <http://www.ohiosenate.gov/senate/balderson/press/balderson-announces-funding-for-emergency-repairs-to-the-muskingum-river-parkway-lock>. April 24.

²²Most of the locks are 184-feet long and 36 feet wide, with the ability to handle boats up to 160 feet long.

²³OhioBassAngler.com. Muskingum River Update. 2013. <http://www.ohiobassangler.com/blog/2013/1/Muskingum-River-Update>. January 13.

²⁴Ohio Water Trails. Muskingum River Water Trail. <http://watercraft.ohiodnr.gov/Portals/watercraft/pdfs/maps/wtmuskingum.pdf>. Accessed July 2014.

Recreation report recent declines in the number of lockages, primarily due to weather causing poor boating conditions.

Comparison with WFL:

- Ten sets of flat-water locks spread over 110 miles vs. a bypass canal with four 210-foot tandem flat locks, a boat basin and a 210-foot guard lock, all in less than one-half mile for WFL.²⁵
- Operating the locks takes 14 seasonal workers. When last operational, the WFL employed two fulltime workers.
- Lockages driven primarily by fishing demand, and factors that affect fishing, e.g., weather, will also affect demand for lockages. Lockages at WF served a broader group of users and the lock chambers contain no fish.
- Locks were transferred from the ACoE 56 years ago, which shows it's possible for an entity other than the ACoE to operate and maintain a system of locks over a long time.
- Users pay fees to access the locks. The ACoE did not charge user fees for the WFL. Our operating scenarios include user fees.

Kentucky River Locks, Kentucky

The Kentucky River Locks consist of 14 flat-water lock and dam sites along 245 miles of the Kentucky River. The Commonwealth of Kentucky took over ownership of locks #5 through #14 in 1986, under the administration of the Kentucky

River Authority(KRA), which was established to manage the system. The KRA also manages the ACoE-owned locks #1 through #4. The ACoE is currently in the process of transferring ownership of these four locks to the KRA.²⁶

Currently, only two of the 14 locks are operational. These are locks #3 and #4, two of the locks managed, but not currently owned, by the KRA. These two locks operate seasonally, Friday and Saturday, between May 23rd and October 26th.²⁷ The KRA plan to bring an additional three locks back into service.²⁸

The locks upstream from Frankfort are not operational.²⁹ Locks above this point are primarily used for pooling water that creates a water source for the local population. The ACoE conducted a study published in February 2014 that recommended the “disposal” of these locks (permanent blockage by concrete barriers) or removal of many of the locks upstream. The KRA is assessing the stability of the locks and dams for their impacts on ecosystem restoration projects and water supply.

The KRA's most recent budget is approximately \$4 million. Fees assessed on water users supplied by the pool behind the locks upstream from Frankfort generate approximately \$250,000. Revenues allocated from the State general fund make up the shortfall between water fees and operating costs.³⁰

The KRA does not operate the locks for commercial traffic.³¹ The areas between dams are frequented



by anglers attracted by the area's healthy fish stocks,³² but the dams pose a risk to small vessels like kayaks and canoes that try to pass over them.³³

Comparison with WFL:

- A larger number of flat-water locks spread out over a much longer stretch of river relative to the WFL.
- Some locks provide pooling, which supplies water users. Fees from water users help fund locks O&M. The WFL has no user fees under the ACoE.
- State ownership with support from the State general fund makes up the large majority of operating funds. ACoE funds the current “non-operational status” of the WFL.

²⁵Lewis, 2004.

²⁶<http://finance.ky.gov/offices/Pages/LocksandDams.aspx>

²⁷<http://finance.ky.gov/offices/Documents/2014/2014%20Lock%20Schedule.doc>

²⁸Jerry, Kentucky River Authority, July 3rd, 2014, Interview.

²⁹<http://www.kentucky.com/2009/10/19/982597/kentucky-river-a-river-to-nowhere.html>

³⁰Jerry Graves, Kentucky River Authority, July 3rd, 2014, Interview.

³¹Jerry Graves, Kentucky River Authority, July 3rd, 2014, Interview.

³²<http://www.worldfishingnetwork.com/news/post/good-fish-populations-in-kentucky-river>

³³<http://www.lrl.usace.army.mil/Portals/64/docs/CWPProjects/Green%20and%20Barren%20dispo/Main%20Report.pdf>

Lower Fox River Locks, Wisconsin

The Lower Fox River Locks system, located along the Lower Fox River in Wisconsin, consists of eight locks sites along 39 river miles, with three sites of five, four, and three locks each, and five sites with only one lock. The sites with five and three locks, as well as one of the single locks, are currently undergoing restoration. The vertical drop across the Lower Fox River locks is approximately 180 feet.³⁴

The State of Wisconsin took ownership of the lock system in September 2004. The State created the Fox River Navigational System Authority (Authority) to manage the lock system. The Authority is a public body overseen by a board of nine directors, consisting of two representatives from each of the counties from where the locks are located and the additional three designated by the Department of Natural Resources, Department of Transportation, and Director of the State Historical Society.³⁵

Among the eight operational locks, service is provided on a seasonal basis, with start dates for 2014 ranging from April 18th to May 23rd, with regular service ending on either September 1st or October 5th. Days of operation vary, with some operating on weekdays and all operating Friday through Sunday.

Funding for the transfer, rehabilitation, and operation and maintenance of the locks is outlined in a joint funding agreement between the state and the ACoE. The agreement outlines the creation of

Figure 1. Annual Lockages, Craft, and Passengers Passing Through Lower Fox River Locks

Year	Lockages	Craft	Passengers
2007	3,781	6,158	23,925
2008	3,300	5,073	20,226
2009	4,001	6,051	23,263
2010	3,297	5,223	20,303
2011	3,377	5,095	19,233
2012	3,876	5,921	23,298
2013	3,467	4,954	20,723
Average	3,586	5,496	21,567

Source: Fox River Navigational System Authority, reported by lock tenders as boats travel through the locks

a trust consisting of combined funds of roughly \$22.8 million dollars. The agreement stated that the ACoE would contribute \$11.8 million, the State of Wisconsin would contribute \$5.5 million and the federal government would contribute \$5.5 million in matched funds. The State responsibility of \$5.5 million is broken into \$2.75 million from the state general fund and \$2.75 million in local and private funds to be raised by the contractor operating the locks, which is the Fox River Navigation System Authority.³⁶ Based on the most recent May 2014 reporting by the Authority, funds are currently stable at roughly \$20.1 million available and is considered within budget.³⁷

The Authority currently charges user fees through daily or seasonal permits. Daily permits cost either \$6 or \$12, based on boat length and seasonal permits are either \$120 or \$140, depending on the intended use. Special lockages are available, with

12 hours notice, on an hourly basis for between \$15 and \$50 per hour with a two hour minimum charge.³⁸

Currently, recreational use dominates lock usage, but there is potential for more commercial use.³⁹ Figure 1 shows total lockages for all lock sites. These include lockages of commercial and recreational craft. The number of operational locks changes over time; only three locks operated between 2007 and 2010.⁴⁰

Comparisons with WFL:

- The lock system is much larger and includes many more locks than the WFL.
- Lower Fox River locks operations and maintenance is supported by funds including those supplied by the ACoE, the State of Wisconsin, and the Federal government.

³⁴<http://www.friendsofthefox.org/friendsofthefox/river+navigation/lock+and+bridge+schedules+-+procedures.asp>; http://foxriverlocks.org/index.php?option=com_content&view=article&id=11&Itemid=4.

³⁵http://foxriverlocks.org/index.php?option=com_content&view=article&id=3&Itemid=6.

³⁶<https://docs.legis.wisconsin.gov/statutes/statutes/237/08/2>

³⁷http://foxriverlocks.org/frnsa_committeeminutes/2014/052714.pdf

³⁸<http://www.friendsofthefox.org/friendsofthefox/river+navigation/lock+and+bridge+schedules+-+procedures.asp>

³⁹Harlan Kiesow, Fox River Locks CEO. July 22nd, 2014. Interview

⁴⁰http://foxriverlocks.org/index.php?option=com_content&view=article&id=6&Itemid=5

- A mix of recreational and commercial vessels use the lock system, similar to the expected use of the WFL.
- Users pay fees to access the locks. When operated by the ACoE, the WFL had no user fees. We include user fees in our operating scenarios.

Hiram M. Chittenden (Ballard Locks), Washington

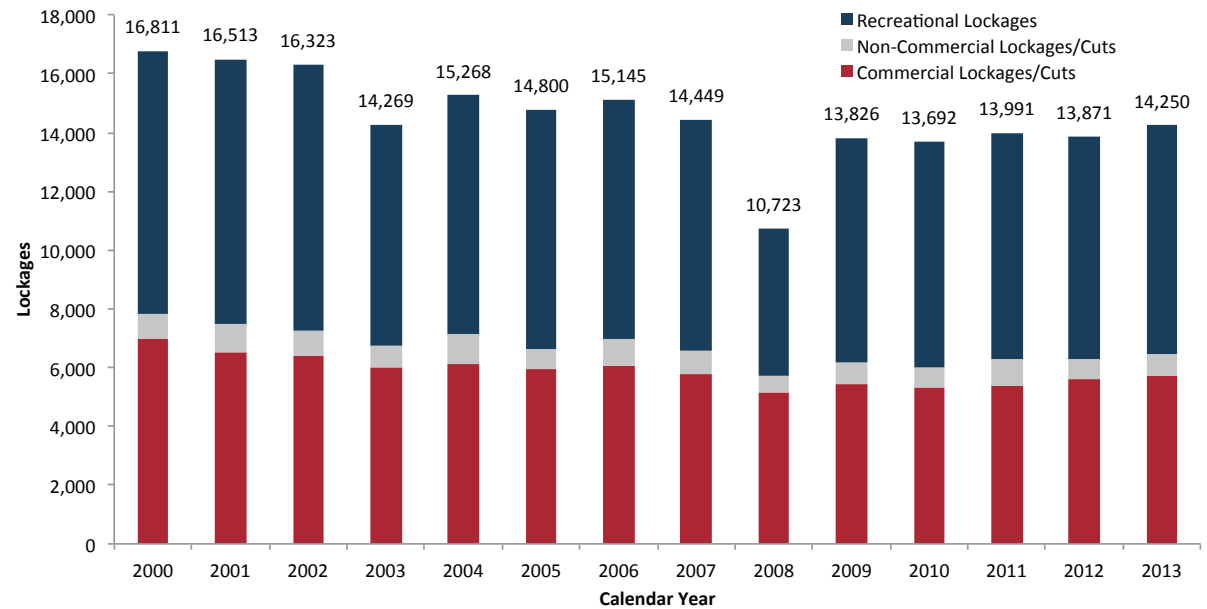
The Hiram M. Chittenden Locks, known as the Ballard Locks, in Seattle, Washington is a single site lock, like the WFL, consisting of one larger lock, with a length of 825 feet and width of 80 feet, and an auxiliary lock that is 150 feet long and 28 feet wide. The Ballard Locks are currently owned and operated by the ACoE.⁴¹ The Ballard Locks are authorized for both navigation (commercial cargo) and recreational use.⁴²

The locks operate all days of the year and at all hours. The locks employ roughly 60 staff, including visitor center personnel and administration. The budget for the locks fluctuates greatly due to capital investments, but it is usually in excess of \$5 million, annually.⁴³ The ACoE does not charge user fees to access the locks.

The ACoE Navigation Data Center reported that the lockages for recreational purposes have generally been slightly more than half of all lockages on an annual basis, as shown in Figure 2.⁴⁴

Use of the locks is highly seasonal. Commercial users include sand and gravel barges, tugboats,

Figure 2. Ballard Locks Lockages by User Type



Source: OHSU, ECONorthwest, IMPLAN 2012 data

north Pacific fishing fleet, fuel barges, and drydock and repair traffic.⁴⁵

Comparison with WFL:

- The locks have an authorization for both navigation (commercial cargo movement) and recreation. The WFL have a navigation authorization only, though there is interest and efforts in expanding the ACoE authorization for the WFL to include recreational use.⁴⁶

- The locks are proximate to a larger population than the WFL.
- Both locks serve recreational and commercial users.
- ACoE maintains the locks and does not charge user fees. ACoE no longer operates the WFL.
- The staff and operating budget are significantly larger than that for the WFL when they were operating.

⁴¹<http://www.nws.usace.army.mil/Missions/CivilWorks/LocksandDams/ChittendenLocks.aspx>

⁴²Personal Communication. 2014. Peggy Sigler, National Trust for Historic Preservation.

⁴³Jay Wells, ACOE Visitor Center Representative. July 2, 2014. Interview.

⁴⁴<http://www.navigationdatacenter.us/lpms/lock2013web.htm>

⁴⁵Jay Wells, ACOE Visitor Center Representative, July 2, 2014, Interview.

⁴⁶Personal communication, Sandy Carter, Willamette Falls Heritage Foundation, 2014.⁴⁷<http://www.kittanningpaper.com/2014/01/20/fundraising-to-reopen-river-locks-starting-soon/42955>

Allegheny River Locks

The WFL is not the only ACoE-owned locks looking for alternative ownership or operations arrangements. The Allegheny River Locks, located in Pennsylvania, has struggled to maintain regular operations of its roughly 90-year old locks with the sole source of funding provided through the ACoE. A local non-profit, the Allegheny River Development Corporation (ARDC) and the local county commissioners, both interested in seeing the reopening of many of the system's 23 locks and dams, have organized to apply for the ability to contribute funds to the repair and operations of the locks.⁴⁷ The County would serve as a pass-through entity to provide funds to the ACoE.

The recently enacted 2013 Water Resources Reform Development Act, signed by President Obama on June 10, 2014, means that this process will become simpler. The Act allows non-profits to negotiate directly with the local ACoE.⁴⁸ Although raising funds is still an issue, this Act will allow interested parties more options for supporting locks operations. Local stakeholders are considering this option as a means of funding operations for the WFL as well.⁴⁹



⁴⁷<http://www.kittanningpaper.com/2014/01/20/fundraising-to-reopen-river-locks-starting-soon/42955>

⁴⁸<http://www.boatlocal.com/articles/2014/ardc-gets-approval>

⁴⁹Personal communication, Sandy Carter, Willamette Falls Heritage Foundation, 2014.

THE LOCKS AND RIVER USERS

The trend in use of WFL mirrors that of the three locks described in the previous section. The WFL were built at a time when rivers were the primary transportation mode for personal or commercial travel. Railroads and then highways eventually provided alternative means of moving people and cargo. Commercial use of the WFL declined, while recreational use increased. In response to declining commercial tonnage passing through the WFL, which caused a lack of funds for inspection and maintenance, the ACoE closed the locks in December of 2011 for safety reasons.

As part of our evaluation of the economic potential of the WFL, we conducted an assessment of the likely future demand for the WFL if they were reopened and operating on a regular schedule. Our assessment included interviews with key-informants from stakeholder groups (e.g., recreational users; commercial or industrial users; economic development officials from area jurisdictions; and county and state emergency managers), as well as reviewing literature and reports that pertain to stakeholder groups.

Our assessment of demand also help inform the details of the three operating scenarios, which we describe in the next section.

Recreation

The recreational demand for WFL services would come primarily from three user groups: non-motorized vessel users, motorized vessel users, and commercial recreational users.

To inform our assessment of the demand for recreational use of the Willamette River and the



WFL, we conducted interviews with the following key informants:

- Dennis Corwin, Explorer Tours (Portland Spirit)
- Kate Ross, Willamette Riverkeeper, Outreach and Education Coordinator
- Alexandra Phillips, Oregon Parks and Recreation, Water Recreation Coordinator
- Eric Dye, Sportcraft Landing Moorages
- Sam Drevo, eNRG Kayaks

Non-motorized vessel users

Non-motorized users include paddling vessels such as kayaks, canoes, and rafts, and can include both long and short distance trips. The Willamette River is a nationally recognized water body for paddling. In 2012, the Secretary of the Interior designated the Willamette River a National Water Trail. The Willamette River Water Trail (Trail) stretches from Creswell to St. Helens, Oregon and includes 187 miles of the Willamette River as well as 29 miles of connecting rivers. The Trail passes

through the heart of the Willamette Valley, flowing past urban and rural landscapes where seventy percent of Oregonians live.⁵⁰ The Willamette Riverkeeper, a non-profit organization dedicated to the preservation of the Willamette River, manage the Trail.^{51, 52} *Canoeroots* magazine profiled the Trail and described it as one of the 13 “awesome canoe trips of a lifetime.” The group of 13 includes the Yukon River.⁵³ The Oregon Parks and Recreation Department manages Willamette Greenway sites from upstream of Eugene to Portland that facilitate access and recreation along the Trail.⁵⁴

Although there are no formal records kept on the number of paddlers that use the river each year, Willamette Riverkeeper and the Oregon Parks and Recreation Department reported that they receive many inquiries from Oregonians and interested paddlers from other states and countries about paddling the river. Inquiries have increased since the Willamette’s addition to the National Water Trail System.

According to the staff at Willamette Riverkeeper, many paddlers travel the entire length of the Trail. Most through-paddles of the Willamette River occur during the summer months, and include several organized trips that occur annually. These trips include Paddle Oregon and the Corvallis-Portland Row. The 2014 Paddle Oregon begins in Corvallis and ends at Canby, upriver from

Figure 3. SCORP Water-based Recreation Participation, Region 2 and 3, 2011

	Using Personal Water Craft, Such As Jet Ski		Power Boating (Cruising/Water Skiing)		Flat-Water Canoeing, Sea Kayaking, Rowing, Stand-Up Paddling, Tubing/Floating		Beach Activities (Lakes, Reservoirs, Rivers, Etc.)	
	# of trips	% of region population	# of trips	% of region population	# of trips	% of region population	# of trips	% of region population
Region 2	558,185	3.6%	2,600,014	12.8%	1,717,149	9.9%	3,728,314	30.0%
Region 3	221,999	4.6%	1,600,679	17.4%	456,208	12.8%	2,810,191	36.5%

Source: OSU College of Forestry, Oregon Resident Outdoor Recreation Demand Analysis

Willamette Falls and the WFL. But for the fact that WFL are not operating, the trip could extend all the way downstream to Portland and the confluence with the Columbia River.⁵⁵

There is also demand from a growing community of paddlers seeking new and less congested options for paddling day trips in the Portland area. Demand for flat-water paddling and tubing activities in Oregon Department of Parks and Recreation Region 2, which includes the Portland and Salem metropolitan regions and the Willamette River north of Albany, is significant and includes participation by almost 10 percent of the Region’s population. Demand from Region 3, which includes Benton, Linn and non-coastal Lane Counties, amounts to almost 13 percent of the Region’s population. Additional details of local recreational demand based on the 2011 survey completed in preparation for the 2013-2017 Oregon Statewide Comprehensive Outdoor Recreation Plan can be found in Figure 3.⁵⁶

Most paddlers end their trip upstream of the Willamette Falls because of the challenging logistics of portaging around them. Moving past the Falls requires a several-mile vehicle trip, with takeout and put-in on opposite sides of the river. According to Willamette Riverkeeper staff, many paddlers inquire about going through the WFL and are disappointed when they learn that this is not an option. The last organized paddles or cruises by Willamette Riverkeeper through the locks occurred in 2005.

Motorized vessel users

Motorized vessels include anything from yachts to smaller recreational motorboats and personal watercraft. In the past, yacht clubs based on the Willamette and Columbia Rivers took two- or three-day trips up the river and through the WFL. The SCORP results in Figure 3 show that a significant percentage of Oregonians living in the Willamette River drainage are involved in powerboating.

⁵⁰National Water Trails System, <http://www.nps.gov/WaterTrails/Trail>.
⁵¹<http://www.nps.gov/WaterTrails/Trail/Info/36>
⁵²<http://willamette-riverkeeper.org/WRK/about.html>
⁵³Willamette River Water Trail, <http://willamettewatertrail.org/>.
⁵⁴http://www.oregonstateparks.org/index.cfm?do=parkPage.dsp_parkHistory&parkId=194
⁵⁵Paddle Oregon, <http://www.paddleoregon.org/>.
⁵⁶http://www.oregon.gov/oprd/PLANS/docs/scorp/2013-2018_SCORP/Demand_Analysis.pdf



Closing the WFL increased the costs of maintaining recreational docks and moorages upstream. Prior to closure, tugboats and crane barges were easily transported upstream. After the closure, equipment needed upstream is either transported around the WFL, at greater cost, or contractors use more costly construction and maintenance methods. Two dredges, three tugboats and four barges were able to negotiate passing downstream through the WFL during the specially scheduled opening for Canby Ferry in 2013, which needed to be repaired in Portland.⁵⁷

Commercial recreational users

Commercial recreational users include commercial tour boats, charter boats, and other local river-based recreation businesses. River cruises would likely take advantage of the re-opened WFL to expand their offerings on the Willamette River. Prior to the closure, Explorer Tours, which runs the Portland Spirit, was looking into the feasibility of starting a through-locks tour. Representatives of the company believe that the tours would sell well.

If implemented, the tours would occur weekly from June through September, and could accommodate 35 people per tour.

Some river-based recreation businesses, such as eNRG Kayaks, locate near the falls and WFL to take advantage of the tourism and recreation interest in these attractions. Their customers and other paddlers visit the falls every year. According to representatives of these businesses, there would be strong demand from river paddlers for the types of river access that the WFL would facilitate.

