

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: September 30, 1999
DAY: Thursday
TIME: 2:00 PM
PLACE: Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. EXECUTIVE OFFICER COMMUNICATIONS

A. Government Financial Officers Association Awards

Warner

4. AUDITOR COMMUNICATIONS

A. Metropolitan Exposition - Recreation Commission Parking Revenue

5. MPAC COMMUNICATIONS

6. CONSENT AGENDA

6.1 Consideration of Minutes for the September 23, 1999 Metro Council Regular Meeting.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 99-814**, For the Purpose of Renewing the Solid Waste License for Operation of the Wastech Materials Recovery Facility.

McLain

7.2 **Ordinance No. 99-815**, For the Purpose of Transferring the Solid Waste Franchise for Operation of the Recycle America Reload/Materials Recovery Facility from Waste Management of Oregon, Inc. to USA Waste of Oregon, Inc.

Washington

7.3 **Ordinance No. 99-817A**, For the Purpose of Amending the Metro Code 2.09.060 and 2.09.100 to Modify the Gross Receipts Threshold to \$250,000 and to Increase Fees for the Metro Contractor's Business License Program.

Atherton

- | | | |
|-----------------------|---|------------|
| 7.4 | Ordinance No. 99-818A , For the Purpose of Amending Metro Code Requirements for Urban Growth Boundary Amendments, Urban Reserve Planning Requirements in Title 11 of the Urban Growth Management Functional Plan and Appendices A and B of the Regional Framework Plan and Metro Code Requirements for Local Government Boundary Changes and Declaring an Emergency. | McLain |
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 | | |
| 8. RESOLUTIONS | | |
| 8.1 | Resolution No. 99-2815A , For the Purpose of Establishing a Response to ESA Listings for Salmon and Steelhead within a Natural Resource and Watershed Policy Framework. | McLain |
| 8.2 | Resolution No. 99-2823 , For the Purpose of Changing the Positions of Nancy Kraushaar, Mark Schoening, and Debrah Marriott on the Water Resources Policy Advisory Committee. | Bragdon |
| 8.3 | Resolution No. 99-2827 , For the Purpose of Confirming the Nominations of Rick Charriere, Seth Tane, Richard Reynolds and Julie Garver to the Regional Parks and Greenspaces Advisory Committee. | Washington |
| 8.4 | Resolution No. 99-2829 , For the Purpose of Appointing Greg Diloreto and Rebecca Geisen as Alternate Members of the Water Resources Policy Advisory Committee. | Bragdon |
| 8.5 | Resolution No. 99-2830 , For the Purpose of Adopting the FY 00-03 Metropolitan Transportation Improvement Plan (MTIP). | Bragdon |
| 8.6 | Resolution No. 99-2831 , For the Purpose of Amending the Membership of the TPAC Transportation Demand Management Subcommittee. | Atherton |
| 8.7 | Resolution No. 99-2834A , For the Purpose of Granting Time Extensions for the Cities of Milwaukie and Gladstone for Compliance with Title 3 of the Urban Growth Management Functional Plan. | Bragdon |
| 8.8 | Resolution No. 99-2838 , For the Purpose of Providing Mailed Notice to Property Owners Affected by Title 3 of the Urban Growth Management Functional Plan. | Park |
| 8.9 | Resolution No. 99-2844 , For the Purpose of Granting a Time Extension for the City of Gresham for Compliance with Title 3 of the Urban Growth Management Functional Plan. | Bragdon |

9. COUNCILOR COMMUNICATION

ADJOURN

Due to scheduling conflicts, there will be no cable coverage for this meeting.

PUBLIC HEARINGS: Public Hearings are held on all Ordinances second read and on Resolutions upon request of the public. The public is encouraged to submit written testimony (8 copies) in support or in place of oral testimony. Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 6.1

Consideration of the September 23, 1999 Metro Council Meeting minutes.

Metro Council Meeting
Thursday, September 30, 1999
Council Chamber

Agenda Item Number 4.0

**METROPOLITAN EXPOSITION- RECREATION COMMISSION PARKING REVENUE: BETTER CONTROLS
ARE NEEDED.**

Auditors Report

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

Metro
Metropolitan Exposition -
Recreation Commission

Parking Revenue:
Better Controls Are Needed

September 1999

A Report by the Office of the Auditor



METRO

1999-10442-AUD

Alexis Dow, CPA
Metro Auditor



METRO

OFFICE OF THE AUDITOR

September 17, 1999

To the Metropolitan Exposition-Recreation Commission and Metro Council:

The accompanying report details our review of parking revenue controls at the Oregon Convention Center and the Portland Metropolitan Exposition Center. Parking revenues at the two centers now total approximately \$1.8 million a year.

Controls over parking receipts are not adequate to keep parking attendants or their supervisors from stealing or to detect theft, if it is happening. Parking operations at both centers lack the equipment and basic procedures that would reduce the risk of theft. Parking contractors are not conducting onsite observations and audits required by their contracts, and managers are not enforcing these agreements. Controls improve once parking revenues actually enter the system, but some problems exist in this part of the process as well. We also found that some employees are allowed to park without charge in one of the Convention Center lots.

Our recommendations are listed on page 2 of this report. Most make sense to implement immediately. However, planned expansion at the Convention Center will soon eliminate the existing main parking lot and replace it with a multi-story facility. The Metropolitan Exposition-Recreation Commission (MERC) needs to use the findings of this review to plan for better revenue control in the new facility.

We reviewed a draft of this report with the Metropolitan Exposition-Recreation Commission Chair, Ben Middleton. The last section of this report presents his written response.

We sincerely appreciate the cooperation and assistance provided by MERC staff as we conducted this review.

Very truly yours,

A handwritten signature in cursive script that reads "Alexis Dow".

Alexis Dow, CPA
Metro Auditor

Auditor: Jim McMullin

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Executive Summary

The Metropolitan Exposition-Recreation Commission (MERC) faces serious problems with collection of parking fees at the Portland Metropolitan Exposition Center and the Oregon Convention Center. Controls over these collections are not adequate to keep parking attendants or their supervisors from stealing or to detect theft, if it is happening.

Parking revenues at the two centers now total nearly \$1.8 million a year. Controls over collections are a joint responsibility between MERC and private contractors that run the parking operations. MERC has an obligation to oversee the contractors and makes decisions about how to equip parking operations. For example, a system with automatic ticket dispensers and exit gates helps prevent workers from letting vehicles go through uncounted and pocketing the parking fees.

Parking operations at the two centers lack this kind of equipment and basic procedures that reduce the risk of theft. These weaknesses are compounded by lack of oversight from Convention Center and Expo Center managers. For example, no one reviews the Convention Center parking contractor's activities or tries to reconcile parking fees collected with the contractor's paperwork. At both facilities, parking contractors are not conducting on-site observations and audits required by their contracts, and managers are not enforcing these agreements.

Controls improve once parking revenues actually enter the system, though some problems exist in this part of the process as well. At the Convention Center, cash receipts need to be picked up from attendants more often and alternative arrangements need to be made so that receipts are not taken off-site to prepare deposits. At the Expo Center, a separate safe is needed for parking receipts. Operations at both centers can improve the timeliness of bank deposits, mainly through better coordination with armored car schedules.

Most improvements make sense to put in place immediately. However, planned expansion at the Convention Center will soon eliminate the existing main parking lot and replace it with a new multi-story facility. MERC needs to use the findings of this review to plan for better revenue control in the new facility.

Finally, we found that some employees are allowed to park in one of the Convention Center's lots without paying. Charging these employees would be more consistent with Metro policies and would reduce the annual loss on the lot.