Past Recreational Use and Demand

Figure 4 shows the number of recreational vessels that passed through the WFL in previous years. The decline in use reflects the trend of reduced operating budgets and months and days of operations. The two spikes in use, in 2007 and 2010, are in response to two episodes of temporary funding increases and operations. One could interpret these increases in use as indicative of pent up recreational demand for access through the WFL.

Tourism and Economic Development

Prior to closure the WFL were a tourism destination for local and regional visitors. Prior to the ACoE's closure, visitors came to see the locks operate and to learn about their historical significance.

For information on the tourism and economic development potential of the WFL, we contacted economic development officials in municipal jurisdictions along the Willamette River. We asked if their economic development plans included river access or river activities that could be affected by the reopening of the WFL. We conducted interviews with staff at the following jurisdictions:

Figure 4. Recent Recreational WFL Activity

Year	Recreational Vessels	Recreational Lockages
2000	2,548	1,221
2001	1,831	731
2002	1,068	605
2003	756	408
2004	787	160
2005	612	227
2006	795	304
2007	1,053	406
2008	2	0
2009	0	0
2010	899	380
2011	11	5

Source: US Army Corps of Engineers Navigation Data Center

- City of Wilsonville
- City of Oregon City
- Marion County
- Clackamas County Tourism and Cultural Affairs Office

⁵⁷http://www.oregonlive.com/west-linn/index.ssf/2013/01/willamette_falls_locks_open_br.html

Historical and Cultural Tourism

The WFL provide a multi-faceted recreational experience unmatched in the region. According to Willamette Riverkeeper, many paddlers express interest in learning about the history of the river. The WFL are a key feature of that history, and provided an additional draw for many paddlers, from both the local area and outside the region. The SCORP data on historical visits by Oregonians in Figure 5, shows a significant percent of the population has an interest in learning about the state’s historic sites.

Figure 5. SCORP Historic Site Recreation, Region 2 and 3, 2011

Visiting Historic Sites/History-Themed Parks (History-Oriented Museums, Outdoor Displays, Visitor Centers, Etc.)		
	# of trips	% of region population
Region 2	4,238,756	43.3%
Region 3	905,598	42.4%

Source: OSU College of Forestry, Oregon Resident Outdoor Recreation Demand Analysis

A coalition of those interested in protecting and making more accessible the historical and cultural resources of the Willamette Falls and the WFL recently completed a feasibility study of creating a Willamette Falls Heritage Area.⁵⁸ The report describes the historical and cultural importance of the Falls and WFL area. The coalition includes stakeholders from political, business, Tribal,

utilities, and non-profit groups, and illustrates the widespread support for the area’s cultural resources.

Economic Development

Many of the local jurisdictions included access to the river or the river itself as an asset for tourism-driven economic development. The City of Wilsonville’s Tourism Development Strategy notes “increasing access and recreation on the river, including the Willamette River Trail” as a key opportunity and consideration in their strategy going forward. The strategy document also notes that additional infrastructure development is needed to move river recreation up to a priority status in terms of strong markets for their target audiences.⁵⁹ Reopening the WFL would help support the City’s river-related economic development goals.

The City of Oregon City commented that the river and river access support area tourism and recreation businesses, and that reopening the WFL would provide new tourism opportunities.

Marion County noted that tourism is an economic development priority and that any development that draws tourists will increase economic activity. The river is not specifically mentioned in the County’s economic development plan, but, increasing activities such as kayaking, boating, and fishing are. Reopening the WFL may strengthen these activities. Lack of river access is a limiting factor.

The Clackamas County Tourism and Cultural Affairs Office stated that supporting river-based recreation is a County priority.⁶⁰ Reopening the WFL would allow tourism access that connects

downstream and upstream portions of the river. The County could then promote river recreation all the way downriver to Portland, which the County believes would be popular among local recreationists and tourists. Boating, fishing, and kayaking have become very popular near the WFL, but lack of connectivity to the river and through the locks or around the falls limits the tourism and recreation potential. The historical aspect of the WFL draws tourists to the area. If the locks were not maintained, it would be a lost historical and cultural opportunity. The County currently owns and operates a boat landing on the south side of the WFL. If the locks were operational, the County expects this landing would get more use.

Commercial and Industrial

Commercial and industrial users of the WFL include industries or businesses that produce goods that could be, or had previously been, transported via barge down the Willamette River. These include aggregate producers, agricultural and logging companies, trash transport, and marine construction.

To inform our assessment of the demand for commercial or industrial use of the Willamette River and the WFL, we conducted interviews with the following key informants:

- Dave Bernert, Wilsonville Concrete Products and Marine Industrial Construction
- Baker Rock Resources
- Oregon Concrete and Aggregate Producers Association

⁵⁸Willamette Falls Heritage Area Coalition. 2013. Willamette Falls Heritage Area A National Heritage Area Feasibility Study. August.

⁵⁹<http://ci.wilsonville.or.us/DocumentCenter/View/6023>

⁶⁰https://www.mthoodterritory.com/Scripts/tiny_mce/jscripts/tiny_mce/plugins/filemanager/files/master_plan.pdf

- Ross Island Sand and Gravel
- Oregon Seed Association
- Marion Agricultural Services
- Oregon Feed and Grain Association
- Dr. Starr McMullen, Oregon State University, Professor of Economics, transportation researcher
- Oregon Forest Industries Council
- Dr. Darius Adams, Oregon State University, College of Forestry
- Oregon Marine Construction
- Sportcraft Landing Moorages/Ken's Flotation Services Inc.
- Portland Metro
- Pacific Northwest Waterway Association
- Portland General Electric

Aggregate

Aggregate, typically in the form of sand or gravel, can be found in relative abundance along the Willamette River. Moving aggregate and other heavy materials can cost less by barge than by truck, but, moving materials by truck may require less handling. Producers who source gravel close up or downstream from the WFL could benefit from reopening the locks. Producers further from the WFL may not move significant amounts of aggregate through the locks given the abundance of aggregate and the possibility of additional handling steps and associated costs.

Loading and unloading aggregate requires minimal infrastructure. Barges or riverside sites with portable conveyors and hoppers are sufficient. Investments in large or permanent infrastructure are

not required. Moving aggregate further upstream from the WFL may require dredging the navigation channel. Also, not all aggregate producers have barges that would fit through the locks.

Data compiled by the ACoE lists “sand and gravel” as the only commodity shipped on the Willamette River between Portland and Harrisburg in recent years.⁶¹ The ACoE, however, do not track all materials moved along the river and thus relying on the ACoE data would give an incomplete picture of river transport upstream and downstream from the locks.

Agriculture and Lumber

Rail companies prefer consolidating rail shipments at central rail yards. This requires grain or seed producers to transport their products by truck to rail lines. Rail companies do not stop for small volumes of materials, preferring instead to assemble large rail shipments at central yards and not stopping along their route to add small shipments of one or a few cars. According to the local agricultural producers we spoke with, the Willamette Valley does not produce grain in sufficient volumes to support multiple shipping points.

The seed and grain key informants expressed the following concerns regarding moving grain by barge:

- The uncertainty of adding barge to their current transportation modes
- The lack of loading and unloading infrastructure specific to barge transport
- The additional handling step and cost of moving grain from truck to barge to truck, or truck to barge to rail
- Logging and forestry key informants expressed



the same reservations to barging as agricultural producers:

- The lack of loading and unloading facilities; and
- The additional handling step and cost of moving logs from truck to barge to truck or truck to barge.

These informants stated that barging would likely cost less per mile, but the additional handling and costs required to add barge transport could negate the cost-per-mile savings. The actual cost benefits or increases of barging relative to other transportation modes are unknown at this time. We

⁶¹2006 through 2011, the most recent data available.

note that containerized wood products produced upriver of the locks currently travel to Portland, Rainer, Tacoma, or Seattle for export.

Construction and Maintenance

Marine-based construction key-informants expressed varied interest in the reopening the WFL. One marine construction key informant stated that they have made investments in infrastructure and rolling stock that suit their needs and business model. These investments do not include barges and moving material through the WFL. Another key informant from a construction operation that focuses on recreational docks and facilities expressed strong interest in having the WFL available again. He used the WFL to transport tugs and crane barges upstream to repair and construct docks. Without the WFL, his costs have increased because he must either take equipment out of the water and transport it around the falls, or use more time consuming and expensive construction techniques. He indicated a willingness to pay a fee for using the locks.

Trash haulers noted higher costs and dredging concerns as factors that could inhibit moving trash by barge through the WFL. In the past, barging through the WFL was considered a competing mode for transporting trash, which placed pressure on truck and rail modes to keep prices down. Closing the locks foreclosed this competition pressure to keep prices down.⁶²

Portland General Electric commented that the WFL might have a slight beneficial effect on their operations in that they could possibly use them to help facilitate maintenance on their equipment and facilities at the Falls.

Past Commercial and Industrial Use and Demand

Figure 6 shows the general decline in commercial lockages over time. It also shows how commercial users responded to the two episodes of increased funding and operations in 2006 and 2010 by increasing lockages.

In the past, the WFL facilitated river transport as an alternative to truck and rail, which helped promote competition and reduced transportation costs. Closing the WFL foreclosed the competition option. The importance of the WFL to industrial and commercial users will likely increase in the future with continued economic growth in the I-5 corridor, increased congestion on road and rail lines, and uncertainty over reducing congestion at the I-5 Columbia River crossing.

Transportation and Emergency Planning

Jurisdictions in the area recognize the benefits that the WFL could provide for transportation more generally. For example, the City of Wilsonville includes the WFL and river access as part of their transportation plan. The City's 2013 Transportation System Plan (TSP) establishes the continued maintenance of access to the Willamette River as a policy and supports the availability of river access for potential future transportation purposes. The TSP's goals include improving access for public docking, and designating sites for potential future ports. The TSP also suggests that the City would benefit from increased marine and barge traffic on the river. The TSP describes the City's past and ongoing support of the ACoE's of Engineer's efforts to maintain the WFL and periodically dredge the channel to maintain the river as a viable transportation facility.⁶³

Figure 6. Recent Commercial WFL Activity

Year	Commercial Vessels	Commercial Lockages
2000	443	272
2001	338	190
2002	229	180
2003	145	140
2004	149	149
2005	84	76
2006	231	181
2007	215	174
2008	10	6
2009	61	61
2010	183	160
2011	113	98
2012	2	2

Source: US Army Corps of Engineers Navigation Data Center

We also spoke to emergency managers to ask about the benefits of using the Willamette River and the WFL for transportation in the aftermath of a natural disaster, such as an earthquake that destroys bridges, roads, and rail transportation systems. Clackamas County's hazards plan does not specifically mention using the river for transportation. However, they noted that it has possibilities. Yamhill County does not include the river in its hazard mitigation planning.

⁶³<http://or-wilsonville.civicplus.com/DocumentCenter/Home/View/661>

According to staff from the State of Oregon's Office of Emergency Management, the river will be an important transportation asset in the event of a natural disaster. River transport may be one of the few transportation routes serving areas along the river. The WFL would facilitate moving longer distances down and up river. ODOT Director Matt Garrett also commented that the WFL could have a potentially important role as a redundant transportation mode in the aftermath of the Cascadia earthquake.⁶⁴ Some relevant questions when assessing the role of the WFL in the event of a natural disaster include the extent to which they would function in the aftermath of an earthquake, and how debris flows would affect their operations.

Overall, Emergency Managers at the State level see the WFL as a potential asset for facilitation transport in the aftermath of a natural disaster, while local emergency managers had more questions or concerns.



⁶⁴Personal communication, Peggy Sigler, Oregon Field Officer, National Trust for Historic Preservation.

OPERATING SCENARIOS

Transferring ownership of the locks from the ACoE to another entity will require both parties and interested stakeholders addressing a number of issues. The report by CEDER, et al., describes these issues for the WFL, which include clearing property titles, addressing existing easements, and other real estate matters.⁶⁵ The WFL status on the National Register of Historic Places means that the ACoE must fulfill certain requirements that protect and preserve historic resources as part of changing ownership. For example, in this instance, Section 110 of the National Historic Preservation Act (Act) requires that the ACoE preserve and maintain the WFL, or pay other entities to preserve and maintain them.⁶⁶ On this topic, CEDER, et al., compared the preservation needs of the WFL with three locks transferred from ACoE to other entities and found that the needs specific to the WFL, "... are both resolvable and of smaller scope."⁶⁷ As we noted in Section 2, the ACoE, the State of Wisconsin, and the Federal government entered into a joint funding agreement that established a trust of \$22.8 million for the transfer, rehabilitation, and operation and maintenance of the Lower Fox River locks.

As we understand it, the ACoE must also fulfill requirements under Section 106 of the Act. This

section requires that the ACoE mitigate for any adverse effects on the WFL caused by their decision to move the locks to non-operational status. ACoE did not complete a Section 106 assessment prior to shutting down the locks due to their determination of safety concerns of continued operations.⁶⁸ In a May 15, 2014 letter to the Oregon State Historic Preservation Office, the ACoE stated that, "We have...determined that the closure of the locks to vessel traffic has had—and may continue to have—adverse effects on the character defining features and qualities that made the locks eligible for listing in the National Register."⁶⁹ Future meetings between ACoE staff and stakeholders will address the next steps regarding mitigating the adverse effects on the WFL caused by the ACoE closure.⁷⁰

Our economic analysis of operating scenarios for the WFL begins after ownership of the locks has transferred to another entity. That is, our analysis focuses on use of the locks and associated costs and revenues after necessary preservation repairs and maintenance issues have been dealt with and transfer of ownership has occurred. We developed the details of the three operating scenarios based on past studies of the locks, historical ACoE records of lock usage and operations and maintenance costs, and our recent interviews.⁷¹ The ACoE records show that through the mid to

late 1990s the locks operated year round. Between 1999 and 2004, the ACoE operated the locks six months per year. After 2005, operations dropped to summer months only.

Our scenarios reverse the ACoE's ramping down lock operations over the years.⁷² Our first scenario assumes three months of operations during the summer. Our second scenario assumes six months of operations. Our third scenario assumes year-round operations. We anticipate that demand for the locks will come primarily from recreational and tourism users. As we describe in Section 3, it is unlikely that commercial haulers, e.g., barge operators, would use the locks to any significant degree until they are operating consistently on a regular basis. This is a likely necessary condition before commercial users would make investments and expand the transportation modes they use to include barging in addition to road and rail modes.

In each of our scenarios, we describe a high and low estimated number of lockages, operating costs, user fees, and tax revenues that support locks operations. We estimated the number of lockages based on available ACoE records of lockages over the years.⁷³ We estimated operations and maintenance costs based on the costs reported by BST Associates in their 2005 analysis, which was the average cost from 2002 to 2004.⁷⁴ During those

⁶⁵See the CEDER et al., 2008, report for the complete list of transfer issues.

⁶⁶National Historic Preservation Act of 1966, Public Law 102-575, <http://www.nps.gov/history/local-law/nhpa1966.htm>.

⁶⁷CEDER et al., 2008, page 27.

⁶⁸Willamette Falls Heritage Foundation, 2013, Winter Newsletter. December. www.willamettefalls.org; Willamette Falls Heritage Foundation, 2014, Spring Newsletter. March. www.willamettefalls.org.

⁶⁹Casey, J. 2014. Letter to Mr. Roger Roper, Deputy State Historic Preservation Officer, Oregon Parks and Recreation Department, State Historic Preservation Office, RE: Continued Section 106 Consultation Regarding the Caretaker Status of the Willamette Falls Locks, Oregon, City, Clackamas County, Oregon. May 15, p. 1.

⁷⁰Casey, 2014.

⁷¹US Army Corps of Engineers, Corps of Engineers Financial Management System (CEFMS), <http://www.usace.army.mil/FinanceCenter.aspx>.

⁷²Contact the Willamette Falls Heritage Foundation, 503-650-9570, for a copy of the spreadsheet model that accompanies this Section.

⁷³Army Corps of Engineers, Locks Performance Monitoring System (LPMS), <http://www.ndc.iwr.usace.army.mil/lpms/lpms.htm>.

⁷⁴BST Associates, 2005.

years, the WFL operated for 6-months annually. We recalculated this average to account for inflation.⁷⁵ This amount was halved for the 3-month operating scenario, and doubled for the 12-month operating scenario. We also included a contingency factor of from 0 to 30 percent to account for the uncertainty of projecting future operating costs.

Our model also includes two other costs specific to operating and maintaining the WFL. Given the fact that the WFL were constructed over 140 years ago, and the findings of the CEDER et al. report regarding the recommendations for maintaining structures of that age, our model includes options of adding costs for deferred maintenance and a set-aside for future capital upgrades. Our annual deferred maintenance amounts in the model range from \$0 to \$225,000, and the annual capital set-aside ranges from \$0 to \$150,000. Our use of the term, operating costs, includes costs for operations and maintenance, deferred maintenance and set-aside capital amounts.

In addition to incurring costs from operating the locks, the new entity that takes over the WFL could generate revenues through user fees. Our model includes a range of user fees per lockage from \$0 to \$15. We know, however, based on our review of data from the other locks that the ACoE turned over, and from our analysis of the WFL, that user fees will cover only a small portion of operating costs, and possibly not enough to offset the cost of administering the fee. We therefore considered other possible funding sources to make up the shortfall.

Figure 7: Illustrative Model Run #1

Operating Scenario: 3 Months (300 to 600 lockages)
 Transportation District: Clackamas County Boundary
 Deferred Maintenance: \$25,000

Set-Asides For Future Capital Improvements: \$50,000
 User Fees: \$5 per lockage

Costs	Low Estimate	High Estimate
Operations & Maintenance	\$156,900	\$156,900
O&M Contingency (10%)	0	15,690
Deferred Maintenance	25,000	25,000
Set-Asides For Capital Improvements	50,000	50,000
Total	\$231,900	\$247,590
Revenues	Low Estimate	High Estimate
From User Fees	\$1,500	\$3,000
From Clackamas County Boundary	231,900	246,090
Total	\$233,400	\$249,090
Tax Impacts		
Tax per \$1,000 Assessed Value	0.81¢	0.89¢
Net Tax Increase	0.04%	0.04%

Oregon Statue includes provisions for a number of possible funding models that could support the WFL operations. We considered four possibilities and included the one we felt was most likely in our model. The first is creating a public corporation.⁷⁶ A public corporation can provide services, generate operating funds via taxes (though not through property taxes), is self-governed, but must be approved by the State legislature. Examples include the Port of Portland, TriMet and Oregon Health Sciences University.

The next possibility we considered was creating a new transportation agency via intergovernmental

Model Run #1 assumes three months of operations, a 10% contingency factor for operating costs, \$25,000 a year in deferred maintenance, \$50,000 per year set-aside for future capital improvements, a \$5 per lockage user fee, and a transportation district equivalent to the Clackamas County boundary.

⁷⁵ Using the US Producer Price Index.

⁷⁶www.oregonlaws.org.

Figure 8: Illustrative Model Run #2

Operating Scenario: 6 Months (1,000 to 1,500 lockages)

Set-Asides For Future Capital Improvements: \$100,000

Transportation District: Metro Region Boundary

User Fees: \$8 per lockage

Deferred Maintenance: \$50,000

Costs	Low Estimate	High Estimate
Operations & Maintenance	\$313,800	\$313,800
O&M Contingency (10%)	0	31,380
Deferred Maintenance	50,000	50,000
Set-Asides For Capital Improvements	100,000	100,000
Total	\$463,800	\$495,180
Revenues	Low Estimate	High Estimate
From User Fees	\$8,000	\$12,000
From Metro Region Boundary	463,800	487,180
Total	\$471,800	\$499,180
Tax Impacts		
Tax per \$1,000 Assessed Value	0.34¢	0.37¢
Net Tax Increase	0.02%	0.02%

Model Run #2 assumes six months of operations, a 10% contingency factor for operating costs, \$50,000 a year in deferred maintenance, \$100,000 per year set-aside for future capital improvements, a \$8 per lockage user fee, and a transportation district equivalent to the Metro boundary.

Figure 9: Illustrative Model Run #3

Operating Scenario: 12 Months (1,700 to 2,500 lockages)

Set-Asides For Future Capital Improvements: \$150,000

Transportation District: Port of Portland District Boundary

User Fees: \$0 per lockage

Deferred Maintenance: \$100,000

Costs	Low Estimate	High Estimate
Operations & Maintenance	\$627,600	\$627,600
O&M Contingency (10%)	0	62,760
Deferred Maintenance	100,000	100,000
Set-Asides For Capital Improvements	150,000	150,000
Total	\$877,600	\$940,360
Revenues	Low Estimate	High Estimate
From User Fees	\$0	\$0
From Port of Portland District Boundary	877,600	940,360
Total	\$877,600	\$940,360
Tax Impacts		
Tax per \$1,000 Assessed Value	0.58¢	0.64¢
Net Tax Increase	0.03%	0.03%

Model Run #3 assumes twelve months of operations, a 10% contingency factor for operating costs, \$100,000 a year in deferred maintenance, \$150,000 per year set-aside for future capital improvements, a \$0 per lockage user fee, and a transportation district equivalent to the Port of Portland jurisdictional boundary.

agreement, as described under Oregon Statute 190.⁷⁷ Government parties to the agreement must decide on the operating and financing details of the agreement and the services provided. Funding cannot come from property taxes. Establishing a new agency would include additional administrative fees, staff, and offices.

The third option is creating a service district, as described in Oregon Statute 451.⁷⁸ Creating such a district would require negotiations among entities that would form the boundary of the district. Examples of services districts formed in Oregon include districts for water and sewer services, parks and recreation, solid waste disposal, and emergency medical services, e.g., ambulance. Typically, the district services directly benefit the users who pay district fees.

The fourth option, and the one we include in our model, is forming a transportation district as described in Oregon Statute 391.550.⁷⁹ Currently, eleven transportation districts operate in Oregon including, TriMet, South Clackamas Transportation District, Salem Area Mass Transit District, and Land Transit District.⁸⁰ A district can be formed across jurisdictional boundaries of interested constituents. We included the transportation district option in our analysis because they are prevalent across the state, the process for establishing a district is relatively well known, and transportation districts can be funded by property taxes.

To help illustrate the amounts of revenues that a WFL-specific transportation district could generate, we developed transportation districts using jurisdictional boundaries of four entities. We stress that these transportation districts are illustrative only. We use these jurisdictional boundaries for convenience because assessed values for property taxes are available for these boundaries, and because they illustrate districts covering a range of geographies, from large to small. We use jurisdictional boundaries for the Port of Portland, Metro, TriMet, and Clackamas County in our model. Our model calculates tax revenues generated from each jurisdictional boundary that would be needed to make up the revenue shortfall between user fees and operating costs. Our model calculates total revenues generated from a transportation district, the tax amount per \$1,000 of assessed value, and the percent net tax increase attributed to the district-specific tax amounts.

As described above, our model includes a number of assumptions and choices that affect the number of lockages, operating costs, and revenues. We reproduce below results from three illustrative model runs using different assumptions and choices.

Our three illustrative model runs show results across a range of operating possibilities for the WFL. Despite this range, we can draw a number of conclusions about the outcomes of likely future operations of the WFL.

- User fees will cover but a small portion of operating costs. If actual lockages were greater than the numbers in our operating scenarios, it is unlikely that the impacts on user fees would significantly reduce the demand for supplemental funding from other sources, e.g., a transportation district.
- The revenues provided by a transportation district based on the boundaries in our analysis would result in less than a tenth of a percent increase in taxes paid by property owners within the district boundaries.
- The highest operating costs from our illustrative model run #3, in which we assume 12 months of operations, would represent a very small portion of current budgets for area jurisdictions. For example, Metro's fiscal year (FY) 2013-14 total budget is \$490 million. The \$940 thousand WFL operating costs for 12 months works out to less than 0.2% of Metro's budget.⁸¹ TriMet's adopted budget for FY 2014-15 is comparable to Metro's, at \$494 million,⁸² as is the Port of Portland's adopted budget for FY 2014-15, of \$489 million.⁸³ Clackamas County's FY 2014-15 adopted budget is \$606 million.⁸⁴ Costs of operating WFL for 12 months represents 0.16% of the County's budget.

Readers interested in running alternative operating scenarios to those reported above can select from a menu of values for model inputs and the model will generate new results.⁸⁵

⁷⁷2011 ORS § 190.010 Authority of local governments to make intergovernmental agreement, <http://www.oregonlaws.org/ors/190.010>.

⁷⁸2011 ORS § 451.010 Facilities and services provided by service districts, <http://www.oregonlaws.org/ors/451.010>.

⁷⁹2011 ORS § 391.550 Powers of Mass Transportation Financing Authority, <http://www.oregonlaws.org/ors/391.550>.

⁸⁰Oregon Blue Book, Transit Districts, <http://bluebook.state.or.us/local/other/other05.htm#r>. ⁸¹Metro. Adopted Budget FY 2013-14. www.oregonmetro.gov.

⁸²Tri-County Metropolitan Transportation District of Oregon. Adopted Budget 2014-2015. [Trimet.org/budget/](http://trimet.org/budget/).

⁸³Port of Portland, 2014-15 Adopted Budget, www.portofportland.com/strategicplanbudget.aspx.

⁸⁴Clackamas County, Amended FY 2013-14 vs. Adopted FY 2014-15 Budgets. www.clackamas.us/budget/documents/budportala.pdf.

⁸⁵Contact the Willamette Falls Heritage Foundation, 503-650-9570, for a copy of the spreadsheet model that accompanies this Section.

ECONOMIC POTENTIAL

The economic potential of WFL is multidimensional. The WFL are a unique historical, commercial and recreational piece of Oregon's transportation infrastructure. Demands for the locks' services changed over time. Commercial use dominated the large majority of years the locks were in service. More recently, demand from paddlers and boaters eclipsed that from commercial users. The locks proximity to Willamette Falls generates demand from those interested in the region's historic and cultural aspects.

In this section we provide a summary of the main points regarding the WFL's economic potential.

Recreational and Tourism Demand

The primary demand for lock services comes from recreational and tourism use.

- The shift from predominantly commercial to predominantly recreational demand for locks services is similar to the changes in demand at other locks that the ACoE turned over.
- Our analysis of demand for WFL services found strong demand from local recreational and tourism groups and participants.
- Facilitating recreational and tourism access up and downstream on the Willamette River would help support economic development goals of jurisdictions along the river.
- The locks provide a unique draw for visitors interested in the region's historical and cultural attributes.
- Developing the former Blue Heron Paper Company site across the river will draw more attention to Willamette Falls and WFL, and increase the public's awareness of the area's attributes.⁸⁶



User Fees and Other Funding

- Any entity that takes over ownership and operation of the WFL will need a dedicated funding source.
- User fees will cover but a small portion of the costs to operate and maintain the locks. This situation is common to the other locks that the ACoE turned over.
- Oregon Statutes include a range of funding mechanisms that jurisdictions throughout the state use to support the services they provide. These funding mechanisms could potentially be used to support locks operations.

- Our illustrative operating scenarios based on funding from a transportation district found that supporting the locks would require very small increases in tax assessments per \$1,000 of assessed value. For example, our six-month operating scenario resulted in a tax per \$1,000 of assessed value of between 0.3 and 0.4 cents.
- Our operating scenarios also found that the net tax increase to tax payers would also be very small. For our six-month operating scenario and a property with \$300,000 in assessed value, the tax increase would be approximately \$1.20 per year.

⁸⁶Willamette Falls Legacy Project. <http://www.rediscoverthefalls.com/>.

Commercial Demand

Even though the locks were originally built to satisfy commercial demand, we would expect only modest demand for lockages from commercial users at this time.

- A few commercial operators that currently transport commodities, mostly aggregate, up and down the Willamette River would take advantage of the locks reopening.
- We would also expect one-off demands from other users with special transportation needs. For example, moving ferries or other vessels to and from Portland for repairs. Clackamas County Director of Transportation and Development Cam Gilmour, stated that moving the Canby Ferry through the WFL in 2013 for repairs and biannual Coast Guard inspection saved Clackamas County \$500,000.⁸⁷
- We would not expect significant commercial demand until the locks are operating on a regular schedule for a period of time. Another necessary condition is that commercial operators have confidence that the locks will be operating in the future. Without this assurance, it is unlikely that potential commercial users would make the necessary investments in barges and related infrastructure.
- The amount of commodities that currently move through Oregon includes commodities that could potentially move by barge through the WFL. Recent data on the state's production of commodities is illustrated in Figure 10 and Figure 11.

Figure 10: Shipments Originating in Oregon, by Transportation Mode

Mode type	Value (millions)	Tons (thousands)	Ton-miles (millions)
Single modes			
Truck	\$101,093	149,917	27,962
Rail	3,353	7,204	9,889
Water	1,859	8,454	379
Air*	5,262	13	21
Pipeline	23	89	1
Subtotal, single modes	\$111,590	165,677	38,252
Multiple modes	28,450	8,312	11,083
Other and unknown modes	6,846	10,749	514
Total	\$146,886	184,738	49,849

*Includes truck & air multi-mode

Source: 2007 Commodity Flow Survey, U.S. Bureau of Transportation Statistics.

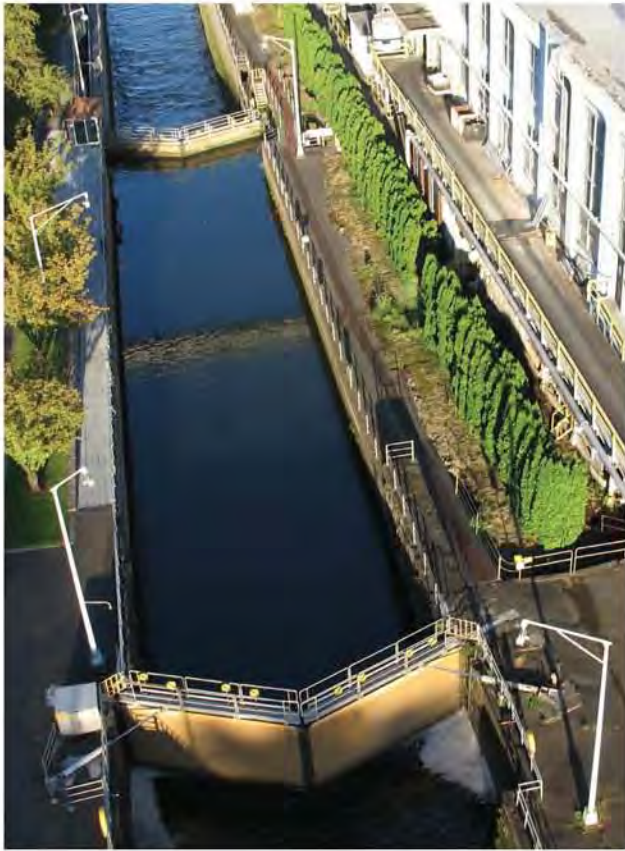
⁸⁷Wilsonville Area Chamber of Commerce, 2012, Canby Ferry Closed for Retrofitting. December 12. <http://business.wilsonvillechamber.com/news/details/canby-ferry-closed-for-retrofitting>.

Figure 11: Shipments Originating in Oregon, by Commodity

Commodity type	Value (millions)	Tons (thousands)	Ton-miles (millions)
Cereal grains (includes seed)	\$3,262	14,541	34
Agricultural products (excludes animal feed, cereal grains, and forage products)	5,340	3,190	3,795
Animal feed, eggs, honey, and other products of animal origin	ND	ND	279
Meat, poultry, fish, seafood, and their preparations	1,864	561	151
Milled grain products and preparations and bakery products	2,009	1,533	571
Other prepared foodstuffs and fats and oils	8,112	6,344	5,262
Alcoholic beverages	1,474	1,130	149
Tobacco products	137	3	ND
Monumental or building stone	ND	ND	60
Natural sands	ND	2,147	63
Gravel and crushed stone (excludes dolomite and slate)	404	47,978	1,148
Other nonmetallic minerals, nec	111	1,442	309
Metallic ores and concentrates	ND	8	ND
Gasoline and aviation turbine fuel	4,614	7,076	228
Fuel oils	2,580	4,292	215
Other coal and petroleum products, nec	1,938	5,468	368
Basic chemicals	765	617	146
Pharmaceutical products	ND	ND	2
Fertilizers	358	892	209
Chemical products and preparations, nec	3,141	1,002	508
Plastics and rubber	3,828	1,234	657
Logs and other wood in the rough	ND	357	ND
Wood products	11,076	23,169	19,530
Pulp, newsprint, paper, and paperboard	2,754	4,251	3,503
Paper or paperboard articles	1,985	1,668	442
Printed products	1,511	493	348
Textiles, leather, and articles of textiles or leather	5,666	135	127
Nonmetallic mineral products	5,023	ND	ND
Base metal in primary or semifinished forms and in finished basic shapes	4,439	2,791	950
Articles of base metal	4,434	980	478
Machinery	6,270	485	441
Electronic and other electrical equipment and components and office equipment	21,208	262	104
Motorized and other vehicles (including parts)	6,958	835	618
Transportation equipment, nec	993	19	23
Precision instruments and apparatus	8,441	51	103
Furniture, mattresses and mattress supports, lamps, lighting fittings, and illuminated signs	1,227	152	98
Miscellaneous manufactured products	5,760	806	584
Waste and scrap	1,258	4,363	320
Mixed freight	14,834	4,926	1,030
Total	\$146,886	184,738	49,849

ND = Not disclosed.

Source: 2007 Commodity Flow Survey, U.S. Bureau of Transportation Statistics.



- Congestion on the region's rail system. This could become especially problematic if coal exports increase in the future.⁸⁹
- A report prepared for the Oregon Business Council and Portland Business Alliance described the consequences of congested road and rail systems to the region's economy:

"The state's economy is transportation-dependent. Despite Oregon's excellent rail, marine, highway and air connections to national and international destinations, projected growth in freight and general traffic cannot be accommodated on the current system. Increasing congestion and travel time delay—even with currently planned improvement—will significantly impact the state's ability to maintain and grow business, as well as our quality of life."⁹⁰

- When the Cascadia earthquake hits, the Willamette River could revert to a major transportation route in the likely event of downed bridges and other disruptions to road and rail systems. To the extent that the locks function after the event, they would be critical to moving goods and people up and down the river.

Transfer and Related Issues

Even though our report focuses on WFL operations after transfer from the ACoE to another entity, a number of transfer and related issues could affect the economic potential of the locks and so we mention them here.

- The recent determination under Section 106 of the National Historic Preservation Act (Act) that the ACoE's shutting down the locks caused

adverse effects on the locks' historical attributes is significant. This means the ACoE must take actions to mitigate the adverse effects. In this case, those actions could include addressing some of the locks' deferred maintenance issues.

- As evidenced by the Oregon Solutions projects, and current efforts by the Willamette Falls Heritage Foundation and other local groups, there is significant support among the region's population, government entities, non-profit interest groups, and area business to reopen the locks.
- The ACoE has contributed funding to the repair and maintenance of locks it transferred to other entities. As we note in Section 2, the ACoE, the State of Wisconsin, and the Federal government entered into a joint funding agreement that established a trust of \$22.8 million for the transfer, rehabilitation, and operation and maintenance of the Lower Fox River locks. A comparable funding agreement may be feasible for the WFL.
- In addition to transferring ownership and operations of the locks, stakeholders are interested in exploring the option of expanding the ACoE's authorization for the WFL to include recreational use. This could increase the likelihood of additional ACoE funding for the locks.
- Local stakeholders are also considering how the recently passed Water Resources Reform Development Act, which allows non-profits to provide funding to ACoE in support of locks operations, could be used to help fund WFL operations.

Other factors that could contribute to increasing demand from commercial users for locks services include:

- The region's projected population increase and resulting demands on transportation infrastructure.
- Congestion on the regions roads. A recent study ranked Portland as the ninth worst for traffic congestion in the US.⁸⁸

⁸⁸Loos, Mary. 2014. "Study Ranks Portland 9th Worst for Traffic Congestion." KATU.com. June 5. <http://www.katu.com/news/local/New-study-ranks-Portland-for-traffic-congestion-261860261.html>.

⁸⁹Stewart, Bonnie. 2013. Northwest Railroads Will Need Improvements to Handle Coal Trains. OBP.org. April 1. <http://earthfix.opb.org/communities/article/northwest-railroads-already-congested/>.

⁹⁰Economic Development Research Group. 2007. The Cost of Highway Limitation and Traffic Delay to Oregon's Economy. Executive Summary. March. Prepared for Oregon Business Council and Portland Business Alliance. Page 1.

This study was conducted and produced by ECONorthwest for the Willamette Falls Heritage Foundation, Inc. and funded through the generosity of the following entities:

City of Oregon City

City of West Linn

City of Wilsonville

Clackamas County

J & A Fuel

METRO

National Trust for Historic Preservation

Portland General Electric Company

The Kinsman Foundation

The Portland Spirit Cruises

Willamette Falls Heritage Area Coalition

Wilsonville Concrete Products

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUPPORTING THE) RESOLUTION NO. 14-4576
REOPENING OF THE WILLAMETTE FALLS)
LOCKS) Introduced by Chief Operating Officer
Martha Bennett in concurrence with Council
President Tom Hughes

WHEREAS, On January 1, 1873, the Willamette Falls Locks opened to allow passage around the waterfall at Oregon City thereby providing access to a one river system; and

WHEREAS, in 1915, the Army Corps of Engineers purchased the Locks from the private operator thereby ensuring free public passage through the Locks; and

WHEREAS, in 1974, the Willamette Falls Locks were listed on the National Register of Historic Places; it was the first significant facility built to improve navigation on the Columbia-Snake River Inland Waterway system and through 1939, the most important; and

WHEREAS, in 1991, the Willamette Falls Locks were designated as a State Historic Civil Engineering Landmark by the American Society of Civil Engineers; and

WHEREAS, in 2006, Governor Kulongoski designated the Willamette Falls Locks as an Oregon Solutions project, and Metro joined in the formation of the Willamette Falls Locks Oregon Solutions Task Force which continues to the present as the One Willamette River Coalition hosted by the Willamette Falls Heritage Foundation to preserve the Locks and support their continued operation; and

WHEREAS, on October 23, 2008, the Center for Economic Development Education and Research released a report under contract to the Willamette Falls Heritage Foundation, titled "*The Willamette Falls Locks: A Case Study Analysis of Potential Transfer Issues;*" and

WHEREAS, from 2006 through 2010, funding provided to the Army Corps of Engineers from the Oregon Department of Transportation, Clackamas County and the US Congress allowed for seasonal operations and selected structural upgrades; and

WHEREAS, in November 2011, the Willamette Falls Locks were placed into "non-operational" status and on short notice were closed to vessel passage based upon an engineering assessment that identified safety concerns of potential failure; and

WHEREAS, closure has placed a severe hardship on commercial, recreational, and tribal river users; and

WHEREAS, in March 2012, the National Trust for Historic Preservation declared the Willamette Falls Locks as one of the most threatened National Treasures, thereby providing added technical assistance; and

WHEREAS, in 2012, the Historic Preservation League of Oregon (now Restore Oregon) named the Willamette Falls Locks as one of its 10 "Most Endangered Places;" and

WHEREAS, an application is being prepared for designation of the area surrounding the Locks as a National Heritage Area by the National Park Service; and

WHEREAS, on September 23, 2013, Metro received notice from the Army Corps of Engineers of its intent to initiate a public consultation process under Section 106 of the National Historic Preservation Act to determine whether the closure action has an adverse effect on the historic integrity of the Locks based upon the defining qualities and features that made the Locks eligible for listing on the National Register of Historic Places; and

WHEREAS, on May 15, 2014, the Army Corps of Engineers released its finding of historic adverse effect under Section 106 of the Historic Preservation Act and announced its intent to develop an agreement to establish how to best “avoid, minimize or mitigate” the identified adverse effect to the historic character of the Locks; and

WHEREAS, in August 2014, ECO Northwest, under contract with the Willamette Falls Heritage Foundation, published the “*Willamette Locks Economic Potential Report*,” providing information on potential operating costs and community benefits of re-opening the Locks; now therefore

BE IT RESOLVED that the Metro Council urges the Corps of Engineers to expedite the needed rehabilitation of the Willamette Falls Locks to allow their re-opening to general public commercial, recreational and cultural marine traffic.

ADOPTED by the Metro Council this [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 14- 4576, FOR THE PURPOSE OF SUPPORTING THE REOPENING OF THE WILLAMETTE FALLS LOCKS

Date: October 13, 2014

Prepared by: Andy Cotugno, ext. 1763

BACKGROUND

Metro has been a member of the One Willamette River Coalition (the Coalition) since 2006, which was formed to advocate for the continued operation of the Willamette Falls Locks. The Locks were opened in 1873 and for the next 65 years operated as the most significant navigational facility on the entire Columbia-Snake River Inland Waterway System. In more recent decades, the traffic through the Locks (agriculture products, timber floats, paper, gravel, marine construction equipment, ferries, etc.) has dropped dramatically while the construction of the dams on the Columbia and Snake Rivers has resulted in river traffic through those Locks increasing dramatically. Under Congressional directive, the U.S. Army Corps of Engineers (the Corps) is obligated to prioritize its resources toward the highest tonnage facilities, resulting in considerable disinvestment and deterioration of the Willamette Falls Locks. As a result, there have been periodic closures or limited operation since 2002 and permanent closure due to safety concerns in December 2011.

For a period after its formation in 2006, the One Willamette River Coalition was quite successful in securing funds to rehabilitate certain components of the Locks system and provide for periods of limited operation, including \$2.2 million in funding from the American Recovery and Reinvestment Act of 2009 (commonly referred to as the Stimulus Bill). However, in more recent years, with the loss of Congressional earmarks, special funding toward the Locks has dried up.

Following the closure of the Locks in 2011, the National Trust for Historic Preservation declared the Locks one of their most threatened National Treasures; bringing substantial technical and legal assistance to the Coalition. At the urging of the Coalition and the National Trust, the Corps concluded that its emergency closure for safety reasons should be evaluated for its adverse effect on this facility under Section 106 of the National Historic Preservation Act. Under that process, the Corps has determined that the continued closure and disinvestment is having an adverse effect based upon three criteria set out in the Act:

1. Elimination of the navigational function of the Locks and the isolated nature of the Locks location results in a loss of public awareness and understanding of their significance;
2. Continued disinvestment and degradation will negatively impact the historic architectural and engineering qualities of the Locks and undermines the Corps obligation under the Historic Preservation Act to “preserve” the facility;
3. Closure has resulted in an impact on the traditional culture and education practices of Native Americans by limiting their ability to use a canoe journey.