Summary of Recommendations

We make the following recommendations, in summary form, to address the management and internal control problems we identified at the Expo Center and the Convention Center parking facilities.

MERC should establish a management system at the Convention Center to supervise and monitor its parking contractor to ensure that parking revenues are properly controlled. The system should include:

- designating a Convention Center employee to supervise and monitor parking operations on a daily basis
- establishing proper ways to document each parking transaction
- making appropriate reconciliations of deposits to supporting documentation
- assuring that contractor documents are complete, accurate and legible
- having a MERC person read vehicle counters at appropriate times and report the readings to the Convention Center's parking supervisor.

In addition, MERC should:

- establish an auditable way to document vehicles which are exempt from paying at the Expo Center and the Convention Center
- require every vehicle to have either a ticket or pass displayed on their dashboard
- place signs at every entrance directing each patron to display their ticket or pass on their dashboard and print this statement on all tickets and passes
- require parking contractors to make and document the lot audits and attendant surveillances required by their contracts
- provide City Center Parking an office within the Convention Center to count parking receipts, prepare deposits and provide a base for other supervisory duties
- require City Center Parking to prepare deposits the day of an event and place them in the MERC drop safe that day
- establish armored car services at the Expo Center for Monday, Thursday and Saturday.

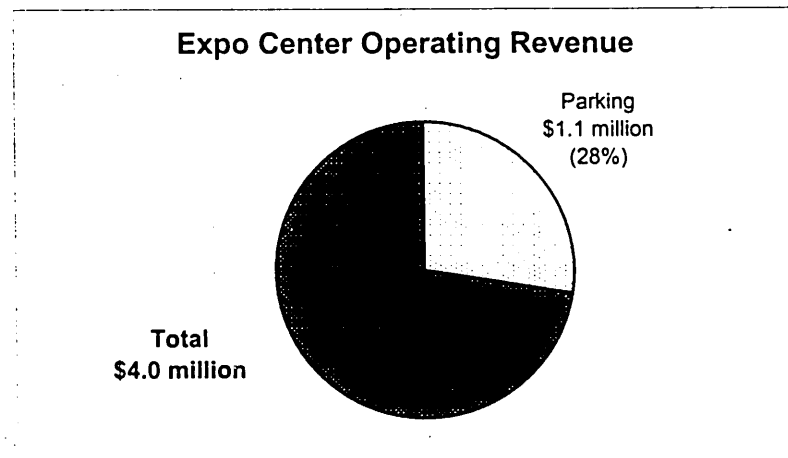
To enhance revenue and be more consistent with Metro policy, MERC should:

- charge employees a market-based monthly fee to park in its leased lot
- hire a consultant to help develop appropriate revenue controls for the new Convention Center parking facility and to evaluate the need for more sophisticated controls at the Expo Center.

Introduction and Background

The Facilities The Metropolitan Exposition-Recreation Commission (MERC), a unit of Metro, manages the regional convention, trade and performing arts facilities, including the Portland Metropolitan Exposition Center (the Expo Center) and the Oregon Convention Center. Parking operations at these two facilities generate revenues of nearly \$1.8 million a year. These parking operations are run by private contractors. The manager of each facility is responsible for overseeing its respective contractor.

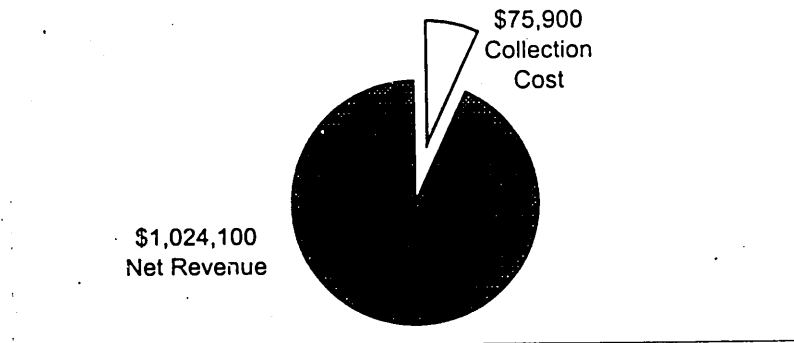
The Expo Center The Expo Center has five exhibition halls for trade shows and public exhibitions and one large parking lot with about 3,000 parking spaces and two gated entrances. The lot's main entrance has three entry lanes, each with a booth from which attendants collect parking fees from patrons. The other entrance has one entry lane and one booth.



In FY 1999, parking revenues totaled about \$1.1 million, about one-fourth of the Expo Center's \$4.0 million of operating revenues.

The Expo Center's parking lot is operated by Ace Parking Management, Inc., a large West Coast parking business based in San Diego that also manages the parking operations of the Portland International Airport. MERC's contract with Ace Parking began July 1, 1998, and ends June 30, 2001. The firm received \$75,900 to operate the Expo Center's parking facilities in FY 1999.

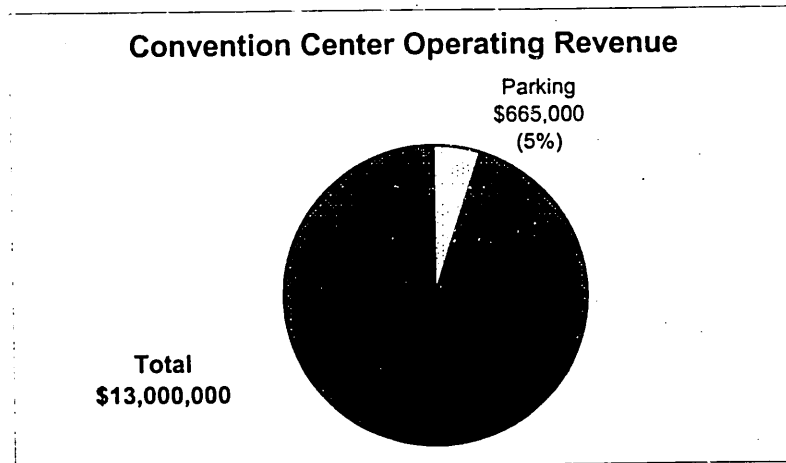
Expo Center Revenue vs. Collection Cost



The Oregon Convention Center

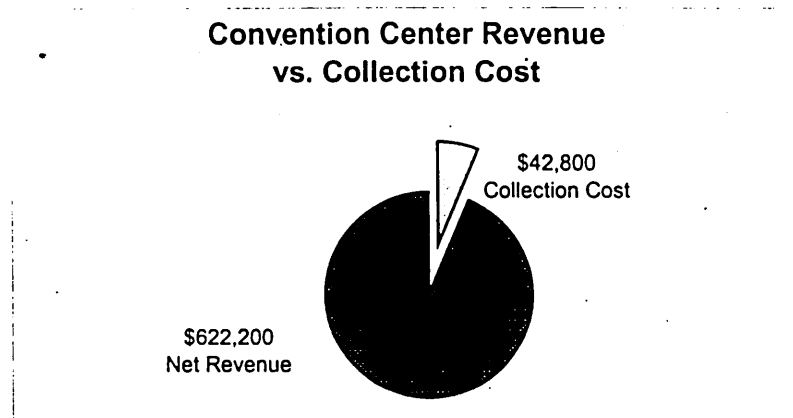
The Convention Center opened in September 1990 and is the primary Portland facility used by conventions and trade shows. Its parking facilities consist of three paved lots--a main lot with 850 spaces, an overflow lot with 98 spaces and a third lot with 166 spaces, located under the I-5 Freeway and leased from the State of Oregon.

Planned expansions to the Convention Center will replace the main lot with a building that includes two levels of parking with space for about 1,250 vehicles. In FY 1999 the Convention Center generated revenues of about \$13.0 million, including parking revenue of \$665,000.



Since its opening in 1990, the Convention Center's parking operations have been contracted to City Center Parking, a locally owned parking firm that operates over 100 lots in the Portland area. In April 1999 MERC extended the firm's contract through

June 30, 2000. The firm received \$42,800 to operate the Convention Center's parking facilities in FY 1999.



**Objectives, Scope
and Methodology**

The objective of our review was to evaluate and test the internal controls over cash collected by parking lot contractors at the Expo Center and Convention Center to ensure that cash is:

- adequately safeguarded to prevent loss through theft or mishandling
- accurately recorded and reported in MERC and Metro financial records.

This work was part of our annual audit plan to evaluate and test controls over cash collection activities identified in our October 1998 report, *Survey of Controls over Cash Receipts at Remote Locations*. Good internal controls are essential for an organization to achieve full accountability for its resources. They also facilitate achieving management objectives by serving as checks and balances against undesired actions. To ensure that internal controls remain effective, they need to be evaluated periodically. To provide a basis for auditors and others to use in making these evaluations, certain standards are generally recognized and used to evaluate programs and activities. The standards used in this audit are contained in Appendix I.

To accomplish our objective we:

- reviewed Metro policies relating to parking operations
- reviewed the MERC, Expo Center and Convention Center Business Plans

- interviewed MERC, Expo Center and Convention Center officials to determine their policies, procedures and practices for managing and monitoring their parking operations
- reviewed contracts MERC has with its parking contractors
- interviewed contractor personnel, reviewed their documentation and deposit preparation practices and observed actual parking practices
- observed how cash is safeguarded until it is deposited
- traced a selected sample of deposits through contractor records, bank statements and Metro accounting records
- identified and obtained audit reports relating to cash controls and parking operations from other governmental jurisdictions to determine typical parking lot management issues
- discussed revenue controls with two parking consultants
- considered relevant internal control standards.

Our audit was made in accordance with generally accepted government auditing standards. Fieldwork was conducted from April through August 1999.

Controls for Preventing Theft Are Not Adequate

Overview One aspect of internal controls involves ensuring that all parking revenue is accounted for – that is, making sure that revenue cannot be stolen as it is being received by parking attendants or supervisors. The controls at the Expo Center and the Convention Center are not adequate to do so. Equally significant, the general breakdown in controls makes it impossible to detect the extent to which theft might be occurring. While we cannot say with certainty that revenue is being lost, parking contractor officials acknowledge that there is a high risk that theft is occurring.

Parking Industry Is Prone to Theft The parking industry has a high potential for theft of revenue. Attendants handle a great deal of cash and often work for near minimum wage – a situation ripe for theft and a condition of major concern in the parking industry.

Controlling this risk depends on adequately documenting every transaction, thereby providing a way to audit receipts without having to rely on attendants' honesty. To control parking revenue, auditable documentation is needed on the number of vehicles paying, the number of vehicles not paying (exempt),¹ and the total number of vehicles entering the lot. The number of paying vehicles plus the number of exempt vehicles should equal the total vehicles, and the number paying times the entry fee should equal the cash on hand. Each day, someone independent of the contractor should ensure that these numbers reconcile.

¹ At the Expo Center and the Convention Center, exempt vehicles include security, emergency, and delivery vehicles; exhibitors with passes; and "turnarounds" (persons who enter mistakenly).

Systems like those at the Expo Center and the Convention Center are particularly at risk because they lack certain equipment that helps keep elements of this count as accurate as possible. More specifically, they lack the following:

- automatic dispensers for delivering tickets to parking patrons. Tickets document the number of people who pay to park, and automatic dispensers make it more difficult to alter the actual count.
- lift gates with counters to document the total number of vehicles entering and leaving the lot. The Expo Center and Convention Center lots use loop counters, which are buried electrical wires that cause a counter to trip when metal passes by. Loop counters provide less reliable results and may be off in the count by as much as five percent.

In the parking industry, parking lots without lift gates and automatic ticket dispensers are referred to as "uncontrolled" because heavy reliance is placed on the honesty of parking attendants to document each transaction. Both the Expo Center and the Convention Center are uncontrolled lots, placing an even higher importance on the adequacy of internal controls.

Systems Are Vulnerable at Both Locations

We looked for the presence of an effective internal control system at both locations. More specifically, we looked at 12 separate controls related to control of receipts, supervision and monitoring, and detecting theft (see table below). At the Convention Center, none of these controls are adequately in place. At the Expo Center, some controls are adequate, but still not enough to sufficiently protect against theft.

SUMMARY OF EXPO CENTER AND CONVENTION CENTER CONTROLS		
	<u>Expo Center</u>	<u>Convention Center</u>
Controls Over Receipts		
Payers documented? (tickets)	Yes	No
Exempt adequately documented?	No	No
Total count adequately documented?	No	No
Attendant duties segregated?	Yes	No
Supervision/Monitoring		
Person designated to supervise?	Yes	No
Tickets issued to contractor?	Yes	No
Deposit reconciled to tickets/passes?	Yes	No
Tickets, passes, exempt reconciled to total vehicle count?	No	No
MERC person reads counters?	Yes	No ¹
Contractor documentation reviewed?	Yes	No
Theft Detection		
Lot audits?	No	No
Attendant surveillance?	No	No

¹ MERC's Department of Special Services (Security) reads the Convention Center counters. However, the readings cannot be used to verify the total vehicle count reported by the contractor because they are not made when attendants begin and end their shifts.

Exposure to Loss Is Greater at the Convention Center

Controls over receipts at the Convention Center's parking operations are totally inadequate. More specifically:

- Tickets are not used. As a result, there is no documentation to show how many vehicles paid.
- Exempt vehicles leave nothing to prove their exemption. Attendants simply put a hash mark or a license plate number on a log sheet.
- The system relies on loop counters for total vehicle counts. These counters are inherently inaccurate and easily manipulated.
- Documents prepared by attendants are often incomplete. For example, when a turnaround occurs, the parking company's policy calls for documenting the make of vehicle and the reason for the turnaround. Attendants do not do this. In addition, data on the documents they prepare is often difficult or impossible to read.
- Attendants must share a cash box, making it impossible to determine how much each attendant collected.
- From the time receipts are collected until deposits are prepared, the on-site supervisor is the only one who controls receipts and the paperwork that documents them. The absence of a segregation of duties increases vulnerability to theft.

City Center Parking's management acknowledges that receipts are highly vulnerable to theft. For example, they said attendants can easily steal by collecting a parking fee and then logging a hash mark or license plate number as though the vehicle were exempt.

Supervisory and monitoring controls are also inadequate. In fact, the contractor operates virtually independent of MERC and Convention Center oversight. The Convention Center does not have a basic system to supervise and monitor its parking contractor, and the few procedures in place are not followed or are too sporadic to be effective. For example:

- The Convention Center's Manager told us that MERC security staff are to read the vehicle counters twice each day and send their counter readings to MERC's fiscal officer for reconciliation with parking revenue. We found, however, that the readings are often made only once a day, are not made to coincide with the beginning or ending of attendant shifts and are simply filed in the security office.

- Contractor employees, not MERC or Convention Center staff, read the vehicle counters at the beginning and end of each shift. An attendant or supervisor can easily log a false count and keep the corresponding parking fees.
- Convention Center staff do not compare the hours attendants are scheduled to work to the actual hours billed. The event coordinator who schedules the attendants told us that the Convention Center's manager asked him to review the labor hours charged for about a three-month period about three years ago, but that was the last time he reviewed the billings.