Based upon this finding of adverse effect, the Corps is now in the process of consulting with the community on methods to “avoid, minimize or mitigate” the adverse effects. This process will result in a

Memorandum of Understanding on actions necessary to comply with and complete the Section 106 proceedings. The preferred method of mitigation to the One Willamette River Coalition is the rehabilitation of the Locks to allow them to reopen for continued operations for freight/commercial and personal movement around the Willamette Falls. While negotiations with the Corps are on-going, discussions to date suggest that the best path is to seek federal funds for the rehabilitation and seek a local party to transfer the Locks to and take over operations. While the rehabilitation may mitigate the historic impact by stopping continued deterioration, it will not alter the Corps fundamental directive from Congress to prioritize the Corps' funds consistent with tonnage, leaving the prospect of continued operations by the Corps unlikely.

As part of this negotiation process, the One Willamette River Coalition commissioned the attached economic potential report by ECO Northwest (Attachment 1). It provides economic benefit information about the potential users of a re-opened Locks system and a range of operating costs to consider as part of determining who the local operator should be and how the operating costs are to be funded. Also available is an interactive operating cost calculator allowing the user to determine the annual operating cost taking into consideration assumptions relating to duration of service (from 3-12 months of the year), the amount to budget for deferred maintenance and future capital improvements (up to \$250,000/year and \$150,000/year respectively), and the level of contingency for which to budget (from 5-30%). Included in the report are three sample operating scenarios ranging from \$250,000 to nearly \$1 million.

This resolution of support is important as a demonstration to the Corps of widespread community interest in the rehabilitation and re-opening of the Locks.

ANALYSIS/INFORMATION

- 1. Known Opposition:** None
- 2. Legal Antecedents:** The historic adverse affect of closure is being evaluated by the Corps of Engineers under Section 106 of the Historic Preservation Act. Designation of the Willamette Falls National Heritage Area requires an authorizing act of Congress and would be administered under the National Park Service, providing access to technical and financial assistance.
- 3. Anticipated Effects:** Continued negotiations with the Corps; continued evaluation of options for local transfer and operations.
- 4. Budget Impacts:** Metro has continued to maintain a membership in the One Willamette River Coalition at a cost of \$1,500 per year. Metro made a one-time contribution toward the economic potential study of \$8,000.

RECOMMENDED ACTION

Adoption of Resolution No. 14-4576

Agenda Item No. 5.0

**CONSIDERATION OF COUNCIL MEETING MINUTES FOR
OCTOBER 16, 2014**

Minutes

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

Agenda Item No. 6.1

Ordinance No. 14-1343, For the Purpose of Amending Metro
Code Chapter 2.17 in Order to Comply with Current State Law
and Declaring an Emergency

Ordinances (First Read)

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 14-1343
CODE CHAPTER 2.17 TO COMPLY WITH)	
CURRENT STATE LAW AND DECLARING AN	)	Introduced by Metro Attorney Alison R. Kean
EMERGENCY	)	in concurrence with Council President Tom
	)	Hughes

WHEREAS, Metro Code Chapter 2.17 was originally adopted by the Metro Council on March 4, 1999 by Ordinance 99-795B to establish a Code of Ethics for Metro and set forth requirements for lobbyists appearing before Metro; and

WHEREAS, Oregon Revised Statutes (ORS) Chapter 244, specifically the Oregon Ethics Act, has been substantially revised since the Metro Code of Ethics was first adopted; and

WHEREAS, revisions have been proposed by the Metro Attorney to update Metro Code Chapter 2.17 in order to conform the Metro Code with the current Oregon Ethics Act; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Amendment. Metro Code Chapter 2.17 (Code of Ethics for Metro Officials and Requirements for Lobbyists) is hereby amended as set forth to in Exhibit A attached hereto; and
2. That this Ordinance being necessary for the health, safety, and welfare of the Metro area and to ensure effective and ethical governance as required by state law, an emergency is declared to exist, and this Ordinance shall take effect immediately, in accordance with the provisions of Metro Charter Section 38(1).

ADOPTED by the Metro Council this 30th day of October 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Alexandra Eldridge, Recording Secretary

Alison R. Kean, Metro Attorney

CHAPTER 2.17

CODE OF ETHICS ~~FOR METRO OFFICIALS~~; STATEMENTS OF ECONOMIC INTEREST;
AND REQUIREMENTS FOR LOBBYISTS

SECTIONS	TITLE
2.17.010	Purpose and Policy
2.17.020	Definitions
<u>2.17.025</u>	<u>Gift Exceptions</u>
2.17.030	Giving and Receiving Gifts <u>Gift Limit</u>
<u>2.17.040</u>	Prohibited by Lobbyists Registered with Metro <u>Use of Official Position</u>
2.17. 040	Whistleblowing <u>045 Honoraria</u>
2.17.050	Financial Reporting Requirements <u>Conflicts of Interest</u>
2.17.060	Restrictions on Meals and Entertainment <u>Methods of Handling Conflicts of Interests</u>
2.17.070	Reimbursement for Attendance at Events <u>Whistleblowing</u>
2.17. 090 <u>080</u>	Prohibition Against Doing Business With Metro Officials
2.17. <u>90</u>	<u>Financial Interest in Public Contract</u>
<u>2.17.100</u>	<u>Regulation of Subsequent Employment of Metro Officials</u>
	<u>STATEMENTS OF ECONOMIC INTEREST/FINICIAL REPORTING</u>
<u>2.17.110</u>	<u>Financial Reporting Requirements</u>
	<u>LOBBYING</u>
<u>2.17.200</u>	Registration of Lobbyists
2.17. 120 <u>210</u>	Exemptions to Lobbyist Registration Requirements
2.17. 130 <u>215</u>	<u>Prohibited Lobbyist Conduct</u>
<u>2.17.220</u>	Statements of Lobbying Expenses
2.17. 140 <u>230</u>	Employers of Lobbyists Expense Statements
2.17. 150 <u>240</u>	Verification of Reports, Registrations and Statements
2.17. 160 <u>245</u>	<u>False Statement or Misrepresentation by Lobbyist or Metro Official</u>
<u>2.17.250</u>	Public Nature of Reports, Registrations and Statements
2.17. 170 <u>260</u>	Sanctions for Violations
2.17.180	Pending Enforcement by Oregon Government Standards and Practices Commission (repealed Ord. 06-1112 §5)
<u>2.17.010</u>	<u>Purpose and Policy</u>

(a) The Metro Council hereby declares that the purpose of this Chapter is to ensure that Metro serves the public and informs the public fully concerning its decision making. In accordance with such purposes, this Chapter establishes a Code

of Ethics for Metro and requirements for lobbyists appearing before Metro.

(b) In adopting this Chapter, the Metro Council intends:

- (1) To be consistent with and to add to current public policy established by the Oregon Legislative Assembly;
- (2) To require Metro officials to operate under high ethical standards;
- (3) To require Metro officials to treat their offices and positions as a public trust whose powers and resources are to be used for the benefit of the public and not for any personal benefit; and
- (4) To require individuals and entities appearing before Metro to identify themselves and the interests they represent.

(c) It is the policy of Metro that all Metro officials and employees strictly comply with the Code of Ethics contained in ORS Chapter 244.040.

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

2.17.020 Definitions

For the purposes of this Chapter, unless the context requires otherwise, the following terms shall have the meaning indicated~~+, :~~

(a) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

(b) "Business with which the Metro official is associated" means ~~any:~~

- (1) Any private business or closely held corporation of which the person or the ~~person's~~ person's

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relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the ~~person's~~ relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year, ~~but excluding any income producing not for profit corporation that is tax exempt under Section 501(c) of the Internal Revenue Code with;~~

- (2) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;
- (3) Any publicly held corporation of which the person or the person's relative is a director or officer; or
- (4) For public official is associated in officials required to file a nonremunerative capacity statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

(c) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.

(d) "Department Director" means any person employed by Metro in a position on a permanent basis which authority is to administer a department of Metro as designated by the Chief Operating Officer.

(e) "Doing business" means entering into a direct contractual relationship with a business with which the Metro official is associated.

(f) "Elected official" means any person elected or appointed as a member of the Metro Council, or the Auditor.

(g) "Employer of a lobbyist" means the individual or entity required to grant official authorization to a lobbyist to lobby on their behalf pursuant to Section 2.17.110200(a)(2).

(h) "Ethics" means positive principles of conduct, some of which are also enforced by federal, state or other local law.

~~(i) "Exercise of official authority" means: Metro elected officials and the Chief Operating Office and Metro Attorney have authority to exercise official responsibility over any Metro matter. Appointed commissioners have authority over any matter over which the relevant commission has jurisdiction. Department Directors have authority over any matter related to the department they administer. Metro employees have authority over matters as assigned to them by their supervisors.~~

~~(j) "Gift" means "~~(i) "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(1) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(2) For valuable consideration less than that required from others who are not public officials or candidates.

(3) "Gift" as defined in "does not mean those items excluded by ORS 244.020(6)(a). ~~However, b)~~".

~~(j) "Honorarium" means a payment or something of economic value given to a public official in exchange for the purpose of this chapter, "Gift" does not services upon which custom or propriety prevents the setting of a price. Services include plaques, mementos or similar items, but are not limited to, speeches or other services rendered in connection with little or no intrinsic value. an event.~~

(k) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, resolution, amendment, nomination, appointment or

report, or any matter which may be the subject of action by the Metro Council or any committee thereof.

(l) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more contracts, agreements, relationships, ordinances, resolutions, regulations, proposals or any other matters subject to the action or vote of ~~a Metro official or Metro employee~~ the specific Public Official.

(m) "Lobbying" means influencing, or attempting to influence, legislative action through oral or written communication with Metro officials, solicitation of others to influence or attempt to influence legislative action or attempting to obtain the good will of Metro Councilors.

(n) "Lobbyist" means: (i) Any individual who agrees to provide personal services for money or any other consideration for the purpose of lobbying; and (ii) Any employee of a business, not-for-profit corporation, association, organization or other group, who engages in lobbying.

(o) "Metro" means all of Metro including any department or branch of Metro including any Metro commission or venue.

(p) "Metro ~~commissioner~~ Commissioner" means any person appointed to a position on the Metropolitan Exposition Recreation Commission.

(q) "Metro facilities" means meeting venues, meeting rooms, meeting areas or other Metro property generally available to the public.

(r) "Metro official" means any Department Director, manager, elected official or Metro commissioner.

(s) "Person" means any individual, business, association, corporation, organization or other group.

(t) "Public agency" means any governmental body, including but not limited to the Federal Government, the State of Oregon, any other state of the United States of America, or any public agency or municipal corporation thereof.

(u) "Public official" means any ~~member or member-elect~~ person who, when an alleged violation of any public agency and any member of the staff or an this chapter occurs, is

servicing Metro as an elected official, appointed official, employee thereof, or agent, irrespective of whether the person is compensated for such services.

~~—(v)(v) "Relative" means:~~

- (1) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;
- (2) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the public official or candidate;
- (3) Any individual for whom the public official or candidate has a legal support obligation;
- (4) Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment; or
- (5) Any individual from whom the candidate receives benefits arising from that individual's employment.

(w) "Whistleblowing" means disclosing information pursuant to the protective provision of The Oregon Whistleblower Law (renumbered in 2001: ORS 659A.200 through 659A.224). In addition, whistleblowing shall include disclosing information regarding the violation of any provision of the Metro Charter or Metro Code.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.17.025 Gift Exceptions "Gift" does not include those exceptions set forth in ORS 244.020(6)(b).

~~2.17.030 —Giving and Receiving Gifts Prohibited by Lobbyists Registered with Metro~~ Gift Limit

~~(a) All Metro officials, lobbyists and employers of lobbyists registered with Metro shall comply strictly with the following requirements: During a calendar year, a public~~

(Effective ~~04/13/11~~10/30/14)

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official, a candidate, or a relative or member of the household of the public official or candidate, may not solicit or receive, directly or indirectly, any Gift or Gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest, unless a specific exemption to the gift limit applies as set forth in ORS 244.020 (6)(b).

~~(1) No Metro official shall solicit or receive, whether directly or indirectly, a gift from any lobbyist or employer of a lobbyist registered with Metro.~~

~~(2) No lobbyist or employer of a lobbyist registered with Metro shall offer any gift to any Metro official or Metro employee.~~

(b) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(c) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

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

2.17.040 Prohibited Use of Official Position

(a) Except as provided in subsection (b) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

(b) Subsection (a) of this section does not apply to:

(1) Any part of an official compensation package as determined by the public body that the public official serves;

- (2) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042;
- (3) Reimbursement of expenses;
- (4) An unsolicited award for professional achievement;
- (5) Gifts that do not exceed the limits specified in ORS 244.025 or Metro Code 2.17.030 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest;
- (6) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest; or
- (7) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(c) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

(d) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

(e) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course

of or by reason of holding position as a public official or the activities of the person as a public official.

(f) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

(g) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed.

2.17.045 Honoraria

(a) Except as provided in subsection (c) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.

(b) Except as provided in subsection (c) of this section, a candidate may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.

(c) This section does not prohibit:

- (1) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or
- (2) The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official or candidate.

2.17.050 Conflicts of Interest

(a) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or

detriment arises out of circumstances described in subsection (b) of this section.

(b) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

- (1) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position;
- (2) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged; or
- (3) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

2.17.060 Methods of Handling Conflicts of Interests

(a) Except as provided in subsection (b) of this section, when met with an actual or potential conflict of interest, a public official shall:

- (1) If the public official is a member of the Metro Council or MERC Commission, announce publicly, pursuant to Council or Commission rules, the nature of the conflict before taking any action thereon in the capacity of a public official.
- (2) If the public official is any other Metro Official subject to this chapter, notify in writing the person who supervises or appointed the public official to office of the nature of

the conflict, and request that the appointing or supervising authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority or supervisor shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the supervisor appointing authority.

(b) A member of the Metro Council or MERC Commission, shall:

(1) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(2) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue; or

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

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

2.17.070 Whistleblowing

(a) The Council specifically recognizes the provisions of The Oregon Whistleblower Law (ORS 659A.200 through 659A.224). The Council directs the Chief Operating Officer, pursuant to ORS

659A.221, to establish for Metro the specific regulations and procedures to implement the Oregon Whistleblower Law.

(b) Metro officials shall recognize whistle-blowing as appropriate ~~and in accordance with state law.~~ However, this provision shall not preclude taking disciplinary action against any Metro employee when it is appropriate to do so for independent reasons.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

~~2.17.050 Financial Reporting Requirements~~

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

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

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

~~(Ordinance No. 99-795B, Sec. 0801. Amended by Ordinance No. 11-1251, Sec. 1)~~

~~2.17.060 Restrictions on Meals and Entertainment~~

~~(a) No Metro official shall solicit or receive entertainment from any lobbyist or employer of a lobbyist registered with Metro.~~

~~(b) No lobbyist or employer of a lobbyist registered with Metro shall furnish to a Metro official admission to entertainment.~~

~~(c) Metro officials shall not solicit or receive meals from any lobbyist or employer of a lobbyist registered with Metro if the cost of the meal exceeds the amount allowed by the~~

~~United States Internal Revenue Service as a deductible business travel expense.~~

~~———— (d) No lobbyist or employer of a lobbyist registered with Metro shall furnish a Metro official meal if the cost of the meal exceeds the amount allowed by the United States Internal Revenue Service as a deductible business travel expense.~~

~~———— (e) However, subject to the limits of ORS Chapter 244, Metro officials may attend fundraising events benefiting non-profit tax exempt entities as guests of lobbyists or employers of lobbyists registered with Metro. Lobbyists or employers of lobbyists registered with Metro may pay the cost of Metro officials attending such fundraising events.~~

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

~~2.17.070 Reimbursement for Attendance at Events~~

~~Metro officials may not accept food, lodging and travel from any person with a legislative or administrative interest in Metro when participating in an event which bears a relationship to the Metro officials' office when appearing in their official capacities unless the cost of the food, lodging, or travel would have been eligible for payment as a Metro expense and the incurrence of the expense with Metro funds has been approved prior to the event by the appropriate authority.~~

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

~~2.17.090 Prohibition Against Doing Business With Metro Officials~~

(a) Except as provided for in subsections (b) and (c), Metro may not do business with any Metro official while the official is in office or within one year after the Metro official ceases to be a Metro official if the official had authority to exercise official responsibility in the matter. Any contract entered into in violation of this provision is void.

(b) Upon the request of the Chief Operating Officer or a Metro commission, the Council may waive the effect of the prohibition contained in subsection (a) upon making written findings that:

~~———— (1) It is in the best interests of Metro to do business with the Metro official.;~~

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~~(2) The Metro official took no action while in office that directly related to the preparation of the terms and conditions in the contract documents that may give an appearance of impropriety or favoritism.; and~~

~~(3) Other factors exist which are explicitly found by the Council to benefit Metro that outweigh the policy considerations of ensuring that no appearance of favoritism exists in the award of Metro contracts.~~

~~(c) This section applies only to Metro officials who first take office or are re-elected or re-appointed to an office after September 7, 1995.~~

(3) Other factors exist which are explicitly found by the Council to benefit Metro that outweigh the policy considerations of ensuring that no appearance of favoritism exists in the award of Metro contracts.

(c) This section shall not be construed to permit any activity that is otherwise prohibited by any other statute, rule, ordinance, or other law.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1.)

2.17.090 Financial Interest in Public Contract

(a) Except as provided in subsection (c) of this section, a person who ceases to hold a position as a public official may not have a direct beneficial financial interest in a public contract described in subsection (b) of this section for two years after the date the contract was authorized.

(b) Subsection (a) of this section applies to a Metro contract that was authorized by:

- (1) The person acting in his or her official capacity when the contract was authorized; or
- (2) A board, commission, council, bureau, committee or other governing body of a public body of which the person was a member when the contract was authorized.

(c) Subsection (a) of this section does not apply to a person who held his or her official position when the contract was authorized, but who did not participate in the authorization of the contract.

2.17.100 Regulation of Subsequent Employment Of Metro Officials

(a) A Metro Official shall not:

(1) Within one year after the Metro Official no longer works at Metro:

(A) Become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer who worked with Metro on matters over which the former Metro Official had authority; or

(2) Within two years after the Metro Official no longer works at Metro:

(A) Be a lobbyist for or appear as a representative before Metro related to any program, project, issue, or activity over which the person exercised authority as a Metro official; or

(B) Influence or try to influence the actions of the agency.

(b) A public official who has been an attorney with the Office of Metro Attorney shall not, within two years after the person ceases to hold the position, lobby or appear before Metro related to any matter over which the person exercised authority as an attorney at Metro.

(c) A public official who has been the Metro Chief Financial Officer or Deputy Chief Financial Officer shall not, within one year after leaving Metro:

(1) Accept employment from or be retained by any private entity with whom Metro negotiated or to whom either awarded a contract providing for payment by Metro of at least \$25,000 in any single year during the time that person held that position;

(2) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(3) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(d) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(1) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(2) Influence or try to influence the agency, board or commission; or

(3) Disclose any confidential information gained as a public official.

(e) A person who has been a member of the Metro Council may not receive money or any other consideration for lobbying Metro performed for two years after the date the person ceases to be a member of the Metro Council.

(f) Upon the request of the Chief Operating Officer or a Metro commission, the Council may waive the effect of the prohibition contained in subsection (a) upon making written findings that:

(1) It is in the best interests of Metro to do business with the Metro official;

(2) The Metro official took no action while in office that directly related to the preparation of the terms and conditions in the contract documents that may give an appearance of impropriety or favoritism; and

(3) Other factors exist which are explicitly found by the Council to benefit Metro that outweigh the policy considerations of ensuring that no appearance of favoritism exists in the award of Metro contracts.

(g) This section shall not be construed to permit any activity that is otherwise prohibited by any other statute, rule, ordinance, or other law.

STATEMENTS OF ECONOMIC INTEREST / FINANCIAL REPORTING

2.17.110 Financial Reporting Requirements

(a) As required by ORS 244.050(m) and ORS 244.060, every member of the Metro Council, and the Chief Operating Officer, is required to file with the Oregon Government Ethics Commission a verified statement of economic interest on or before April 15 of each year, in compliance with ORS Chapter 244. A copy of the Statement of Economic Interest shall also be filed with the Metro Auditor at the time of filing with the appropriate state agency.

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

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 11-1251, Sec. 1)

LOBBYING

2.17.200 Registration of Lobbyists

(a) Within three (3) working days after exceeding the limit of time specified in Code Section 2.17.~~120~~210(a)(5), each lobbyist shall register by filing with the Metro Council a statement containing the following information:

—————(1) The name, email address, telephone number, and address of the lobbyist-i

(2) The name, email address, telephone number and address of each person or agency by whom the lobbyist is employed or in whose interest the lobbyist appears or works, a description of the

trade, business, profession or area of endeavor of that person or agency, and a designation by each such person or agency that the lobbyist is officially authorized to lobby for that person or agency~~;~~i

(3) The name of any member of the Metro Council who is in any way employed by the lobbyist employer designated in paragraph (b) of this subsection or who is employed by the lobbyist or whether the lobbyist and member are associated with the same business. Ownership of stock in a publicly traded corporation in which a member of the Metro Council also owns stock is not a relationship which need be stated~~;~~and

(4) The general subject or subjects of the legislative interest of the lobbyist.

(b) The designation of official authorization to lobby shall be signed by an officer of each such corporation, association, organization or other group or by each individual by whom the lobbyist is employed or in whose interest the lobbyist appears or works.

(c) A lobbyist must revise the statements required by subsection (a) of this section if any of the information contained therein changes within 30 days of the change.

(d) (1) Except as provided in subsection (d)(2), a lobbyist registration expires on January 31 of the next odd-numbered year after the date of filing or refiling.

(2) A lobbyist registration filed on or after July 1 of any even-numbered year expires on January 31 of the second odd-numbered year after the date of filing or refiling.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 1.)

2.17.~~120210~~ Exemptions to Lobbyist Registration Requirements

(a) The requirements of Code Section 2.17.~~110210~~ through Code Section 217.~~140240~~ do not apply to the following:

- (1) News media or their employees or agents, who in the ordinary course of business publish or broadcast news items, editorials or other comments or paid advertisements which directly or indirectly urge legislative action if such persons engage in no other activities in connection with such legislative action~~;~~;
- (2) Any Metro official acting in an official capacity~~;~~;
- (3) Public officials acting in their official capacity as a member or employee of a public agency~~;~~;
- (4) Any individual who receives no additional consideration for lobbying and who limits lobbying activities solely to formal appearances to give testimony before Metro Council or any of its committees, and who, if the individual testifies, registers an appearance in the records of the Council or its committees~~;~~; or
- (5) Any person who spends not more than five (5) hours during any calendar quarter lobbying, excluding travel time.

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

2.17.130215 Prohibited Lobbyist Conduct

(a) A lobbyist may not instigate the introduction of any legislative action for the purpose of obtaining employment to lobby in opposition to the legislative action.

(b) A lobbyist may not attempt to influence the vote of any member of the Metro Council by the promise of financial support of the candidacy of the member, or by threat of financing opposition to the candidacy of the member, at any future election.

(c) A person may not lobby or offer to lobby for consideration any part of which is contingent upon the success of any lobbying activity.

(d) A Metro Official may not receive consideration other than from Metro for acting as a lobbyist in Oregon for Metro.

(Effective ~~04/13/11~~10/30/14)

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2.17.220 Statements of Lobbying Expenses

Any lobbyist who engages in any lobbying activities shall file with the Council by ~~January 31~~April 15 of each year a statement for the preceding calendar year showing ~~the~~ :

(a) The total amount of all moneys expended for food, refreshments and entertainment by the lobbyist for the purpose of lobbying.

(b) The name of any Metro official who attended a fund raising event for a non-profit tax exempt entity as a guest of the lobbyist, including Official to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of lobbying, and the date, name of the non-profit entity payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds \$50.

(c) Statements required by this section need not include amounts expended by the lobbyist for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance, and maintenance expenses.

(d) If the amount of any expenditure required to be included in a statement is not accurately known at the time the statement is required to be filed, an estimate of the expenditure shall be submitted in the statement and designated as an estimate. The exact amount expended for which a previous estimate was made shall be submitted in a subsequent report when the information is available.

(e) A statement required by this section shall include a copy of any notice provided to a public official or candidate under ORS 244.100.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 2.)

2.17.~~140~~230 Employers of Lobbyists Expense Statements

(a) Any person employing on whose behalf a lobbyist who was registered registered, or who was required to register, with the Oregon Government Standards and Practices Ethics Commission at any time during the calendar year shall file with the Council by ~~January 31~~ commission, according to the schedule described in ORS

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171.752, a statement for the preceding calendar year showing the for the applicable reporting period:

- (1) The total amount of all moneys expended for lobbying activities on the person's behalf, excluding living and travel expenses incurred for a lobbyist performing lobbying services;
- (2) The name of any Metrolegislative or executive official who attended a fund raising event for a non-profit tax exempt entity as a guest of the employer to whom or for whose benefit, on any one occasion, an expenditure is made for the purposes of a lobbyist, but lobbying by the person, and the date, name of payee, purpose and amount of that expenditure. This paragraph applies if the total amount expended on the occasion by one or more persons exceeds \$50. This paragraph does not including apply to information previously reported in compliance with Section 2.17.130 ORS 171.745; and the date,
- (3) The name of each registered lobbyist or entity comprised of more than one lobbyist to whom the person paid moneys for lobbying activities on the non-profit person's behalf, excluding living and travel expenses incurred for a lobbyist performing lobbying services, and the total amount of moneys paid to that lobbyist or entity and amount of expenditure.

(b) A statement required under subsection (1) of this section shall include a copy of any notice provided to a public official or candidate under ORS 244.100.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 3.)

2.17.150240 Verification of Reports, Registrations and Statements

(a) Each report, registration or statement required by this Chapter shall contain or be verified by a written declaration that it is made under the penalties of false swearing.

(b) No person shall willfully make and subscribe any document which contains or is verified by a written declaration for

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false swearing which the person does not believe to be true and correct to every matter.

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

2.17.160245 False Statement or Misrepresentation by Lobbyist or Metro Official

(a) No lobbyist or public official, as defined in ORS 244.020, shall make any false statement or misrepresentation to any legislative or executive official or, knowing a document to contain a false statement, cause a copy of such document to be received by a legislative or executive official without notifying such official in writing of the truth as prescribed in subsection (b) of this section.

(b) It is a defense to a charge of violation of subsection (a) of this section if the person who made the false statement or misrepresentation retracts the statement or misrepresentation and notifies the official in writing of the truth:

- (1) In a manner showing complete and voluntary retraction of the prior false statement or misrepresentation; and
- (2) Before the subject matter of the false statement or misrepresentation is submitted to a vote of a committee or the Metro Council or is relied upon by an executive official in an administrative hearing.

(c) As used in this section:

- (1) "False statement or misrepresentation" means the intentional misrepresentation or misstatement of a material fact.
- (2) "Material" means that which may have affected the course or outcome of any proceeding or transaction if known prior to the proceeding or transaction.

2.17.250 Public Nature of Reports, Registrations and Statements

All information submitted to the Oregon ~~Government Standards and Practices~~Ethics Commission or Council in any report,

registration or statement required by this Chapter is a public record.

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

2.17.170260 Sanctions for Violations

A

In addition to any such penalties as otherwise may be provided by law, a person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not greater than \$500.

However, no Metro official shall be subject to any sanction by Metro for a violation of this Chapter that resulted from the receipt of any gift, meal, or entertainment from any person who is not currently registered with Metro as a lobbyist or is not designated on a lobbyist's registration as the employer of a lobbyist.

(Ordinance No. 99-795B, Sec. 1. Amended by Ordinance No. 06-1112, Sec. 4.)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1343, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.17 TO COMPLY WITH CURRENT STATE LAW AND DECLARING AN EMERGENCY

Date: October 8, 2014

Prepared by: Office of Metro Attorney
Ext. 1511)

BACKGROUND

Metro Code 2.17 established a Code of Ethics for Metro and requirements for lobbyists appearing before Metro. State law on government ethics is found in ORS Chapter 244, and was updated in 2013 to reflect changes passed in the Oregon Legislature. The current provisions of Metro Code 2.17 have not been updated since the passage of that state legislation in 2013. As such, amending the code is needed to ensure consistency with state law.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents**
 - a. Metro Ordinance 99-795B (For The Purpose Of Adopting A Code Of Ethics For Metro Officials and Requiring Registration Of Lobbyists)
 - b. Oregon Revised Statutes, Chapter 244 (Government Ethics), Chapter 659A (Unlawful Discrimination)
 - c. Oregon Administrative Rules, Division 20 (Statement of Interest)
3. **Anticipated Effects** Metro Code Chapter 2.17 will be up to date with current state law.
4. **Budget Impacts** None

RECOMMENDED ACTION

The Office of Metro Attorney recommends adoption by the Metro Council of Ordinance 14-1343.

Agenda Item No. 6.2

**Ordinance No. 14-1347, For the Purpose of Amending Metro
Code Chapter 2.09 (Contractor's Business License Program)**

Ordinances (First Read)

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE 2.09 (CONTRACTOR’S BUSINESS)
LICENSE PROGRAM))
)
)

ORDINANCE NO. 14-1347

Introduced by Metro Attorney Alison R. Kean
in concurrence with Council President Tom
Hughes

WHEREAS, Metro Code 2.09 contains the Contractor’s Business License Program which sets out the procedure for Metro to issue a contractor’s business licenses; establish fees for said licenses; and distribute fees to participating jurisdictions; and

WHEREAS, State law, found in ORS Chapters 671 and 701, authorizes the program; and

WHEREAS, the current provisions of Metro Code 2.09 have not been updated since the passage of state legislation in 2007 which amended the regulatory scheme; and

WHEREAS, there is a need to amend Metro Code 2.09 to be consistent with state law; and

WHEREAS, there is a need to clarify the application and implementation of the program and distribution of fees through amendments;

WHEREAS, Metro staff, in consultation with the Office of Metro Attorney, determined that the proposed amendments are needed and will benefit Metro, participating jurisdictions, and businesses in terms of overall understandability and ease of implementation; NOW THEREFORE,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. Metro Code Amendment. Metro Code Chapter 2.09 is hereby amended and re-adopted in its entirety as attached hereto in Exhibit A to this ordinance.

ADOPTED by the Metro Council this ____ day of October, 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Alexandra Eldridge, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit A to Ordinance

CHAPTER 2.09

CONTRACTOR'S BUSINESS LICENSE PROGRAM

SECTIONS	TITLE
2.09.010	Purpose and Authority
2.09.020	Definitions
2.09.030	Eligibility and License Issuance
2.09.040	Denial of Issuance
2.09.050	Exemptions
2.09.060	License Applicability <u>Effect</u>
2.09.070	Application for License
2.09.080	Application Contents
2.09.090	Validity of the License
2.09.100	Fee
2.09.110	License
2.09.120	Renewal
2.09.130	Revocation
2.09.140	Appeal of a Revoked License or Denied Application
2.09.150	Penalty
2.09.160	Distribution of Fees
2.09.170	Regulations

2.09.010 Purpose and Authority

(a) The purpose of this ordinance is to provide a procedure for Metro to issue a business license to contractors and landscape contracting businesses ~~contractor's business license~~, establish a fee for the license, and distribute to participating jurisdictions the fees collected by Metro.

(b) The authority for Metro ~~the Metropolitan Service District~~ to issue business licenses to contractors and landscape contracting businesses, ~~a contractor's business license~~, establish requirements for the issuance of the license, charge a fee for the license, receive reimbursement for administrative expenses incurred in carrying out this program, determine the ~~dollar amount~~ number of residential building permits issued within the Metro Area, and distribute the fees to participating jurisdictions is granted by ORS 671.750 - 671.755 and ORS 701.013 - 701.015.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 2; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1GH7).

2.09.020 Definitions

(a) "Contractor" ~~or "Landscape contractor"~~ has the meaning given under ORS 701.005. ~~and ORS 701.015(6)(c), respectively.~~

(b) "Landscape contracting business" has the meaning given under ORS 671.520(2).

~~(b)~~ (c) "Contractor business license" means a document issued by Metro to a contractor ~~or landscape contractor~~ or landscape contracting business that permits the contractor ~~or landscape contractor~~ or landscape contracting business to conduct business in participating jurisdictions.

~~(c)~~ (d) "Contractor's business license fee" means any fee paid to Metro for the issuance of a contractor's business license.

~~(d)~~ (e) "Business license tax" means any fee paid by a contractor or landscape contracting business ~~landscape contractor~~ to a city or county for any form of license that is required by the city or county to conduct business in that jurisdiction. The term does not include any franchise fee or privilege tax imposed by a participating jurisdiction upon a public utility under ORS 221.420 or 221.450 or any provision of a city charter.

~~(e)~~ (f) "Conducting business" means engaging directly, or through officers, agents and employees, in any activity in pursuit of gain. ~~to engage in any activity in pursuit of gain including activities carried on by a contractor or landscape contractor through officers, agents and employees, as well as activities carried on by a contractor or landscape contractor on that contractor's or landscape contractor's own behalf.~~

~~(f)~~ (g) "Participating jurisdiction" means any city or county located wholly or partly within the boundaries of Metro that has a requirement for a contractor or landscape contracting business ~~landscape contractor~~ to obtain a business license to conduct business in that jurisdiction, and the fee for this license is not based on or measured by adjusted net income.

~~(g)~~ (h) "Principal place of business" means the location of the central administrative office in this state of a contractor

or landscape contracting business ~~landscape contractor~~ conducting business in the Metro Area.

(~~h~~i) "Residential building permit" means ~~any~~ a building permit issued for the construction or alteration of a residential structure. A residential building permit does not mean an electrical permit, plumbing permit, or mechanical permit.

(j) "Residential structure" has the meaning given under ORS 701.005.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 3; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1GH7).

2.09.030 Eligibility and License Issuance

Any contractor or landscape contracting business ~~landscape contractor~~ wishing to conduct business in any participating jurisdiction shall be issued a contractor's business license if subsections (a) ~~and through (b)~~ are met by the contractor or landscape contracting business ~~landscape contractor~~:

(a) Presents proof to Metro that the contractor or landscape contracting business ~~landscape contractor~~ has paid the business license tax imposed by ~~the city~~ when each participating jurisdiction in which:

- (1) ~~The principal place of business of landscape contractor is within the city~~
The contractor or landscape contracting business has its principal place of business; and/or
- (2) ~~Presents proof that landscape contractor or landscape contractor has paid the business tax imposed by the city because the contractor or landscape~~ The contractor or landscape contracting business ~~derives gross receipts of \$125,000~~ derives gross receipts of \$250,000 ~~or more from business conducted within the boundaries of city~~ a participating jurisdiction ~~during the calendar year for which the business license tax is owed.~~

(b) Presents proof that the contractor or landscape contracting business is currently licensed by the State Construction Contractors Board or Landscape Contractors Board,

respectively, unless exempted from the state licensing requirements by ORS Chapter 701 or 671.

~~(b) (1) Presents proof that the contractor or landscape contractor is currently registered with the State of Oregon Construction Contractor's Board or the State of Oregon Landscape Contractor's Board;~~

(2c) Completes an application as required by Section 2.09.070 of this chapter;

(3d) Pays the contractor's business license fee established in Section 2.09.100 of this chapter; and

(4e) Meets all other license requirements provided under this chapter.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 4; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1GH7).

2.09.040 Denial of Issuance

(a) Metro shall refuse to issue a license for any one of the following reasons:

- (1) Fraud, misrepresentation or false statement made in the applications at the time of application.
- (2) Failure to present proof at the time of application that the applicant has met all other license requirements provided under this chapter.
- (3) Failure to pay the contractor's business license fee established under Section 2.09.100 of this chapter.

(b) Notice of denial of ~~a~~ an application shall be given in writing to the applicant setting forth the grounds of the denial. Such notice shall be mailed to the applicant at the address that appears on the application for the license. This action of denial may be appealed as provided in Section 2.09.140 of this chapter.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 5. Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1GH7).

2.09.050 Exemptions

(a) A contractor or landscape ~~contractor~~ contracting business that is required to be licensed by a city within the boundaries of Metro that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city may not obtain and possess a contractor's business license in lieu of that jurisdiction's business license ~~tax or business~~.

~~(b) Certain persons furnishing materials, improving personal property, owner builders, or persons otherwise licensed may be exempt from registration under this chapter under ORS 701.010.~~

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 6; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1GH7).

2.09.060 License ~~Applicability~~ Effect

~~(a) If a contractor or landscape contractor has paid any business license tax imposed by participating jurisdictions in which the contractor or landscape contractor has an office, the contractor or landscape contractor may apply for a contractor's business license from Metro.~~

~~(b) If a contractor or landscape contractor has been issued a contractor's business license by Metro, the Except as provided for in 2.09.050, a contractor or landscape contracting business issued a contractor's business license by Metro ~~landscape contractor~~ may conduct business without any other business license in participating jurisdictions in which the contractor or landscape contracting business: landscape contractor:~~

- (1) Has no ~~office~~ principal place of business;
- (2) Has not derived gross receipts of \$250,000 or more from business conducted within the boundary of the participating jurisdiction during the calendar year for which the business license tax is owed.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 7; Ordinance No. 99-817A, Sec. 1; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1347).

2.09.070 Application for License

To obtain a contractor's business license, a contractor or ~~landscape contractor~~ landscape contracting business must make application in person or by mail to Metro upon forms provided and prescribed by Metro. The completed application shall be filed with the fee described in Section 2.09.100 of this chapter with Metro before a contractor or ~~landscape contractor~~ landscape contracting business is issued a contractor's business license.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 8; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1347).

2.09.080 Application Contents

Each application for a contractor's business license received by Metro shall contain:

- (a) The name of the contractor or landscape contracting business making application.
- (b) The name of a contact person ~~in the business~~.
- (c) The address of the principal place of business of the contractor or landscape contracting business.
- (d) The telephone number of the contractor or landscape contracting business.
- (e) State of Oregon Construction Contractor's Board ~~registration number~~ or State Landscape Contractor's Board license number unless exempted from state licensing requirements by ORS 701 or 671, respectively. If exemption is claimed, the contractor or landscape contracting business making application shall provide a statement of exemption on the form approved by Metro.
- (f) Date of application.

(g) The signature of the contractor or landscape contracting business ~~landscape contractor~~ making the application.

(h) Proof that the contractor or landscape contracting business has paid the business license tax to the participating jurisdiction in which:

(1) The contractor or landscape contracting business has its principal place of business; and/or

(2) The contractor or landscape contracting business derives gross receipts of \$250,000 or more from business conducted within the boundaries of a participating jurisdiction during the calendar year for which the business license tax is owed.

~~(h)~~ Such other information as Metro shall determine.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 9; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1347).

2.09.090 Validity of the License

(a) The license shall be valid from the date of issuance to the first day of the month in the following year; if issued after the middle of any month, the license shall be valid to the first day of the following month of that year. The license shall not be issued for a portion of a year.

(b) Before the expiration of the contractor's business license, Metro shall notify the contractor or ~~landscape contractor~~ landscape contracting business to whom the license was issued of the approaching expiration. Within 90 days prior to the expiration date, the notice shall be mailed to the contractor or landscape contracting business ~~landscape contractor~~ to whom the license was issued at the address shown on the original application for the license maintained by Metro.

(c) Metro is not required to notify the contractor or landscape ~~contractor~~ contracting business of an approaching expiration if the contractor's ~~or landscape contractor's~~ business license has been revoked under Section 2.09.130 of this chapter, or if the contractor or landscape ~~contractor~~ contracting business failed to notify Metro of a change of address.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 10. Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1347).

2.09.100 Fee

(a) The fee to be paid by any contractor ~~or landscape contractor~~ for a contractor's business license is ~~\$135~~ to be set by Metro and is nonrefundable.

(b) The fee to be paid by any landscape contracting business for a contractor's business license is to be set by Metro and is non-refundable.

(c) The fees in (a) and (b) above are to be twice the average business license tax charged to contractors and landscape contracting businesses, respectively, in participating jurisdictions in Metro's jurisdiction, plus Metro's administrative expenses.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 11; Ordinance No. 99-817A, Sec. 2.; Amended by Ordinance No. 14-1347).

2.09.110 License

Each contractor's business license issued under this chapter shall state upon its face the following:

- (a) The name of the licensee.
- (b) The address of the licensee.
- (c) A unique license number established by Metro.
- (d) The date of issuance.
- (e) The date of expiration.
- (f) Such other information as Metro shall determine.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 12; Ordinance No. 02-967, Sec. 1).

2.09.120 Renewal

Each contractor or landscape contracting business ~~landscape contractor~~ requesting renewal of a license must make application, as described in Section 2.09.070 of this chapter, to Metro upon forms provided and prescribed by Metro. The completed application for renewal of the contractor's business license shall be filed with the fee described in Section 2.09.100 of this chapter with Metro before a renewal license is issued.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 14; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1347).

2.09.130 Revocation

(a) A license issued under this chapter may be revoked by Metro, after notice, for any of the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for the license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying out the licensed activity.
- (3) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
- (4) Failure to comply with the ordinances and resolutions of a jurisdiction within the boundaries of Metro in which the license holder is conducting business authorized by this license.

(b) Notice of revocation of a license shall be given in writing to the licensee setting forth the grounds of the complaint. Such notice shall be mailed by certified mail at least 10 working days before the date of revocation to the licensee at the address that appears on the application for the license being revoked. Revocation shall be effective 10 working days after notice of revocation.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 15; Ordinance No. 02-967, Sec. 1).

2.09.140 Appeal of a Revoked License or Denied Application

Any contractor or landscape contracting business ~~landscape contractor~~ aggrieved by the action of Metro in denying an application for or revocation of a contractor's business license is entitled to appeal action under the provisions of Metro Code chapter 2.05.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 16; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1347).

2.09.150 Penalty

Any contractor or landscape contracting business that ~~landscape contractor~~ who fails to comply with or violates any provision of this chapter is subject to penalties under Section 1.01.110 of this Code. In the event that a provision of this chapter is violated by a firm or corporation, the officer or contractor or landscape contracting business ~~landscape contractor~~ responsible for the violation shall be subject to the penalty provided in Section 1.01.110 of this Code.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 17.; Amended by Ordinance No. 14-1347).

2.09.160 Distribution of Fees

Metro shall distribute the contractor's business license fees collected by Metro under this chapter to participating jurisdictions after Metro has received reimbursement for administrative expenses incurred in carrying out the provisions of this chapter. At least once a year, each participating jurisdiction shall receive a share of the contractor's business license fees collected by Metro based on a ratio of the number of residential building permits issued by each participating jurisdiction to the total number of residential building permits issued during that year by all participating jurisdictions. Metro shall determine the number of residential building permits issued by participating jurisdictions as required to by ORS 701.015 and 671.755 or otherwise in Metro's discretion if no data anticipated by statute is available.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 18; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1347).