Expo Center's Controls Are Better but Still Insufficient

Compared to the Convention Center, the Expo Center has a better system to manage and control the collection of its parking revenues. For example, most transactions are documented, and a designated Expo Center person interacts daily with the contractor to supervise and monitor the collection of revenues. However, several controls need to be improved to minimize the opportunity for theft. Specifically:

- Develop a better way to document the number of exempt vehicles entering the parking lot. Currently, attendants put a hash mark on their log sheet to document that an exempt vehicle has entered the lot. This practice relies completely on the attendant and provides no auditable documentation to prove that a vehicle was in fact exempt from paying.
- Improve accuracy of vehicle counts. Besides being inherently inaccurate, loop counters are sometimes tripped by cross traffic or by vehicles inappropriately leaving through the main gate.
- Expand reconciliations performed by the Expo Center's Administrative Secretary (the person designated to supervise and monitor the contractor's activities) to include exempt vehicles and the total vehicle count. At the time of our fieldwork, the Administrative Secretary was only reconciling tickets and passes sold to the amount of cash collected. He was not comparing the number of tickets, passes and exempt vehicles to the total count shown by the vehicle counters. This will help detect possible skimming.

At Both Locations, Audits and Surveillance Are Not in Place

To help detect theft, two other internal controls need to be in place – audits of the lots and periodic surveillance of attendants. Both contractors agreed to perform these observations and audits under the terms of their contracts, but they are not doing so. Expo

Center and Convention Center managers have not enforced the requirements.

As part of its contract at the Expo Center, Ace Parking stated the following:

“Control of revenue is where Ace Parking has and will be of great assistance to you [MERC]. Eliminating employee pilferage, enforcing security precautions, ensuring the correct handling of transactions and having well-trained employees are areas to which we pay strict attention. When you have an employee making \$6 or \$7 per hour and handling cash, the temptation to manipulate that cash is very strong. . . .

“To preclude any attendant from accepting a parking fee without issuing a ticket, we periodically do one of the following:

- A. Position a person in an inconspicuous area, so as to visibly see that a ticket is being given for money received.
- B. Hire “secret parkers” to go into the lot during show hours.

Physically check vehicles in the lot for displayed tickets...”

As part of its contract at the Convention Center, City Center Parking said it would make on-site audits. The contract stated that City Center Parking would use its team of auditors to perform on-site audits because “there is no greater deterrent to an employees [sic] skimming than frequent on-site audits.”

Despite these contractual requirements to audit, neither Ace Parking nor City Center Parking is making such audits.

- Ace Parking’s Resident Manager, who is stationed at the Portland airport and responsible for the Expo Center’s parking operations, told us that Ace does not make lot audits or observe their attendants at the Expo Center. He said that because some patrons will not put the ticket on their dashboard, inspecting dashboards is not an effective way to determine whether attendants are issuing tickets. He did acknowledge that this practice would have a deterrent effect on attendants who might be inclined to keep a fee without issuing a ticket.

- City Center Parking's Vice President in charge of auditing told us that lot audits and attendant surveillances are not being done at the Convention Center because it is impossible to audit given the lack of control over exempt vehicles.

Each of these contractors has a point and we agree that exempt vehicles need to be better documented. However, lot audits can still be made in spite of a few patrons not putting tickets on their dash. Surveillance of attendants is also essential.

MERC Has Not Followed Up Prior Recommendations for Better Monitoring of Contractors

Our audit is not the first to point out such problems. Two prior audits, both done by an outside consulting firm (KPMG Peat Marwick), recommended in 1990 and 1992 that MERC better monitor its contractors involved in collecting cash, including parking fees. The 1992 report specifically recommended testing the accuracy of City Center Parking's parking reports. It stated, "MERC has apparently not performed independent tests of the accuracy of parking activities since 1985. We believe that periodic verification of the concessionaire's reported data is essential to assure that MERC is receiving the revenue to which it is entitled."

MERC agreed with the recommendations but has not followed them. Although MERC agreed to test the accuracy of City Center Parking's parking reports and audit vehicle counts, these tests and audits are not being done at either the Expo Center or the Convention Center.

Alternatives Are Available to Better Control Revenue

Controlled parking lots have features that make attendant stealing more difficult. The use of lift gates and ticket dispensers coupled with computer equipment to track the number and type of incoming vehicles makes it difficult for attendants to steal receipts. In addition, these systems can be used in conjunction with disposable passes with magnetic strips that can be programmed to be valid for specific days and times. Such passes can eliminate the problem of documenting many exempt vehicles.

Furthermore, these systems can be set up so that patrons pay on the way out and possibly pay on an hourly basis. This approach can conceivably increase revenue. In addition, Ace Parking's Resident Manager told us that lift gates do not have to slow up

vehicles entering a lot because studies have shown that it only takes six seconds for a vehicle to enter and obtain a ticket.

The larger the lot, the more cost-effective it is to install revenue control equipment. One consultant told us that for about \$15,000, a treadle counter and loop system can be installed and connected to a computer that will do a lot of accounting and auditing. The treadle counter is a rubber coated wire that is placed on the road to count vehicles. It can be used to provide an independent check on the loop counter.

Conclusions and Recommendations

MERC needs to view parking lot operations as an integral part of operating the Expo Center and Convention Center. Between the two facilities, parking operations are nearly a \$2 million dollar a year business that needs to be managed and supervised in a professional way. This level of business requires establishing effective internal controls over revenues and requires management commitment, planning and follow through.

Considering the addition of a new exhibit hall at the Expo Center and the expansion of the Convention Center and its parking lot, now is the appropriate time to determine the types of controls needed over parking receipts at both locations. The existing uncontrolled approaches have had the advantage of low cost to operate, but the disadvantage of high risk of theft without detection. The future operations at the Expo Center and the Convention Center will require more sophisticated approaches to handle backlogs of traffic consistent with adequate revenue control. These are complex issues that require experienced professionals to help design cost effective solutions.

Accordingly, we recommend that MERC hire a consultant to help develop appropriate revenue controls for the new Convention Center parking facility and to evaluate the need for more sophisticated controls at the Expo Center. The consultant's evaluation should consider lift gates, ticket dispensers, computerized tracking and accounting systems, and ways to account for exempt vehicles, such as the use of disposable passes.

In addition, we recommend that MERC:

- Establish a management system at the Convention Center to supervise and monitor its parking contractor to ensure that parking revenues are properly controlled. The system should include training a Convention Center person to supervise and monitor parking operations on a daily basis and establishing proper ways to document each transaction. The supervisor should reconcile parking receipts to tickets, passes, exempts and vehicles counts daily and assure that contractor documents are complete, accurate and legible. In addition, MERC or Convention Center persons should read vehicles counters at the beginning and end of each contractor shift and report the readings to the Convention Center's parking supervisor.
- Improve the accuracy of vehicle counts at both facilities by installing treadle counters to provide an independent check on the loop counters.
- Establish an auditable way to document exempt vehicles at the Expo Center and the Convention Center. To this end, everyone entering a lot should surrender something to demonstrate that they are exempt. For example, turnarounds and others could sign a log and those with passes could leave a perforated tear-off coupon.
- Require every vehicle to have either a ticket or pass displayed on their dashboard to demonstrate that they have paid or are exempt.
- Place signs at every entrance directing each patron to put their ticket or pass on their dashboard and print tickets and passes with this statement.
- Require parking contractors to make and document the lot audits and surveillances required by their contracts. These audits depend on having well trained persons making them, so MERC should evaluate the contractor capabilities to make the audits and assure that contractor supervisors are trained to recognize ways attendants can skim revenue.

In addition, we recommend that:

- Event Coordinators who schedule attendants periodically compare the actual labor hours billed by contractors to the hours scheduled.
- The Expo Center's Administrative Assistant reconcile daily receipts to the vehicle counters in addition to his reconciliation of receipts to tickets and passes.

Controls to Safeguard and Account for Parking Revenue

Overview A second aspect of internal controls involves ensuring that once parking revenues enter the system, they are properly safeguarded and deposited. This involves collecting cash from attendants, transporting it to where deposits are prepared, safeguarding the cash until armored car services pick it up, and making deposits in a timely manner. Procedures for collecting and transporting cash are adequate at the Expo Center, but not at the Convention Center. Both locations have adequate safes to keep revenue, but the Expo Center should have a separate safe for parking receipts rather than placing its receipts in the food concessionaire's safe. At both locations, the timeliness of deposits can be improved.

We also tested the MERC and Metro financial controls over parking deposits and found they adequately assure that deposits are accurately recorded and accounted for in MERC and Metro records.

The Expo Center Has Reasonable Procedures to Safeguard Revenue

We found Ace Parking is using reasonable procedures to safeguard receipts at the Expo Center. For example:

- The company's on-site supervisor picks up cash several times daily from attendants. The cash is carried in canvas zippered bags and taken to Ace's on-site office where it is counted and recorded on interim forms that make it easier to prepare the deposit at the end of the day.
- The cash is stored in a locked office that is accessible only through another locked door. No attendants are allowed in this office at any time.
- Deposits are always prepared at the end of each event day. Completed deposits are usually walked to the food concessionaire's office where they are kept in a safe until picked up by an armored car service. Concessionaire staff sign a form acknowledging receipt of the deposit. If concessionaire staff have already left for the day, the deposit is kept in a locked safe in Ace's office and given to the concessionaire the next day.

The one area in need of improvement involves the use of the concessionaire's safe. The manager of food concessions expressed concern about being responsible for Ace's deposits should any be lost or altered. Accordingly, the Expo Center's manager is planning to install a drop safe in the Expo Center office to receive parking deposits. We support this plan. Keeping parking receipt deposits in the food concessionaire's safe introduces unnecessary risk of loss and manipulation.

**Convention Center
Procedures to
Safeguard
Revenue Need to
be Improved**

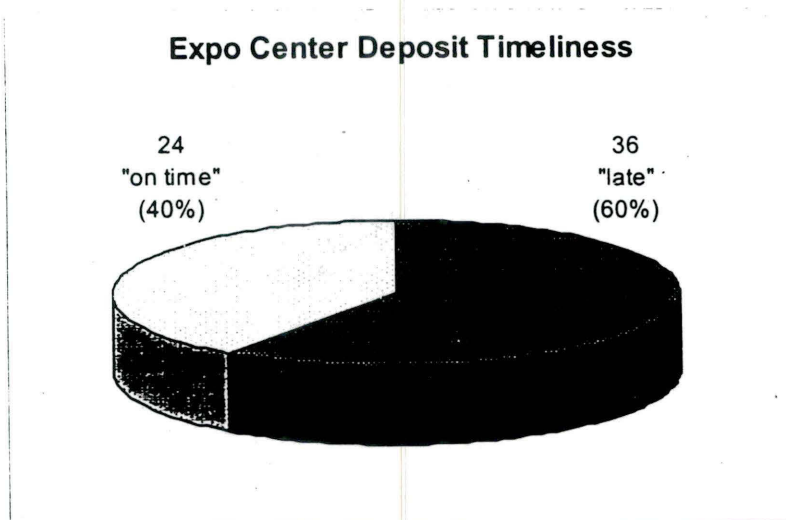
At the Convention Center, the procedures used by City Center Parking are not as strong. Here are the specific problems we found:

- The supervisor picks up cash from attendants only once a day, at the end of the shift. Doing so makes it easier for attendants to manipulate receipts to their advantage and requires more time at the end of the day to prepare a deposit.
- The supervisor puts the money in a paper bag and drives with it about a half mile to the Rose Garden where City Center Parking has an office. After a deposit is prepared, the supervisor again drives the half-mile to the Convention Center where he puts the deposit into a MERC drop safe. A parking company official said the company uses its Rose Garden Office to count and prepare deposits because the space once provided at the Convention Center presented problems with alarms, keys and after-hour access. However, the practice of transporting Convention Center parking receipts off-site increases the carrier's vulnerability to being robbed or to losing receipts.

**Deposits Can Be
More Timely at
Both Locations**

Timely deposits are a basic internal control over cash receipts. Depositing receipts promptly minimizes the time available for manipulation and possible theft. We found that Metro does not have a policy regarding the timeliness of deposits. Accordingly, we evaluated the time taken to make deposits to determine whether the time frame can be shortened. We found that deposits can be made more timely if they are prepared the day receipts are collected and are better coordinated with armored car services.

- At the Expo Center, we analyzed the 60 deposits made from January 1 through March 31, 1999, and found that 36 were made between 1 and 6 days later than they needed to be.²



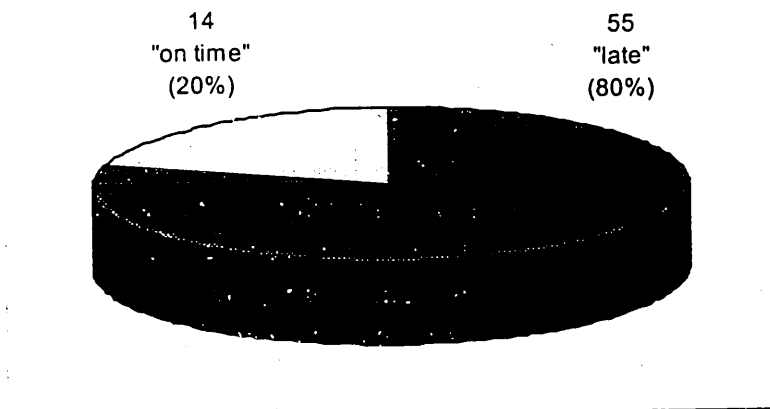
Even though the Expo Center's contractor prepares deposits daily (working late at night if necessary to get them completed), the deposits often are not picked up for several days. We found that neither MERC nor the Expo Center officials knew when armored car services were scheduled to pick up deposits at the Expo Center and that actual pickups are fewer than believed. In practice, deposits at the Expo Center are routinely picked up only once a week.

- At the Convention Center, we analyzed the 69 deposits made from January 1 through March 31, 1999, and found that 55 were made from 2 to 7 days later than they needed to be.³

² We based our calculation on the assumption that deposits could be picked up on Mondays, Thursdays and Saturdays. We believe scheduling pickups for three days a week is reasonable because, according to MERC's Acting Director of Fiscal Operations, the cost for this service is only \$15 per pickup.

³ This analysis assumed that City Center Parking would prepare deposits the day cash is collected and put the deposit in the MERC drop safe that night for the next scheduled armored car pickup.

Convention Center Deposit Timeliness



Two problems contribute to the lack of timely deposits. First, although City Center Parking's contract states that deposits will be placed daily into the Convention Center vault, deposits are not usually prepared the same day cash is collected and may not be prepared for several days. Second, until recently the contractor's supervisor did not know that deposits are picked up on Monday, Wednesday and Friday mornings.