2.09.170 Regulations

The Chief Operating Officer may establish such other contractor's business license regulations, not inconsistent with this chapter, as may be necessary and expedient.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 19; Ordinance No. 02-967, Sec. 1).

STAFF REPORT

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BACKGROUND

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ANALYSIS/INFORMATION

- 30 **Known Opposition**<"P qpg"
- 40 **Legal Antecedents**:"QTU'Ej cr vgt '923="QTU'923Q35/923Q37="QTU'Ej cr vgt '893="QTU'893Q72/893Q77="Qtgi qp'Ncy u'3; : 9'eO: 3'E4="Qtgi qp'Ncy u'3; ; : "eB286"EÈ3."4="Qtgi qp'Ncy u'3; ; 3'eO; "ÈÈ3.4="Qtgi qp'Ncy u'3; ; ; "eB98'EÈ3="Qtgi qp'Ncy u'4223'e62; 'È32="Qtgi qp'rcy u'4229'e0'63'EÈ65.66"
- 50 **Anticipated Effects**:"Eqpukvgpe{ 'y kj 'ucvg'rcy =ko r tqxgf 'ko r rgo gpvcvkp'qh'vj g'dwukpguu'kegpug" r tqi tco 0'
- 60 **Budget Impacts**: 'P qpg0'

RECOMMENDED ACTION

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Agenda Item No. 6.3

Ordinance No. 14-1348, For the Purpose of Annexing to the Metro District Boundary Approximately 14.59 Acres Located North of NW Brugger Road and West of NW Kaiser Road in the North Bethany Area of Washington County

Ordinances (First Read)

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING TO THE) Ordinance No. 14-1348
METRO DISTRICT BOUNDARY APPROXI-)
MATELY 14.59 ACRES LOCATED NORTH OF NW) Introduced by Chief Operating Officer
BRUGGER ROAD AND WEST OF NW KAISER) Martha Bennett with the Concurrence of
ROAD IN THE NORTH BETHANY AREA OF) Council President Tom Hughes
WASHINGTON COUNTY)

WHEREAS, West Hills Development has submitted a complete application for annexation of 14.59 acres (“the territory”) located north of NW Brugger Road and west of NW Kaiser Road in the North Bethany area to the Metro District; and

WHEREAS, the Metro Council added the North Bethany area to the UGB, including the territory, by Ordinance No. 02-987A on December 5, 2002; and

WHEREAS, Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan requires annexation to the district prior to application of land use regulations intended to allow urbanization of the territory; and

WHEREAS, Metro has received consent to the annexation from the owners of the land in the territory; and

WHEREAS, the proposed annexation complies with Metro Code 3.09.070; and

WHEREAS, the Council held a public hearing on the proposed amendment on October 30, 2014; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro District Boundary Map is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance.
2. The proposed annexation meets the criteria in section 3.09.070 of the Metro Code, as demonstrated in the Staff Report dated October 6, 2014, attached and incorporated into this ordinance.

ADOPTED by the Metro Council this ___ day of October 2014.

Tom Hughes, Council President

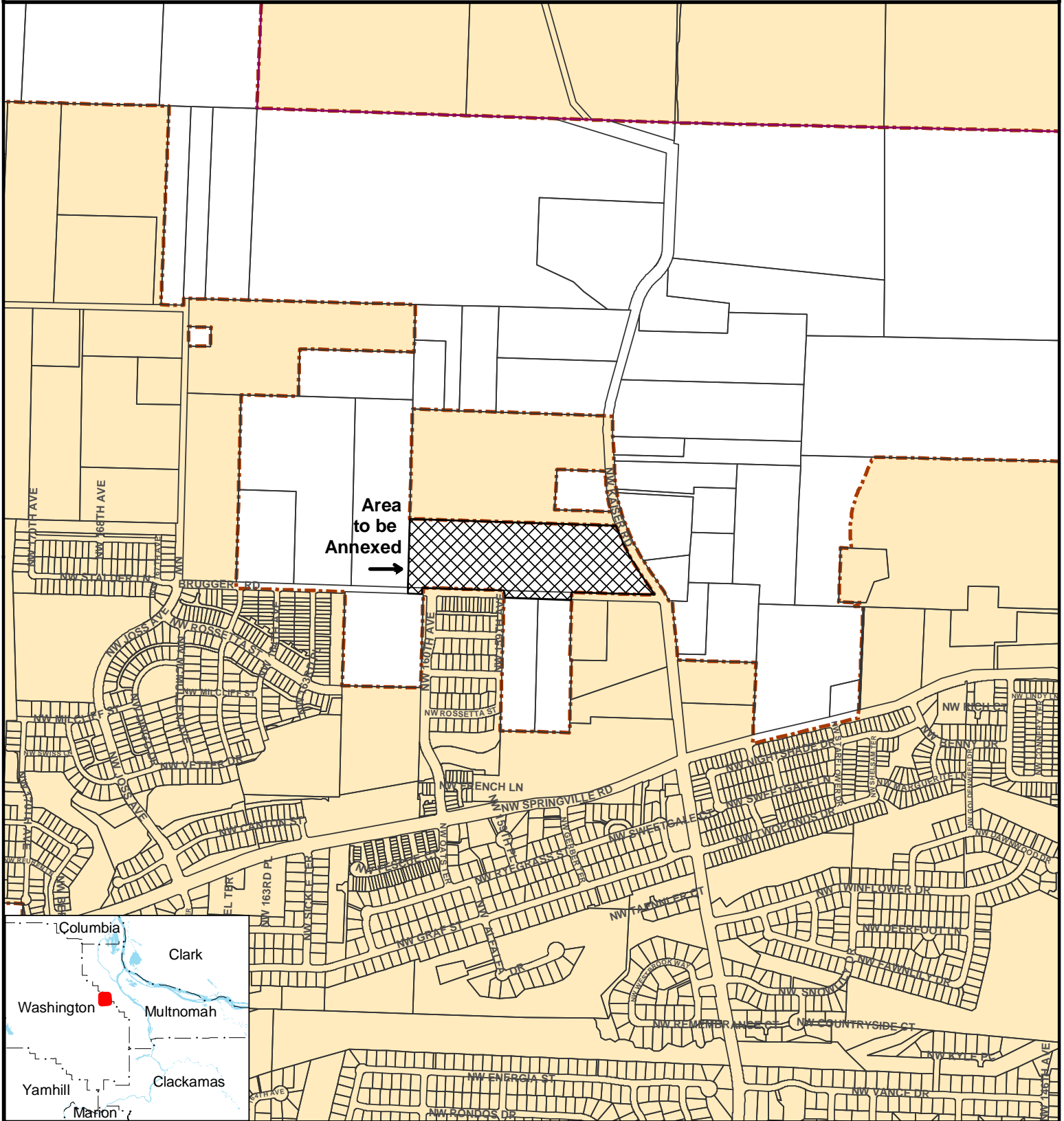
Attest:

Approved as to form:

Alexandra Eldridge, Recording Secretary

Alison Kean, Metro Attorney

Proposal No. AN-0414



Area to be Annexed
→






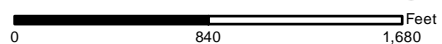
Proposal No. AN-0414 Metro District Boundary

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Data Resource Center
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1742
<http://www.oregonmetro.gov/drc>

-  Area to be annexed
-  Taxlots
-  Metro District Boundary



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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1348, FOR THE PURPOSE OF ANNEXING TO THE METRO DISTRICT BOUNDARY APPROXIMATELY 14.59 ACRES LOCATED NORTH OF NW BRUGGER ROAD AND WEST OF NW KAISER ROAD IN THE NORTH BETHANY AREA OF WASHINGTON COUNTY

Date: October 6, 2014

Prepared by: Tim O'Brien
Principal Regional Planner

BACKGROUND

CASE: AN-0414, Annexation to Metro District Boundary

PETITIONER: West Hills Development
735 SW 158th Avenue
Beaverton, OR 97006

PROPOSAL: The petitioner requests annexation of one parcel to the Metro District boundary. The applicant is currently in the process of annexing the subject property to the necessary service districts in Washington County.

LOCATION: The parcel is located in the North Bethany Area of Washington County, north of NW Brugger Road and west of NW Kaiser Road. The parcel is 14.59 acres in size. A map of the area can be seen in Attachment 1.

ZONING: The property is zoned for residential and commercial use (R-15 NB, R-24 NB, R-25+ NB & NCMU NB) by Washington County.

The land was added to the UGB in 2002 and is part of the North Bethany Subarea Plan that was adopted by Washington County. The land must be annexed into the Metro District for urbanization to occur.

APPLICABLE REVIEW CRITERIA

The criteria for an expedited annexation to the Metro District Boundary are contained in Metro Code Section 3.09.070.

3.09.070 Changes to Metro's Boundary

(E) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:

- 1. The affected territory lies within the UGB;*

Staff Response:

The subject parcel was brought into the UGB in 2002 through the Metro Council's adoption of Ordinance No. 02-987A.

- 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and*

Staff Response:

The conditions of approval for Ordinance No. 02-987A include a requirement that Washington County apply interim protection measures for areas added to the UGB as outlined in Urban Growth Management Functional Plan Title 11: Planning for New Urban Areas. Title 11 requires that new urban areas be annexed into the Metro District Boundary prior to urbanization of the area. Washington County also requires the land to be annexed into the appropriate sanitary sewer, water, park and road service districts prior to urbanization occurring. The applicant is currently moving forward with the necessary annexation requirements with Washington County. These measures ensured that urbanization would occur only after annexation to the necessary service districts is completed.

3. *The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.*

Staff Response:

The property proposed for annexation is part of Washington County's North Bethany County Service District, established by the County Board of Commissioners on June 7, 2011. The proposed annexation is consistent with that agreement and is required by Washington County as part of a land use application. The inclusion of the property within the Metro District is consistent with all applicable plans.

ANALYSIS/INFORMATION

Known Opposition: There is no known opposition to this application.

Legal Antecedents: Metro Code 3.09.070 allows for annexation to the Metro District boundary.

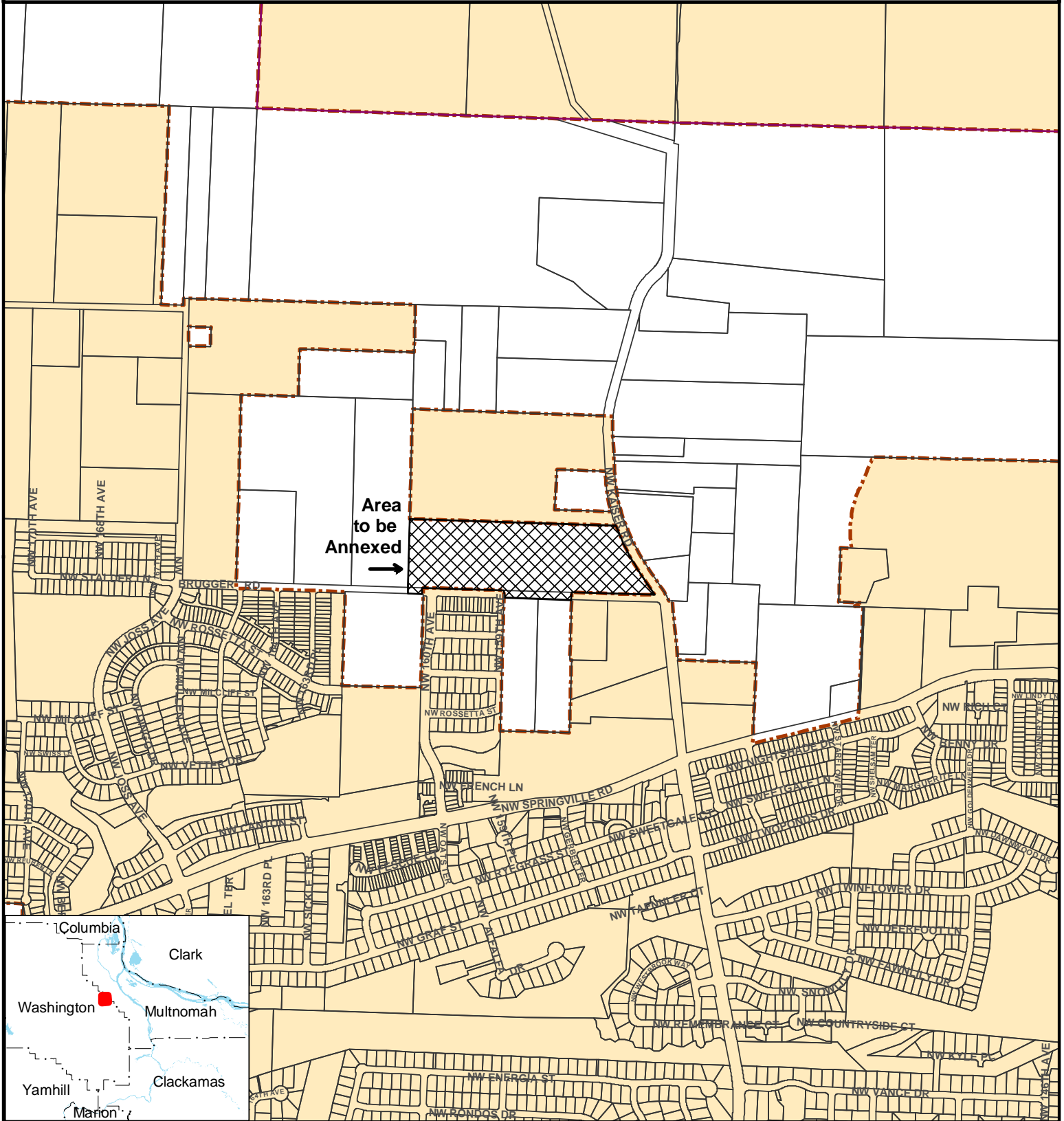
Anticipated Effects: This amendment will add approximately 14.59 acres to the Metro District. The land is currently within the UGB in unincorporated Washington County. Approval of this request will allow for the urbanization of the parcel to occur consistent with the North Bethany Subarea Plan.

Budget Impacts: The applicant was required to file an application fee to cover all costs of processing this annexation request, thus there is no budget impact.

RECOMMENDED ACTION

Staff recommends adoption of Ordinance No. 14-1348.

Proposal No. AN-0414






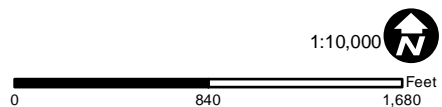
Area to be Annexed
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Proposal No. AN-0414 Metro District Boundary

Metro
Data Resource Center
600 NE Grand Ave
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<http://www.oregonmetro.gov/drc>

-  Area to be annexed
-  Taxlots
-  Metro District Boundary



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Agenda Item No. 7.1

Ordinance No. 14-1345, For the Purpose of Amending Metro
Code Chapter 2.04 to Update Metro Contract Policies and
Procedures

Ordinances (Second Read)

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE CHAPTER 2.04 TO UPDATE METRO)
CONTRACT POLICIES AND PROCEDURES)

ORDINANCE NO. 14-1345
Chief Operating Officer Martha Bennett in
concurrence with Council President Tom
Hughes

WHEREAS, Metro Code Chapter 2.04 establishes Metro policies for the procurement of personal services contracts and public contracts, and for special procurements;

WHEREAS, the Chief Operating Officer has proposed revisions to Metro Code Chapter 2.04 to align the procurement of personal services and public contracts with the State of Oregon's contracting code and to approve a class of special procurements for personal services and public contracts that will further Metro's policy goals and promote the public interest; and

WHEREAS the Metro Council finds that the proposed revisions to Metro Code Chapter 2.04 will help Metro achieve efficiencies in contracting and better meet its program objectives; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 2.04.042 is amended as set forth in Exhibit A attached to this Ordinance.
2. Metro Code Section 2.04.052(d) is amended as set forth in Exhibit B attached to this Ordinance.
3. Metro Code Section 2.04.053(a) is amended to delete one class special procurement and to add an additional class special procurement as set forth in Exhibit C attached to this Ordinance.
4. Metro Code Section 2.04.056 is amended as set forth in Exhibit D attached to this Ordinance.
5. Metro Code Section 2.04.070 is amended as set forth in Exhibit E attached to this Ordinance.
6. Metro Code Section 2.04.120 is amended as set forth in Exhibit F attached to this Ordinance.
7. Metro Code Section 2.04.150 is amended as set forth in Exhibit G attached to this Ordinance.
8. Pursuant to Metro Charter Section 39(1), as necessary for the health, safety, or welfare of the Metro area, an emergency is declared to exist. This Ordinance shall take effect immediately in order to allow contracts under the new class special procurement set forth in Exhibit C for work required to implement the Natural Areas levy to proceed in time for the 2015 spring planting season.

ADOPTED by the Metro Council this 23rd day of October, 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Alexandra Eldridge, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit A to Ordinance No. 14-1345

2.04.042 Procurement of Personal Services Contracts

(a) Any procurement of personal services not exceeding ~~\$5,000.00~~\$10,000.00 may be awarded in any manner deemed practical or convenient by the Chief Operating Officer.

(b) Any procurement of personal services exceeding ~~\$5,000.00~~\$10,000.00 but not exceeding ~~\$100,000.00~~\$150,000.00 shall be awarded in accordance with the provisions of ORS 279B.070. In addition, the contracting department shall notify the Procurement Officer of the nature of the proposed contract, the estimated cost of the contract, and the name of the contact person.

(c) Any procurement of personal services exceeding ~~\$100,000.00~~\$150,000.00 shall be awarded in accordance with the provisions of ORS 279B.060.

Exhibit B to Ordinance No. 14-1345

2.04.052 Public Contracts -- Public Improvement Contracts

[...]

(d) Bonds. Unless the Board shall otherwise provide, bonds and bid security requirements are as follows:

- (1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for ~~\$100,000.00~~ \$150,000.00 or less.
- (2) For public improvements, a labor and materials bond and a performance bond, both in an amount equal to 100 percent of the contract price are required for contracts over ~~\$100,000.00~~ \$150,000.00.
- (3) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the Chief Operating Officer determines it is in the public interest.

Exhibit C to Ordinance No. 14-1345

2.04.053 Special Procurements

(a) Pursuant to ORS 279B.085, the following public contracts are approved as classes of special procurements based on the legislative finding by the Metro Contract Review Board that the use of a special procurement will be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts and will result in substantial cost savings to Metro or the public or will otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the requirements that are applicable under ORS 279B.055, ORS 279B.060, ORS 279B.065, ORS 279B.070:

- (1) ~~All contracts estimated to be not more than \$100,000.00 provided that the procedures required by Metro Code Section 2.04.056 are followed.~~
- ~~(2)~~ Food for zoo animals, the purchase and sale of zoo animals, and the purchase of zoo gift shop retail inventory and resale items.
- ~~(3)~~ Contracts for management and operation of food, parking or similar concession services at Metro facilities provided that procedures substantially similar to the procedures required for sealed competitive Request for Proposals used by Metro for personal services contracts are followed.
- ~~(4)~~ Emergency contracts provided that the provisions of ORS 279B.080 are followed. An emergency contract must be awarded within 60 days of the declaration of the emergency unless the Board grants an extension.
- ~~(5)~~ Purchase of food items for resale at facilities owned or operated by Metro.
- ~~(6)~~ Contracts for warranties, including but not limited to computer software warranties, in which the supplier of the goods or services covered by the warranty has designated an authorized provider for the warranty service.

- (~~76~~) Contracts for computer hardware, or computer software.
- (~~87~~) Contracts under which Metro is to receive revenue by providing a service.
- (~~98~~) Contracts for the lease or use of the convention, trade, and spectator buildings and facilities operated by the Metro Exposition-Recreation Commission.
- (~~109~~) Public contracts by the Metro Exposition-Recreation Commission in an amount less than \$100,000.00, which amount shall be adjusted each year to reflect any changes in the Portland SMSA CPI, provided that any rules adopted by the commission which provide for substitute selection procedures are followed.
- (~~1110~~) Contracts for equipment repair or overhaul, but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.
- (~~1211~~) Contracts in the nature of grants to further a Metro purpose provided a competitive Request for Proposal process is followed.
- (~~1312~~) The procurement of utilities or any other services whose price is regulated by any governmental body, including but not limited to telephone service, electric, natural gas, and sanitary services, provided that if competition is available, a Request for Proposal process is followed.
- (~~1413~~) Contracts for goods or services when the provider of the procured goods or services is required by the federal government or by the state of Oregon.
- (~~1514~~) Contracts for co-operative procurements permitted under ORS 279A.220 to 279A.225.
- (~~1615~~) The procurement of art and art related production and fabrication provided that a Request for Proposal process is followed.

- (~~17~~16) Sponsorships which are identified and approved in the proposed budget and are not designated by Council as having a significant impact as outlined in Section 2.04.026 need not follow a competitive bidding or proposal process. In order to be eligible for this exemption the sponsorship shall provide Metro with event advertising and/or media releases.
- (~~18~~17) Sponsorship contracts, provided that quotes are obtained from at least three potential sponsors or that good faith efforts to obtain such quotes are documented. A sponsorship contract is any contract under which the sponsor's name or logo is used in connection with a facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for the sponsor's agreement to pay consideration, including money, goods, services, labor, credits, property or other consideration.
- (~~19~~18) Contracts for projects that are not public improvements as defined in Metro Code Section 2.04.010(n) in which a contractor provides a material and substantial portion of the funding for such project.
- (~~20~~19) Contracts with any media outlet for the purchase of classified advertising, display advertising or the placement of public notices to publicize legal notices of public meetings and procurements.
- (20) Contracts not exceeding \$150,000 for personal services or for trade services (and not required as part of a public improvement project) when the provider of the procured services is a not-for-profit organization, and the purpose of the services is to implement Metro programs and projects, provided the Metro Council has approved by resolution a process for awarding such contracts.
- (21) Any contract exempt from competitive bidding under any statute of the state of Oregon.