Metro and MERC Properly Account for Parking Deposits

Metro and MERC internal financial controls to account for parking deposits are adequate to assure that deposits are recorded and accounted for properly. Once the parking contractors prepare deposits, the MERC and Metro employees who account for the deposits and reconcile deposits to the bank statements do not handle any cash. This shows a proper segregation of duties.

For the period January 1 through March 31, 1999, we traced all deposit slips prepared by ACE Parking and City Center Parking to their daily sales documents and to Metro bank statements. Most deposits were accurately recorded in MERC and Metro accounting records. Where minor errors were made, Metro's monthly reconciliations identified the errors and proper adjustments were made.

Conclusions and Recommendations

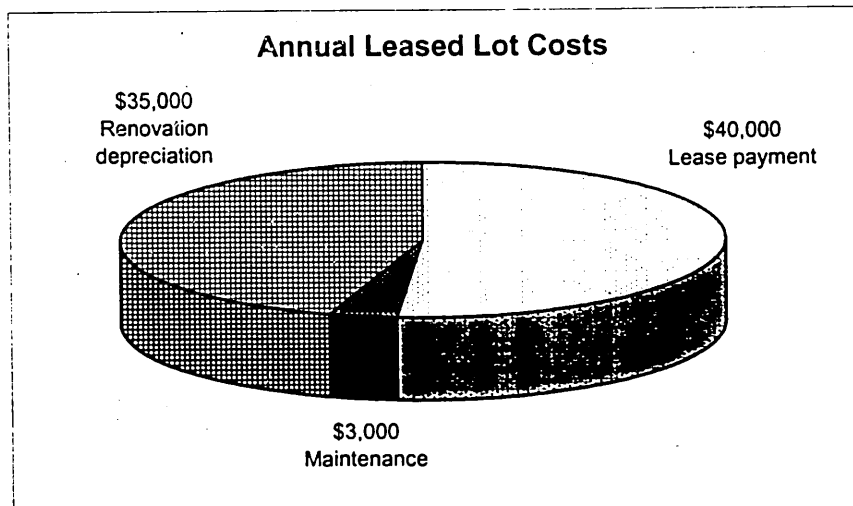
Both the Expo Center and the Convention Center can make improvements in their internal controls over the safeguarding and deposit of revenue. To bring about these improvements, we recommend that MERC do the following:

- Provide City Center Parking space within the Convention Center to count parking receipts, prepare deposits and provide a base for other supervisory duties.
- Issue a security pass to the City Center Parking supervisor so that he can have ready access to the MERC drop safe to make deposits after regular hours.
- Require City Center Parking to prepare deposits the day of an event and place them in the MERC drop safe that day.
- Establish armored car services at the Expo Center for Monday, Thursday and Saturday. The Expo Center personnel can call the armored service company to cancel pickups if they are not required for a given day.

Employees Should Pay for Parking at the Convention Center

Overview Under the I-5 freeway near the Oregon Convention Center, MERC leases a parking lot from the State of Oregon which MERC employees, Convention Center exhibitors and some concessionaire employees use for parking. Exhibitors pay to park in this lot; MERC and concessionaire employees do not. Not charging these employees is inconsistent with Metro policy and inequitable in that other employees in the vicinity have to pay to park. It also represents a parking subsidy, because MERC's costs to lease and operate the lot exceed revenue by about \$50,000 annually.

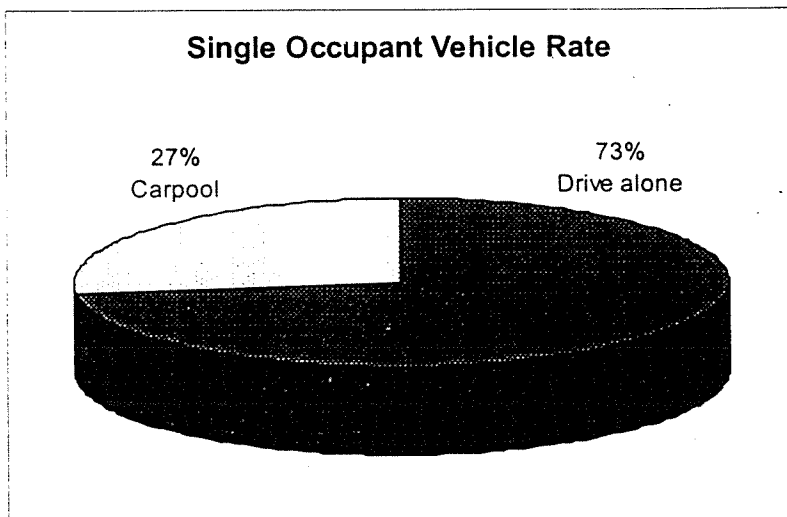
Leased Lot Operates at a Loss MERC leased the lot for 10 years beginning in September 1991. It currently pays about \$40,000 annually for the lease. MERC is also responsible for maintaining the lot at an estimated cost of \$3,000 annually. Furthermore, in 1992-93 MERC renovated the lot at a capital cost of about \$350,000, which depreciated over the 10-year lease period amounts to \$35,000 annually. Thus, annual costs attributable to the lot total about \$78,000.



The lot has 101 spaces for exhibitors and 65 for employees, with a fence separating the two areas. In fiscal year 1999, MERC derived about \$28,000 in income from parking fees paid by exhibitors. Compared with the estimated annual cost of \$78,000, this means that MERC is losing about \$50,000 a year to operate the lot.

**Subsidized Parking
Not Consistent
With Several
Aspects of Metro
Policy**

The Metro Council on July 1, 1999 adopted a parking policy for Metro facilities, including those managed by MERC. The policy states that "Parking lots and structures may be operated in an entrepreneurial manner that generates revenues for Metro and its facilities." The policy also states that "Metro may assist employees in gaining access to its regional facilities in a manner that promotes alternatives to the use of single occupancy motor vehicles."

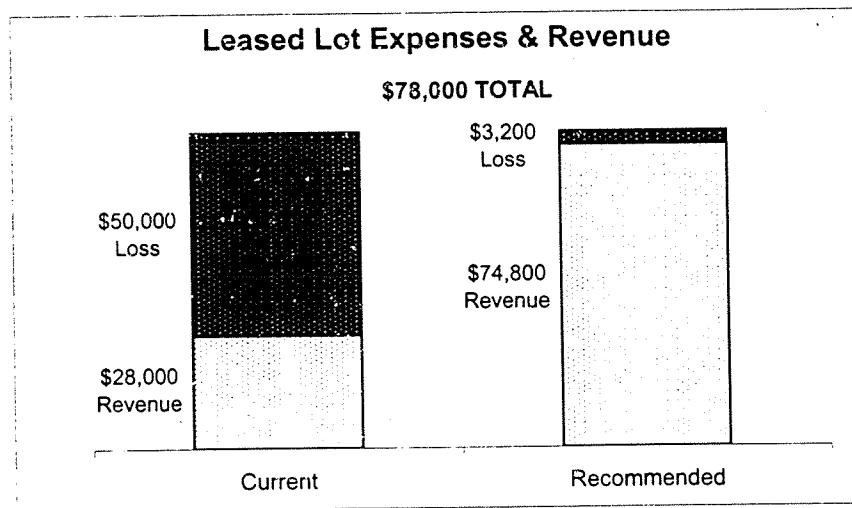


The practice of not charging MERC and concessionaire employees to park in the I-5 lot is inconsistent with this policy. It is not entrepreneurial, does not generate revenue or promote transportation alternatives, and actually subsidizes the use of single occupant motor vehicles. A recent Metro study, for example, shows that 73 percent of the employees who park in the lot drive alone.

Furthermore, charging employees is consistent with the prevailing practice in the surrounding vicinity. Since there is virtually no free parking near the Convention Center, employees of near-by businesses must pay to park in private lots or on the street in metered parking areas. This is true of employees at Metro Regional Center, the State office building, Bonneville Power Administration, Liberty Northwest Insurance and other businesses in the immediate area. Metro employees, for example, who work two blocks from the Convention Center at Metro Regional Center pay \$60 to \$69 per month to park in the garages located there.

In addition, the Convention Center's Business Plan for 1998 - 2001 states that a major goal of the Convention Center is to "Refine the operational structure to enhance financial stability, efficiency and entrepreneurial operations." One of the ways the Convention Center plans to meet this goal is to increase revenues by identifying and pursuing potential revenue sources. Charging employees to park is such a revenue source.

Charging MERC and concessionaire employees \$60 per month to park would increase revenues about \$3,900 per month or \$46,800 annually. This would reduce MERC's annual loss on the lot from \$50,000 to \$3,200.



Conclusions and Recommendations

Not charging employees and concessionaire staff to park in its leased lot is inconsistent with Metro policies for parking operations to be entrepreneurial, generate revenue and promote alternatives to employees using motor vehicles. The practice actually subsidizes the use of motor vehicles and is inequitable in that other employees in the immediate vicinity have to pay to park.

Accordingly, we recommend that:

- MERC charge employees a market-based monthly fee to park in its leased lot.

Appendix I – Standards Used To Evaluate Internal Controls

The following standards were adapted from a document issued by the Comptroller General of the United States to be followed by Federal Executive agencies in establishing and maintaining systems of internal control.⁴ The standards are generally applicable to all government organizations.

- General Standards**
- Reasonable Assurance - Internal control systems are to provide reasonable assurance that the objectives of the systems will be accomplished.
 - Supportive Attitude - Managers and employees are to maintain and demonstrate a positive and supportive attitude toward internal controls at all times.
 - Competent Personnel - Managers and employees are to have personal and professional integrity and are to maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal controls.
 - Control Objectives - Internal control objectives are to be identified or developed for each activity and are to be logical, applicable and reasonably complete.
 - Control Techniques - Internal control techniques are to be effective and efficient in accomplishing their internal control objectives.
- Specific Standards**
- Documentation - Internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for examination.
 - Recording of Transactions - Transactions and other significant events are to be promptly recorded and properly classified.
 - Execution of Transactions - Transactions and other significant events are to be authorized and executed only by persons acting within the scope of their authority.

⁴ Standards For Internal Controls In The Federal Government, United States General Accounting Office, 1983.

- Separation of Duties - Key duties and responsibilities in authorizing, processing, recording and reviewing transactions should be separated among individuals.
- Supervision - Qualified and continuous supervision is to be provided to ensure that internal control objectives are achieved.
- Access to and Accountability for Resources - Access to resources and records is to be limited to authorized individuals, and accountability for the custody and use of resources is to be assigned and maintained. Periodic comparison shall be made of the resources with the recorded accountability to determine whether the two agree. The frequency of the comparison shall be a function of the vulnerability of the asset.

Several of these standards are particularly relevant to this report and require further explanation.

Reasonable Assurance - The standard of reasonable assurance recognizes that the cost of internal control should not exceed the benefit derived. Reasonable assurance means attaining a satisfactory level of confidence after considering costs, benefits, and risks.

The required determinations call for judgement to be exercised. In exercising this judgement, managers need to identify:

- risks inherent in their operations
- criteria for determining low, medium and high risks
- acceptable levels of risk under varying circumstances.

Cost refers to the financial measure of resources consumed to accomplish a particular purpose.

Benefits include, for example, increasing the probability of detecting fraud, waste, error or abuse and preventing an improper activity.

Supportive Attitude - This standard requires managers and employees to be attentive to internal control matters and to take steps to promote the effectiveness of controls. Management needs

to initiate and foster a positive and supportive attitude toward internal controls by consistently making them a high priority.

A supportive attitude is revealed in the way an organization protects and uses resources, including providing systematic accountability, monitoring and reporting of its activities. Good internal control requires clear lines of authority and responsibility, appropriate reporting relationships and appropriate separation of authority.

Documentation - This standard requires written evidence of:

- all pertinent aspects of transactions
- internal control objectives and techniques and accountability systems.

The documented evidence must be:

- available and easily accessible for examination
- complete and accurate
- able to facilitate tracing the transaction and related information from before it occurs, while it is in process, to after it is completed
- useful to managers in controlling their operations and to auditors or others involved in analyzing operations.

Separation of Duties - To reduce the risk of error, waste or wrongful acts and to reduce the risk of their going undetected, no one individual should control all key aspects of a transaction or event. Rather, duties and responsibilities should be assigned to a number of individuals to ensure that effective checks and balances exist.

Response to the Report



METROPOLITAN EXPOSITION-RECREATION COMMISSION

September 16, 1999

Alexis Dow, CPA
Metro
600 NE Grand Avenue
Portland, OR 97232

RE: MERC Response to Parking Revenue Audit

Dear Ms. Dow:

I. Introduction

On behalf of MERC, I want to thank you and your staff for the time and effort you put into this parking audit. We appreciate suggestions which help MERC with its business and assist us in being better stewards of the Metro region's important regional facilities. I also want to thank you for allowing MERC staff the time to comment on your audit and meet with you prior to your meeting with me. This was very helpful and allowed our staff to better understand the issues raised in your audit.

II. Executive Summary of MERC Responses

We agree with the majority of your conclusions and recommendations. I have asked MERC staff to implement those recommendations on a fast track basis and report back to me on their status. Specifically, we agree that better controls are needed in our parking operations, and we will implement those controls as outlined in our Detailed Response to the Summary of Recommended Actions. In addition, the current OCC parking lot operation, as presently configured, is due to be completely eliminated as early as April 2000 due to construction, and be replaced by a new underground operation. This presents an excellent opportunity to implement the audit recommendations at the new operation.

While we concur wholeheartedly with the audit's conclusion and recommendation that better controls are needed for parking revenues and are prepared to implement those recommendations, we believe that the recommended changes in MERC's employee parking policy would be counter-productive to MERC's overall labor relations. In addition, MERC's current employee parking policy is similar to policies at other Metro owned facilities, such as the Oregon Zoo, the Metro parks and the Metro transfer stations. Nevertheless, based on your recommendation, I will ask the commission to review the employee parking issue during the coming year.

MERC Detailed Response to Summary of Recommendations

- *Designate a Convention Center employee to supervise and monitor parking operations*

MERC Response: We agree that a Convention Center employee should supervise and monitor parking operations. We will implement this recommendation by 9/30/99.

- *Establish proper ways to document each Convention Center parking transaction*

MERC Response: We already planned to implement documentation of each parking transaction in conjunction with the new underground garage that is to be part of the OCC expansion. We will be able to institute strong control procedures with automated equipment in the new garage. We will investigate alternative methods of documenting each parking transaction at the existing lot and adopt ones suitable for our operation given the anticipated closure date of April 2000.

- *Make appropriate reconciliations of Convention Center parking deposits to supporting documentation*

MERC Response: We will institute a new level of checking the deposit against the parking numbers. Procedure to be implemented by 9/30/99. This checking will consider number of tickets issued, number of parking passes or otherwise exempt vehicles, and other reconciling items. Our newly designated parking supervisor will perform this procedure.