Exhibit D to Ordinance No. 14-1345

2.04.056 Procurement of Public Contracts

(a) Any procurement of a public contract not exceeding ~~\$5,000.00~~\$10,000.00 may be awarded in any manner deemed practical or convenient by the Chief Operating Officer.

(b) Any procurement of a public contract exceeding ~~\$5,000.00~~\$10,000.00 but not exceeding ~~\$100,000.00~~\$150,000.00 shall be awarded in accordance with the provisions of ORS 279B.070. In addition, the contracting department shall notify the Procurement Officer of the nature of the proposed contract, the estimated cost of the contract, and the name of the contact person.

(c) Any procurement of a public contract exceeding ~~\$100,000.00~~\$150,000.00 shall be awarded in accordance with the provisions of either ORS 279B.055, ORS 279B.060, or ORS 279B.085.

Exhibit E to Ordinance No. 14-1345

2.04.070 Notice of Award and Appeals

(a) At least seven (7) days prior to the execution of any public contract over ~~\$100,000.00~~\$150,000.00 for which a competitive bid or proposal process is required, Metro shall provide a notice of award to the contractor selected and to all contractors who submitted unsuccessful bids or proposals.

(b) Bid/Request for Proposals Appeal Procedures. The following procedure applies to aggrieved bidders and proposers who wish to appeal an award of a public contract or a personal services contract above ~~\$100,000.00~~\$150,000.00. The appeal process for bids is the same as for a Request for Proposals. In the case of a Request for Proposal(s), disagreement with the judgment exercised in scoring by evaluators is not a basis for appeal.

Exhibit F to Ordinance No. 14-1345

2.04.120 Program Activities

The Procurement Officer shall develop procedures in the following areas leading to increased business with ESBs, MBEs, and WBEs:

[...]

(g) Informal Purchasing Opportunities. Requiring that at least one ESB and one MBE and one WBE vendor or contractor be contacted for all purchases and contracts more than ~~\$5,000.00~~ \$10,000.00 and less than ~~\$50,000.00~~ \$150,000.00. The program coordinator may waive this requirement if he/she determines that there are no certified ESBs, MBEs and WBEs on the certification list capable of providing the service or item. Any such waivers shall be in writing, and shall be kept as supporting documentation.

(h) Informal Construction Opportunities. Requiring all public improvement construction opportunities for contracts more than ~~\$5,000.00~~ \$10,000.00 and less than \$50,000.00 to be bid only by qualified ESBs, MBEs and WBEs. The Procurement Officer may waive this requirement if he/she determines that there are no certified ESBs, MBEs and WBEs on the certification list capable of providing the project needed. Any such waivers shall be in writing, and shall be kept as supporting documentation.

(i) Additional Activities. The Procurement Officer may establish and implement additional techniques which are consistent with this Program and designed to facilitate participation of ESBs, MBEs and WBEs in Metro purchasing and contracting activities.

Exhibit G to Ordinance No. 14-1345

2.04.150 Good Faith Efforts at Maximizing ESB, MBE and WBE Opportunities

The Procurement Officer shall establish procedures relating to good faith opportunities for formal construction projects. Procedures shall be consistent in nature and scope with those of other local public bodies for ease in understanding for contractors.

(a) Good faith efforts for maximizing ESB, MBE and WBE subcontracting opportunities shall be required for construction contracts over ~~\$100,000.00~~\$150,000.00.

(b) At the discretion of the Procurement Officer, good faith efforts may be required for any other contract, including architects and engineers. This requirement shall be made in writing prior to the solicitation of bids or proposals for such contract.

(c) When construction projects using a proposal process are approved by Council, the staff shall consider past ESB, MBE and WBE utilization as part of the selection criteria. The program coordinator shall provide the awarded contractor with ESB, MBE and WBE targets for subcontracting.

(d) Compliance with good faith efforts during the bidding process is required. Contractors failing to comply will be considered non-responsive.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1345, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.04 TO UPDATE METRO CONTRACT POLICIES AND PROCEDURES

Date: October 23, 2014

Prepared by: Tim Collier
503-797-1913

BACKGROUND

The Metro Contract Policies (Metro Code Chapter 2.04) direct the processes by which Metro contracts for goods and services. The last significant changes to Chapter 2.04 were adopted by the Metro Council in October 2010 and implemented Metro's Sustainable Procurement Program. Staff is currently working on a significant review of the contracting code, but does not anticipate bringing any changes to the Council until Fall 2015. However, staff has identified two areas in the contracting code that would benefit from updates during this interim period.

The first change involves updating the dollar thresholds for methods of source selection in the Metro contracting code. The Metro contracting code closely follows Oregon Revised Statute (ORS) Chapter 279 which guides procurement for all public entities in the State. In many cases the Metro Code references applicable State statutes and generally follows the State process to simplify and clarify procurement processes, instill public confidence, and maximize the economic investment in public contracting within the state.

In the case of dollar thresholds for source selection, the Oregon Legislature updated the dollar amounts in the last major update to ORS Chapter 279. However, the Metro Code has not been updated to follow that change. The current Metro thresholds are as follows:

Type	Threshold	Metro Process
Small Procurement	Up to \$5,000	May be awarded in any manner deemed practical or convenient by the COO.
Intermediate Procurement	Up to \$100,000	Generally require informal Request for Proposals/Bids and notification of three MWESB firms.
Competitive Sealed Bids/Proposals	Over \$100,000	Formal, sealed Request for Proposals/Bids

The current thresholds in ORS Chapter 279 are:

- Small Procurement – Up to \$10,000
- Intermediate Procurement – Up to \$150,000
- Competitive Sealed Bids/Proposals – Over \$150,000

Staff is recommending changing the thresholds to match the limits in ORS 279 for the following reasons:

- Maintaining consistency with ORS 279 eases administrative burdens and provides greater predictability to vendors that work with multiple public entities.

- In the Metro program (Chapter 2.04) for Minority Business Enterprises (MBE), Women Owned Business Enterprises (WBE), and/or Emerging Small Businesses (ESB), current Metro Code (2.04.120) only requires notification of three MWESB firms (One WBE, one MBE, and one ESB) for contracts between \$5,000 and \$50,000. Current practice requires notification for contracts up to \$100,000, but that requirement is not in code. This change would formalize that current practice and require notification of three MWESB firms for all intermediate procurements.
- Increasing the threshold for small procurements has the potential to allow staff to award more contracts directly to MWESB firms without requiring them to go through procurement processes. Often, even informal request for proposal processes are intimidating and/or technically challenging for smaller firms and do not yield the desired responses from MWESB firms.

The second change is to create a new class of special procurement in Metro Code 2.04.053. Special procurements are defined as exceptions to the standard procurement rules defined in ORS 279B. Special procurements may authorize exemptions to competitive procurement rules or specify alternative procurement processes for awarding of contracts. Special procurements are authorized by ORS 279B.085 for contracts where awarding them is unlikely to encourage favoritism or substantially diminish competition for public contracts and where the contract results in either substantial cost savings or substantial promotion of the public interest in a manner that could not be realized by complying with the requirements for competitive procurements.

The new class of special procurement is designed to facilitate Metro's work with not-for-profit organizations, particularly in the areas of equity and community outreach. This need was initially identified as part of the Parks and Natural Areas Levy equity and outreach work. In identifying organizations to partner with in developing programs to reach underserved communities, staff determined that typical grant or request for proposal (RFP) processes would not be effective.

There were several barriers in the current processes available to staff that were identified:

- Grant programs and RFP processes typically involve staff developing specifications independently and then asking external groups to independently develop and submit proposals back to Metro. For these types of programs staff believes better outcomes would be achieved if programs were designed collaboratively, rather than in the traditional arms-length transaction as is currently required by the Metro Code.
- Many of the groups that Metro could partner with do not typically work as contractors for public agencies. They are often advocacy or service organizations that may be unfamiliar with and/or unequipped to respond to requests for proposals.
- Through these programs, Metro may be seeking to work with specific underserved populations or geographic areas, and a traditional RFP process is unlikely to result in responses that help achieve the program's goals.
- Staff has handled some of these program partnerships through sole source contracts. However, that process is typically handled individually for each contract and requires Council approval of each contract. That is inefficient, and will be very burdensome as equity and community outreach work increases in the Parks and Natural Areas programs as well as in other areas of Metro.

This new special procurement class would require up-front Council approval of the process for awarding the contracts and limits the contracts to not-for-profit organizations where the purpose of the services must be to implement Metro programs and projects. The objective is to create a flexible and collaborative method for working with community partners on improving or developing new Metro programs and projects.

ANALYSIS/INFORMATION

1. **Known Opposition** None known.
2. **Legal Antecedents** Oregon Revised Statutes Chapter 279B, Metro Code Chapter 2.04
3. **Anticipated Effects** Revises Metro Code Chapter 2.04 to align the procurement of personal services and public contracts with the State of Oregon's contracting code and approves a class of special procurements for personal services and public contracts.
4. **Budget Impacts** None.

RECOMMENDED ACTION

Staff recommends the adoption of Ordinance 14-1345

Agenda Item No. 8.1

Resolution No. 14-4510, For the Purpose of Approving a
Process for Entering into Contracts with Not-For-Profit
Organizations to Support Parks and Natural Areas Local Option
Levy Goals

Resolutions

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A	)	RESOLUTION NO. 14-4510
PROCESS FOR ENTERING INTO CONTRACTS)	
WITH NOT-FOR-PROFIT ORGANIZATIONS TO	)	Introduced by Chief Operating Officer Martha
SUPPORT PARKS AND NATURAL AREAS	)	Bennett in concurrence with Council
LOCAL OPTION LEVY GOALS	)	President Tom Hughes

WHEREAS, Metro Code Chapter 2.04.053(a)(20) establishes a special procurement category that facilitates partnership contracts with not-for-profit organizations to help implement Metro’s programs and projects, and requires the Metro Council to approve by resolution a process for awarding of the contracts;

WHEREAS, in 2013, voters approved a five-year local option levy to care for Metro’s growing portfolio of natural areas and parks, including natural area restoration, maintenance and improvements for visitors, park maintenance and improvements, expansion of volunteer programs and conservation education, and expanding the Nature in Neighborhoods community grants;

WHEREAS, strategies for achieving the levy’s desired conservation and equity-related outcomes include forming a diverse range of informal partnerships, including with not-for-profit organizations;

WHEREAS, in the first year of the levy Metro entered into contracts with a small number of not-for-profit organizations to further levy goals, including with community-based organizations serving low-income and communities of color through the new Partners in Nature program, and with watershed councils and other conservation organizations to plan, manage and implement levy restoration projects;

WHEREAS, these “pilot” projects were successful in helping achieve levy goals, providing a sound basis for Metro to work with additional not-for-profit across the region to leverage levy resources for greater impacts on the ground;

WHEREAS, the use of Metro Code Chapter 2.04.053(a)(20) would streamline the formation of new relationships with not-for-profit organizations on a programmatic scale, and staff has developed a process for awarding new contracts with not-for-profit organizations to help achieve the levy goals, in accordance with Metro Code Chapter 2.04.053(a)(20);

WHEREAS, the process, if adopted by Metro Council, would require contracts formed through this special procurement to meet the following criteria: (1) must be with a registered 501(c)(3) or similar qualified entity or must have a documented agreement for fiscal sponsorship, (2) must demonstrate shared goals that clearly align with identified Parks and Natural Areas local option levy goals and outcomes, (3) must define tangible and measurable deliverables that support the levy program objectives, and (4) must reflect a true collaboration, and be responsive to the contractor’s needs and leverage and benefits for the public; now therefore

BE IT RESOLVED that the Metro Council approves, in accordance with Metro Code Chapter 2.04.053(a)(20), a process for awarding contracts to not-for-profit organizations to meet levy goals, as set forth on the attached as Exhibit A.

ADOPTED by the Metro Council this 23rd day of October, 2014.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

PROCESS FOR ENTERING INTO CONTRACTS WITH NOT-FOR-PROFIT ORGANIZATIONS TO SUPPORT PARKS AND NATURAL AREAS LOCAL OPTION LEVY GOALS

The process outlined below would apply to contracts formed under these and other levy programs that contract with not-for-profit organizations supporting levy goals.

Process for awarding the contracts

For new contracts, Metro staff will broadly advertise the opportunities to relevant audiences. This could include, at a minimum, emailing lists and personal contacts; posting on Metro's website, newsfeed and other media; and follow-up conversations, and may also include open houses or other special outreach efforts. Outreach will be conducted in alignment with the parks and natural areas engagement strategies and with agency-wide equity goals and strategies.

Any contracts awarded under this special procurement will meet the following criteria:

- Must be with a registered 501(c)3 or similarly qualified entity or must have a documented agreement for fiscal sponsorship from a registered organization.
- Must demonstrate shared goals that clearly align with identified Parks and natural areas local option levy program goals and outcomes.
- Must define tangible and measurable deliverables that support the levy program objectives. Examples include number of youth from historically underserved communities to participate in field outings at Metro natural area sites, number of acres of invasive plants to be treated, and percentage of minority/women/ emerging small business (MWESB) contractors to be involved.
- Must reflect a true collaboration, be responsive to the contractor's needs and leverage benefits for the public.

Contracts will not exceed the limits for intermediate procurements and the services would not include services required as part of a public improvement project. The Sustainability Center Director or Natural Areas Program Director must approve contracts prior to award.

Amendments and extensions to these contracts will follow existing contracting procedures for intermediate procurements.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 14-4510, FOR THE PURPOSE OF APPROVING A PROCESS FOR ENTERING INTO CONTRACTS WITH NOT-FOR-PROFIT ORGANIZATIONS TO SUPPORT PARKS AND NATURAL AREAS LOCAL OPTION LEVY GOALS

Date: October 23, 2014

Prepared by: Kathleen Brennan-Hunter, 503-797-1948

BACKGROUND

In 2013, voters approved a five-year local option levy to care for Metro's growing portfolio of natural areas and parks. The five-year work plan includes natural area restoration, maintenance and improvements for visitors, park maintenance and improvements, expansion of volunteer programs and conservation education, and expanding Nature in Neighborhoods community grants. Strategies for achieving the levy's desired outcomes include forming a diverse range of partnerships, including with not-for-profit organizations.

Metro Code Chapter 2.04.053(a)(20) establishes a special procurement category that facilitates engagement with not-for-profit organizations to help achieve Metro's policy goals. The special procurement applies to the following:

Contracts not exceeding \$150,000 for personal services or for trade services (and not required as part of a public improvement project) when the provider of the procured services is a not-for-profit organization, and the purpose of the services is to implement Metro programs and projects, provided the Metro Council has approved by resolution a process for awarding such contracts.

This resolution outlines a process for awarding contracts to not-for-profit organizations under this special procurement for the purposes of achieving Metro's goals under the Parks and natural areas local option levy.

PROPOSED APPROACH

In the first year of the levy, Metro contracted with not-for-profit organizations in several of the levy's key initiatives. Examples include:

- Contractual relationships and informal partnerships formed through the newly-established Partners in Nature program that helps achieve the levy's equity-related goals. Projects developed through this program are co-created by Metro and community-based organizations serving communities of color and low-income families. The purposes of these projects are to provide opportunities for underserved communities to experience nature through Metro's parks and natural areas, and to build the capacity of the organizations to lead their own nature-related programming. In fiscal year 13-14 Metro awarded four contracts to organizations whose work aligned with the levy's equity goals.
- Contracts with not-for-profit organizations to plan, manage and implement levy restoration work on Metro properties. These contracts support two key goals of the levy: completion of priority restoration projects, and increasing the capacity of partners to serve the community by improving local natural areas. In fiscal year 13-14 Metro awarded six contracts to organizations whose work aligned with the levy's restoration goals.

The process outlined below would apply to contracts formed under these and other levy programs that contract with not-for-profit organizations supporting levy goals.

Process for awarding the contracts

For new contracts, Metro staff will broadly advertise the opportunities to relevant audiences. This could include, at a minimum, emailing lists and personal contacts; posting on Metro’s website, newsfeed and other media; and follow-up conversations, and may also include open houses or other special outreach efforts. Outreach will be conducted in alignment with the parks and natural areas engagement strategies and with agency-wide equity goals and strategies.

Any contracts awarded under this special procurement will meet the following criteria:

- Must be with a registered 501(c)3 or similarly qualified entity or must have a documented agreement for fiscal sponsorship from a registered organization.
- Must demonstrate shared goals that clearly align with identified Parks and natural areas local option levy program goals and outcomes.
- Must define tangible and measurable deliverables that support the levy program objectives. Examples include number of youth from historically underserved communities to participate in field outings at Metro natural area sites, number of acres of invasive plants to be treated, and percentage of minority/women/ emerging small business (MWESB) contractors to be involved.
- Must reflect a true collaboration, be responsive to the contractor’s needs and leverage benefits for the public.

Contracts will not exceed the limits for intermediate procurements and the services would not include services required as part of a public improvement project. The Sustainability Center Director or Natural Areas Program Director must approve contracts prior to award.

Amendments and extensions to these contracts will follow existing contracting procedures for intermediate procurements.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to this resolution.

2. Legal Antecedents

In December 2012, the Metro Council adopted Resolution No.12-4398, “For the Purpose of Referring to the Voters of the Metro Area a Local Option Levy for the Purposes of Preserving Water Quality, Fish and Wildlife Habitat and Maintaining Metro’s Parks and Natural Areas for the Public.”

Resolution No. 12-4398 sets forth the criteria for levy projects and is the ongoing guiding document for programs and projects implemented with levy funds.

Metro Code Chapter 2.04.053(a)(20) requires that the Metro Council approve by resolution a process for awarding contracts to not-for-profit organizations under special procurement.

3. Anticipated Effects

This approach will streamline Metro’s process for entering into contracts with not-for-profit organizations, increasing the levy’s impact by leveraging the support and resources of partners. It

enables a programmatic-scale approach that is a more transparent and efficient use of public funds versus entering into these contracts on a project-by-project basis.

4. Budget Impacts

None.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 14-4510.

Agenda Item No. 8.2

Resolution No. 14-4560, For the Purpose of Adopting a List of
Solid Waste Designated Facilities Pursuant to Metro Code
Chapter 5.05

Resolutions

Metro Council Meeting
Thursday, October 23, 2014
Metro, Council Chambers

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING A LIST OF	)	RESOLUTION NO. 14-4560
SOLID WASTE DESIGNATED FACILITIES)	
PURSUANT TO METRO CODE CHAPTER 5.05	)	Introduced by Chief Operating Officer Martha
	)	Bennett in concurrence with Council
	)	President Tom Hughes

WHEREAS, Metro Code Chapter 5.05 (Solid Waste Flow Control) governs Metro’s authority to regulate solid waste generated in the Metro region; and

WHEREAS, Metro Code Section 5.05.030 identifies the designated facilities of Metro’s solid waste system; and

WHEREAS, Metro Ordinance No. 14-1337 (effective October 22, 2014) amended certain provisions of Metro Code Chapter 5.05 relevant to this resolution; and

WHEREAS, Metro Code Section 5.05.030(b) (as amended) requires the Council to consider for adoption by resolution a list of designated facilities of the system, including names and addresses, every five years beginning in 2015; and

WHEREAS, Metro Ordinance No. 14-1335 amended Metro Code Section 5.05.030 to remove Weyerhaeuser Regional Landfill from the list of designated facilities of the system effective January 1, 2015; and

WHEREAS, to ensure compliance with amended Metro Code Chapter 5.05, the Chief Operating Officer recommends that the Metro Council adopt a list of designated facilities effective October 22, 2014 through December 31, 2014; and

WHEREAS, to ensure compliance with amended Metro Code Chapter 5.05, the Chief Operating Officer recommends that the Metro Council adopt a list of designated facilities effective January 1, 2015, to delete Weyerhaeuser Regional Landfill in accordance with Metro Ordinance No. 14-1335; and

WHEREAS, the Council considered the factors listed in Metro Code Section 5.05.031 when adding facilities to the list of designated facilities, and additional review of those factors for the facilities listed in Exhibits A and B is unnecessary; now therefore

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The Metro Council adopts the list of designated facilities attached as Exhibit A, effective October 22, 2014 through December 31, 2014; and
2. The Metro Council adopts the list of designated facilities attached as Exhibit B, effective January 1, 2015; and
3. Exhibits A and B satisfy the requirement in Metro Code Section 5.05.033(b), as amended, to adopt a list of designated facilities by July 31, 2015.

ADOPTED by the Metro Council this 23rd day of October, 2014.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

WJ:bjl
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Designated Facilities of Metro's Solid Waste System

Effective October 22, 2014, until December 31, 2014

The Metro Council has found that the following disposal sites and solid waste facilities meet the criteria set forth in Metro Code Section 5.05.030 and are designated as part of Metro's solid waste system. In accordance with Metro Resolution No. 14-4560, this list of designated facilities is hereby effective on October 22, 2014 until December 31, 2014.

I. Disposal sites and solid waste facilities owned or operated by Metro.

- | | |
|--|---|
| 1) <u>Metro Central Station</u>
6161 NW 61 st Avenue
Portland, Oregon 97210 | 2) <u>Metro South Station</u>
2001 Washington
Oregon City, Oregon 97045 |
|--|---|

II. Disposal sites and solid waste facilities located within Metro's boundary.

All disposal sites and solid waste facilities located within the Metro boundary that are subject to Metro regulatory authority under Chapter 5.01. All such designated facilities are required to obtain a Metro-issued license or franchise unless otherwise exempt from such requirement.

III. Disposal sites and solid waste facilities located outside of Metro's boundary.

The out-of-region designated facilities listed below are authorized to accept certain wastes generated from inside the Metro boundary as specified by and subject to an agreement between Metro and the owner of the disposal site or solid waste facility. In addition, Metro may issue non-system licenses to waste generators or persons transporting waste to these or other disposal sites or solid waste facilities.

- | | |
|---|---|
| 1) <u>Coffin Butte Landfill</u>
29175 Coffin Butte Road
Corvallis, Oregon 97330 | 6) <u>Roosevelt Regional Landfill</u>
500 Roosevelt Grade Road
Roosevelt, Washington 99356 |
| 2) <u>Columbia Ridge Landfill</u>
18177 Cedar Springs Lane
Arlington, Oregon 97812 | 7) <u>Tualatin Valley Waste Recovery</u>
3205 SE Minter Bridge Road
Hillsboro, Oregon 97123 |
| 3) <u>Finley Buttes Regional Landfill</u>
73221 Bombing Range Road
Boardman, Oregon 97818 | 8) <u>Wasco County Landfill</u>
2550 Steele Road
The Dalles, Oregon 97058 |
| 4) <u>Hillsboro Landfill</u>
3205 SE Minter Bridge Road
Hillsboro, Oregon 97123 | 9) <u>Weyerhaeuser Regional Landfill</u>
3434 S. Silverlake Road
Castle Rock, Washington |
| 5) <u>Riverbend Landfill</u>
13469 SW Highway 18
McMinnville, Oregon 97218 | |

Designated Facilities of Metro's Solid Waste System

Effective January 1, 2015

The Metro Council has found that the following disposal sites and solid waste facilities meet the criteria set forth in Metro Code Section 5.05.030 and are designated as part of Metro's solid waste system. In accordance with Metro Resolution No. 14-4560, this list of designated facilities is hereby effective on January 1, 2015.

I. Disposal sites and solid waste facilities owned or operated by Metro.

- | | |
|--|---|
| 1) <u>Metro Central Station</u>
6161 NW 61 st Avenue
Portland, Oregon 97210 | 2) <u>Metro South Station</u>
2001 Washington
Oregon City, Oregon 97045 |
|--|---|

II. Disposal sites and solid waste facilities located within Metro's boundary.

All disposal sites and solid waste facilities located within the Metro boundary that are subject to Metro regulatory authority under Chapter 5.01. All such designated facilities are required to obtain a Metro-issued license or franchise unless otherwise exempt from such requirement.

III. Disposal sites and solid waste facilities located outside of Metro's boundary.

The out-of-region designated facilities listed below are authorized to accept certain wastes generated from inside the Metro boundary as specified by and subject to an agreement between Metro and the owner of the disposal site or solid waste facility. In addition, Metro may issue non-system licenses to waste generators or persons transporting waste to these or other disposal sites or solid waste facilities.

- | | |
|---|---|
| 1) <u>Coffin Butte Landfill</u>
29175 Coffin Butte Road
Corvallis, Oregon 97330 | 5) <u>Riverbend Landfill</u>
13469 SW Highway 18
McMinnville, Oregon 97218 |
| 2) <u>Columbia Ridge Landfill</u>
18177 Cedar Springs Lane
Arlington, Oregon 97812 | 6) <u>Roosevelt Regional Landfill</u>
500 Roosevelt Grade Road
Roosevelt, Washington 99356 |
| 3) <u>Finley Buttes Regional Landfill</u>
73221 Bombing Range Road
Boardman, Oregon 97818 | 7) <u>Tualatin Valley Waste Recovery</u>
3205 SE Minter Bridge Road
Hillsboro, Oregon 97123 |
| 4) <u>Hillsboro Landfill</u>
3205 SE Minter Bridge Road
Hillsboro, Oregon 97123 | 8) <u>Wasco County Landfill</u>
2550 Steele Road
The Dalles, Oregon 97058 |

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 14-4560 FOR THE PURPOSE OF ADOPTING A LIST OF SOLID WASTE DESIGNATED FACILITIES PURSUANT TO METRO CODE CHAPTER 5.05.

October 10, 2014

Prepared by: Warren Johnson
503-797-1836

Approval of Resolution No. 14-4560 would result in Council adoption of two lists of designated facilities of the solid waste system – one list is in Exhibit A, effective October 22, 2014 through December 31, 2014, and the other list is in Exhibit B, effective January 1, 2015.

BACKGROUND

Metro Code Chapter 5.05 (Solid Waste Flow Control) governs the transportation, transfer, disposal, and other processing of all solid waste generated within the Metro region. Metro-area waste that is transported outside of the region must be delivered to a designated facility or hauled under authority of a non-system license. Historically, Metro required that all designated facilities located outside of the Metro region were to be individually listed and specifically named in Metro Code before the facility could enter into a designated facility agreement and receive Metro-area waste without the need for haulers or persons delivering the waste to obtain a non-system license.

On July 24, 2014, the Metro Council adopted Ordinance No. 14-1337 which amended Metro Code Chapter 5.05 to establish a new listing procedure for designated facilities effective on October 22, 2014. The above-mentioned Ordinance amended Metro Code Chapter 5.05 to, in part, delete the individual listing of out-of-region facilities from Chapter 5.05 and otherwise require that Council adopt an official list of designated facilities of the solid waste system (the “designation list”) by resolution every five years beginning no later than July 2015. Metro Code Section 5.05.033 further stipulates that the designation list must include the names and addresses of all of the designated facilities located outside of the Metro region.

As described below, the Chief Operating Officer recommends that the Council adopt the two designation lists attached to this Resolution as Exhibits A and B. Adoption of these proposed designation lists would satisfy the Code¹ requirement that Council adopt such a list by no later than July 2015.

The proposed designation list in Exhibit A, effective October 22, 2014 through December 31, 2014, includes Metro’s transfer stations and a general description of all solid waste facilities located within the Metro region that are subject to regulatory authority under Chapter 5.01 (i.e., solid waste facilities that are required to obtain a Metro-issued license, franchise, or are otherwise exempt from such requirements). The list also includes the following out-of-region designated facilities: Coffin Butte Landfill, Columbia Ridge Landfill, Finley Buttes Regional Landfill, Hillsboro Landfill, Riverbend Landfill, Roosevelt Regional Landfill, Tualatin Valley Waste Recovery, Wasco County Landfill, and Weyerhaeuser Regional Landfill.

¹ Amended Metro Code Section 5.05.033(b)

The Council considered the factors described in Metro Code Section 5.05.031 when it initially added the above-mentioned facilities to the designation list in Code and, as such, it is not necessary to further review those factors with respect to including those facilities on the list in Exhibit A.² Lakeside Reclamation and Cedar Grove Composting, Inc. are not included in Exhibit A because Council removed those facilities from the designation list on July 24, 2014.³

The proposed designation list in Exhibit B subsequently replaces and supersedes the list in Exhibit A effective January 1, 2015. The list in Exhibit B is identical to that of Exhibit A with the exception of Weyerhaeuser Regional Landfill which has been removed from the list effective January 1, 2015. On July 24, 2014, Council adopted Ordinance No. 14-1335 which prospectively removes Weyerhaeuser Regional Landfill from the designation list upon the expiration date of its current designated facility agreement.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to this Resolution.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.05.

3. Anticipated Effects

Adoption of this Resolution would establish a designation list as required by Metro Code Section 5.05.030(b).

4. Budget Impacts

Adoption of this Resolution will not have an impact on the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 14-4560 which would result in the adoption of two designation lists – one list is Exhibit A, effective October 23, 2014 through December 31, 2014, and the other is Exhibit B, effective January 1, 2015. Exhibit B, which deletes Weyerhaeuser Regional Landfill, subsequently replaces and supersedes the list proposed in Exhibit A effective January 1, 2015.

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² Coffin Butte Landfill (Ord. No. 02-979), Columbia Ridge Landfill (Ord. No. 93-483), Finley Buttes Regional Landfill (Ord. No. 93-483), Hillsboro Landfill (Ord. No. 93-483), Riverbend Landfill (Ord. No. 08-1197), Roosevelt Regional Landfill (Ord. No. 93-483), Tualatin Valley Waste Recovery (Ord. No. 08-1195), Wasco County Landfill (Ord. No. 03-999), and Weyerhaeuser Regional Landfill (Ord. No. 05-1083)

³ Lakeside Reclamation (Ord. No. 14-1333) and Cedar Grove Composting, Inc. (Ord. No. 14-1334)

Materials following this page were distributed at the meeting.



METRO COUNCIL MEETING

Meeting Minutes

Oct. 16, 2014

City of Oregon City, City Hall, Commission Chambers

Councilors Present: Council President Tom Hughes, and Councilors Shirley Craddick, Kathryn Harrington, Carlotta Collette and Craig Dirksen

Councilors Excused: Deputy Council President Sam Chase and Councilor Bob Stacey

Council President Tom Hughes called the regular council meeting to order at 5:05 p.m.

1. INTRODUCTIONS

Council President Hughes recognized the following guests: Dr. Joanne Truesdell, President of Clackamas Community College, John George, Grande Ronde council member, Mayor Alice Norris, Mayor Doug Neeley, Oregon City Commissioner Betty Mumm, and welcomed Oregon City Commissioner Carol Pauli to speak.

Commissioner Pauli enthusiastically welcomed the Metro Council, discussed the Willamette Falls project, which had a first read at the City Commission meeting the previous night. Ms. Pauli introduced David Frasher, City Manager of Oregon City, to talk more about Willamette Falls. Mr. Frasher recognized great work by Kathleen Brennan-Hunter and Martha Bennett and thanked Metro staff for their partnership and support. Metro Councilor Collette also noted that for more information, citizens could go to the website: www.rediscoverthefalls.com.

2. CITIZEN COMMUNICATIONS

There were none.

3. CLACKAMAS COUNTY FILM & MEDIA INDUSTRY CLUSTER PRESENTATION

Council President Hughes introduced Catherine Comer and Jamie Johnk, who presented on the growing film and media industry cluster in Clackamas County. Ms. Comer discussed the emerging cluster, how the industry could expand, as well as and what the workforce needed might be. She noted that one part of the cluster is called Motion Capture and that the first motion capture training facility in the state of Oregon is located at Clackamas Community College, which has been a huge success, classes have been continually full, and she considered it to be a major achievement. Ms. Comer also explained that the County does a lot of 'scene-finding' for productions, with help from city staff around the region so that the business can be shared with multiple jurisdictions. She discussed the newly-created Countywide Unified Permitting Process, available online, as a successful tool to streamlining and creating one permitting process for the whole county which saves the production companies quite a bit of time. She noted that the County has received the

2013 Governor's Award for Film Advocacy for bringing this new system to the communities as an economic development program, as well.

Councilors thanked Ms. Comer and Ms. Johnk for their hard work, noting that what they were doing was very helpful for communities and their economic development. They also discussed that this model for the film industry could be used for other industries as well and congratulated them on what they had accomplished. Councilor Collette discussed this as a great example for what communities can accomplish regardless of how much space or how large the community is and that this was a great example of "blue collar creative".

Councilor Harrington commented on an upcoming film festival coming up on garbage, as it relates to the discussion on the local film industry. She discussed how Metro has engaged local film makers in a film-making contest on trash: where it goes and what becomes of it. She invited all to attend the Film Festival in November at the Portland Art Museum, noting that it would be free on November 10th at 7pm (more information available on the Metro website).

4. MAIN STREET OREGON CITY PRESENTATION

Council President Hughes introduced Mr. Jonathan Stone, Executive Director of Downtown Oregon City Association (DOCA) (recently renamed from Main Street Oregon City). Mr. Stone discussed how Oregon City, specifically Downtown Oregon City, has come a long way with its revitalization. He highlighted the Illuminate Oregon City project, citing the Oregon City elevator as an important symbol in Oregon City and noting that the revitalization has been important to residents and is a source of a great pride in the city. Mr. Stone explained that DOCA is only one of two nationally accredited "Main Streets" in Oregon and discussed work they are doing to provide incentive programs for downtown businesses, including being a part of the Metro Enterprising Places Pilot Program.

Councilors congratulated Mr. Stone on the work being done in Downtown Oregon City. Councilor Harrington discussed the transformation in Oregon City over the years that she has seen and indicated how personally proud she was of the hard work and dedication of Mr. Stone. Mr. Stone thanked the Council and noted that the City has been very important and supportive, and without that support, this work wouldn't have been possible. Councilor Collette noted the great bones of Oregon City, beautiful buildings, and stated that she was very grateful that the Council and Metro staff have been able to help.

5. NATURAL AREAS PROGRAM HIGHLIGHTS IN OREGON CITY

Council President Hughes introduced Kathleen Brennan-Hunter, Natural Areas Program Director, who provided a Natural Areas Program update for projects in Oregon City. Ms. Brennan-Hunter thanked all of the volunteers and staff that have worked on Canemah Bluff and discussed the progress of restoration of the area. She also provided an update on the Canemah Bluff overlook development project and other recent improvements to the park.

Ms. Brennan-Hunter also provided an update on the Newell Creek Canyon area, the planning and community participation process currently going on. She noted that the next public meeting will be on October 28th, where the public can learn more about the area as well as provide input on potential uses and improvements to the area. Ms. Brennan-Hunter also shared news that they have finally been able to secure a new site that will provide much better public access to the canyon.

6. WILLAMETTE FALLS LEGACY PROJECT UPDATE PRESENTATION

Council President Hughes introduced Mr. Jim Desmond, Sustainability Center Director, to update the Council on the Willamette Falls Legacy Project. Mr. Desmond gave a brief update on the riverfront part of the project. He explained that the riverfront area, currently called the Riverwalk, will be the primary link and economic development for the area and that the Memorandum Of Understanding had now been signed by all parties, then showed a short film on the project. He noted that the early planning and organizing of a project team will begin in late 2014 through early 2015, then work to secure funds by mid-2015. Mr. Desmond introduced Christina Robertson-Gardiner, Planning Staff from the City of Oregon City. Ms. Robertson-Gardiner indicated that she was very excited by unanimous support from both the Oregon City Commission and the Planning Commission, as well as provided more details on the project.

Councilors congratulated Metro Staff and Oregon City Staff on their work, noting that they were very excited by the project and calling it a major regional project, as well as the entire state.

Council President Hughes recognized William Gifford, President of the Oregon City Business Alliance, who invited Council to attend the next meeting. Council President Hughes also recognized Mayor Doug Neeley and invited him to speak. Mayor Neeley discussed his time as mayor and the changes he's seen in Oregon City, as well as how proud he was of the progress made with the Willamette Falls project. Mayor Neeley thanked Jim Desmond and the Metro Council for being a partner from the beginning.

7. CONSIDERATION OF COUNCIL MEETING MINUTES FOR OCTOBER 2, 2014

Motion:	Councilor Carlotta Collette moved to adopt Council Meeting Minutes for October 2, 2014.
Second:	Councilor Craig Dirksen seconded the motion.

Vote:	Council President Hughes, and Councilors Craddick, Harrington, Dirksen and Collette voted in support of the motion. The vote was 5 ayes, the motion <u>passed</u> .
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8. CHIEF OPERATING OFFICER COMMUNICATION

Ms. Martha Bennett provided an update on the following events and topics: Westside Economic Alliance Land Use Committee meeting, Metro All-Staff meeting with keynote speaker, Marisa Madrigal, the reopening of Blue Lake Park and the Salmon Homecoming event on October 18th and 19th at Oxbow Park.

9. COUNCILOR COMMUNICATION

Councilors provided updates on the following meetings or items: JPACT Finance Subcommittee Meeting, upcoming OMPOC Annual Retreat on October 17th, a request for support from Transportation For America, the Future of Estate Capital event on November 5th, and final open

house for Council Creek Trail. Councilor Collette also pointed out several new key projects in/near Oregon City including the new light rail station and nearby native plantings and improvements along Riverfront Park.

10. ADJOURN

There being no further business, Council President Hughes adjourned the regular meeting at 6:45p.m. The Metro Council will convene the next regular council meeting on Thursday, October 23 at 2 p.m. in the Metro Council Chambers.

Respectfully submitted,

A handwritten signature in cursive script that reads "Alexandra Eldridge".

Alexandra Eldridge, Regional Engagement & Legislative Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF OCT. 16, 2014

Item	Topic	Doc. Date	Document Description	Doc. Number
7.0	Minutes	10/16/14	Council Minutes for Oct. 2, 2014	101614c-01

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A) RESOLUTION NO. 14-4510
PROCESS FOR ENTERING INTO CONTRACTS)
WITH NOT-FOR-PROFIT ORGANIZATIONS TO) Introduced by Chief Operating Officer Martha
SUPPORT PARKS AND NATURAL AREAS) Bennett in concurrence with Council
LOCAL OPTION LEVY GOALS) President Tom Hughes

WHEREAS, Metro Code Chapter 2.04.053(a)(20) establishes a special procurement category that facilitates partnership contracts with not-for-profit organizations to help implement Metro's programs and projects, and requires the Metro Council to approve by resolution a process for awarding of the contracts;

WHEREAS, in 2013, voters approved a five-year local option levy to care for Metro's growing portfolio of natural areas and parks, including natural area restoration, maintenance and improvements for visitors, park maintenance and improvements, expansion of volunteer programs and conservation education, and expanding the Nature in Neighborhoods community grants;

WHEREAS, strategies for achieving the levy's desired conservation and equity-related outcomes include forming a diverse range of informal partnerships, including with not-for-profit organizations;

WHEREAS, in the first year of the levy Metro entered into contracts with a small number of not-for-profit organizations to further levy goals, including with community-based organizations serving low-income and communities of color through the new Partners in Nature program, and with watershed councils and other conservation organizations to plan, manage and implement levy restoration projects;

WHEREAS, these "pilot" projects were successful in helping achieve levy goals, providing a sound basis for Metro to work with additional not-for-profit across the region to leverage levy resources for greater impacts on the ground;

WHEREAS, the use of Metro Code Chapter 2.04.053(a)(20) would streamline the formation of new relationships with not-for-profit organizations on a programmatic scale, and staff has developed a process for awarding new contracts with not-for-profit organizations to help achieve the levy goals, in accordance with Metro Code Chapter 2.04.053(a)(20);

WHEREAS, the process, if adopted by Metro Council, would require contracts formed through this special procurement to meet the following criteria: (1) must be with a registered 501(c)(3) or similar qualified entity or must have a documented agreement for fiscal sponsorship, (2) must demonstrate shared goals that clearly align with identified Parks and Natural Areas local option levy goals and outcomes, (3) must define tangible and measurable deliverables that support the levy program objectives, and (4) must reflect a true collaboration, and be responsive to the contractor's needs and leverage and benefits for the public; now therefore

PROCESS FOR ENTERING INTO CONTRACTS WITH NOT-FOR-PROFIT ORGANIZATIONS TO SUPPORT PARKS AND NATURAL AREAS LOCAL OPTION LEVY GOALS

The process outlined below would apply to contracts formed under these and other levy programs that contract with not-for-profit organizations supporting levy goals.

Process for awarding the contracts

For new contracts, Metro staff will broadly advertise the opportunities to relevant audiences. This could include, at a minimum, emailing lists and personal contacts; posting on Metro's website, newsfeed and other media; and follow-up conversations, and may also include open houses or other special outreach efforts. Outreach will be conducted in alignment with the parks and natural areas engagement strategies and with agency-wide equity goals and strategies.

Any contracts awarded under this special procurement will meet the following criteria:

- Must be with a registered 501(c)3 or similarly qualified entity or must have a documented agreement for fiscal sponsorship from a registered organization.
- Must demonstrate shared goals that clearly align with identified Parks and natural areas local option levy program goals and outcomes.
- Must define tangible and measurable deliverables that support the levy program objectives. Examples include number of youth from historically underserved communities to participate in field outings at Metro natural area sites, number of acres of invasive plants to be treated, and percentage of minority/women/ emerging small business (MWESB) contractors to be involved.
- Must reflect a true collaboration, be responsive to the contractor's needs and leverage benefits for the public.

Contracts will not exceed the limits for intermediate procurements and the services would not include services required as part of a public improvement project. The Sustainability Center Director or Natural Areas Program Director must approve contracts prior to award.

Amendments and extensions to these contracts will follow existing contracting procedures for intermediate procurements.

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ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to this resolution.

2. Legal Antecedents

In December 2012, the Metro Council adopted Resolution No.12-4398, "For the Purpose of Referring to the Voters of the Metro Area a Local Option Levy for the Purposes of Preserving Water Quality, Fish and Wildlife Habitat and Maintaining Metro's Parks and Natural Areas for the Public."

Resolution No. 12-4398 sets forth the criteria for levy projects and is the ongoing guiding document for programs and projects implemented with levy funds.

Metro Code Chapter 2.04.053(a)(20) requires that the Metro Council approve by resolution a process for awarding contracts to not-for-profit organizations under special procurement.

3. Anticipated Effects

This approach will streamline Metro's process for entering into contracts with not-for-profit organizations, increasing the levy's impact by leveraging the support and resources of partners. It