- *Assure that the Convention Center contractor documents are complete, accurate and legible*

MERC Response: We will contact the contractor to improve the completeness, legibility and accuracy of documents related to the operation of the MERC managed lots. Such improvements will facilitate our ability to oversee parking contractor operations. To be implemented by 9/30/99.

- *Have a MERC person read vehicle counters at appropriate times and report the reading to the Convention Center's parking supervisor*

MERC Response: We will have security do this at the beginning and end of each parking attendant's shift. This procedure will begin by 9/30/99.

- *Establish an auditable way to document vehicles that are exempt from paying at the Expo Center and the Convention Center*

MERC Response: We agree that a more accurate system of tracking exempt vehicles should be developed during the times when we are charging for parking. We will begin reviewing methods to begin these procedures at once. It is our intention to implement the procedures as soon as they are established and can be coordinated with our tenants.

- *Require every vehicle to have either a ticket or pass displayed on their dashboard*

MERC Response: We agree. We will give each incoming vehicle a numbered ticket or pass and require it to be displayed while parking in the lot.

- *Place signs at every entrance directing each patron to display their ticket or pass on their dashboard and print this statement on all tickets and passes*

MERC Response: We agree. We will do this. We will implement this procedure by 9/30/99.

- *Require parking contractors to make and document the lot audit and attendant surveillances required by their contract*

MERC Response: We agree. We will do this. We will begin implementing this contract requirement as soon as we can coordinate it with our contractors.

- *Provide City Center Parking an office within the Convention Center to count parking receipts, prepare deposits and provide a base for other supervisory duties*

MERC Response: This is not feasible in the existing building. We will provide room in the OCC expansion. Alternatively, we will have security escort the parking supervisor to a secure location to count the cash and prepare the deposit. We will implement this procedure by 9/30/99.

- *Require City Center Parking to prepare deposits the day of an event and place them in the MERC drop safe that day*

MERC Response: We agree. We will require daily deposits and will implement this procedure by 9/30/99.

- *Establish armored car services at the Expo Center for Monday, Thursday and Saturday*

MERC Response: We agree. We will coordinate the armored car pickups with other cash pickups. We will implement this service as soon as an agreement can be reached with the appropriate armored car service.

- *To enhance revenue and be more consistent with Metro policy, MERC should charge employees a market-based monthly fee to park in its leased lot*

MERC Response: We disagree with this recommendation. The only Metro facility which charges employees for parking is Metro Regional Center. All other Metro facilities do not charge for employee parking, including the Oregon Zoo, the Metro parks and Metro's transfer stations. As a result, we do not believe that MERC's parking policy is inconsistent with overall existing Metro parking philosophy and practice. This has been an OCC policy since it was opened in 1990, and we believe, may be a mandatory topic of bargaining with our unionized staff. MERC has spent a substantial amount of time and effort in recent years engaged in a process of trying to foster better relationships with its unionized staff. Seeking midterm changes, unilaterally or through re-opened negotiations, would be counter-productive at this point. Note also that MERC employees are not permitted to park in the main, for-pay lot, and parking is only permitted while employees are working. Nevertheless, in light of your comments, we will, as indicated in our general response to the Executive Summary, review the issue during the coming year with regard to MERC policy on the issue.

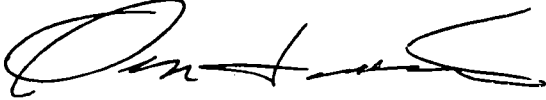
- *Hire a consultant to help develop appropriate revenue controls for the new Convention Center parking facility and to evaluate the need for more sophisticated controls at the Expo Center*

MERC Response: We agree that appropriate revenue controls should be developed for the new OCC underground parking facility, and that the need for more sophisticated controls at the Expo Center should be examined. We will consider the option of hiring a consultant as we move through the expansion of the OCC and further development at Expo.

III. Conclusion

Once again, I want to thank you and your staff for the hard work you put into this project. We find the majority of your recommendations to be well taken, and we intend to implement them by the end of this month. I will report back to you at that time with the status of each of your recommendations.

Sincerely,



Ben Middleton
MERC Chair

cc: MERC Commissioners
MERC General Manager
MERC Management Team



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Metro Auditor Report Evaluation Form

**Fax... Write... Call...
Help Us Serve Metro Better**

Our mission at the Office of the Metro Auditor is to assist and advise Metro in achieving honest, efficient management and full accountability to the public. We strive to provide Metro with accurate information, unbiased analysis and objective recommendations on how best to use public resources in support of the region's well-being.

Your feedback helps us do a better job. If you would please take a few minutes to fill out the following information for us, it will help us assess and improve our work.



Name of Audit Report: _____

Please rate the following elements of this report by checking the appropriate box.

	Too Little	Just Right	Too Much
Background Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Details	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Length of Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarity of Writing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential Impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Suggestions for our report format: _____

Suggestions for future studies: _____

Other comments, ideas, thoughts: _____

Name (optional): _____

Thanks for taking the time to help us.

Fax: 503.797.1831
Mail: Metro Auditor, 600 NE Grand Avenue, Portland, OR 97232-2736
Call: Alexis Dow, CPA, Metro Auditor, 503.797.1891
Email: dowa@metro.dst.or.us

Agenda Item Number 7.1

**Ordinance No. 99-814, For the Purpose of Renewing the Solid Waste License for Operation of the
Wastech Materials Recovery Facility.**

Second Reading

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF TRANSFERRING THE) ORDINANCE NO. 99-815
SOLID WASTE FRANCHISE FOR OPERATION)
OF THE RECYCLE AMERICA) Introduced by Mike Burton,
RELOAD/MATERIALS RECOVERY FACILITY) Executive Officer
FROM WASTE MANAGEMENT OF OREGON,)
INC. TO USA WASTE OF OREGON, INC.

WHEREAS, Section 5.01.030 of the Metro Code requires a Metro franchise for any person to own and operate a solid waste processing facility, transfer station, or resource recovery facility; and

WHEREAS, the Recycle America facility was granted a franchise by the Metro Council in November of 1998; and

WHEREAS, USA Waste of Oregon, Inc. is acquiring the Recycle America solid waste facility from Waste Management of Oregon, Inc.; and

WHEREAS, Section 5.01.090 of the Metro Code allows for the transfer of a franchise if an application has been filed in accordance with Metro Code Section 5.01.060; and

WHEREAS, USA Waste of Oregon, Inc. has filed an application in accordance with Section 5.01.060; and

WHEREAS, the applicant has met all the requirements set forth in Section 5.01.060; and

WHEREAS, Section 5.01.090 specifies that the Council shall not unreasonably deny an application for transfer of a franchise; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

USA Waste of Oregon, Inc. shall be granted a Solid Waste Franchise in a form substantially similar to the attached "Exhibit A" to operate the Recycle America facility.

ADOPTED by the Metro Council this ____ day of _____, 1999.

Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

SOLID WASTE FACILITY FRANCHISE

Number F-001-99

Issued by

Metro

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

<p>FRANCHISEE:</p> <p>USA of Waste Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 (503) 331-2221</p>	<p>FACILITY NAME AND LOCATION:</p> <p>Recycle America 869 NW Eastwind Drive Troutdale, Oregon 97060</p>
<p>OPERATOR:</p> <p>USA Waste of Oregon, Inc. 7227 NE 55th Avenue Portland, Oregon 97218 (503) 331-2221</p>	<p>PROPERTY OWNER:</p> <p>TDK Corp. P.O. Box 566 Troutdale, Oregon 97060 (503) 666-2896</p>

This franchise is granted to the franchisee named above and is not transferable. Subject to the conditions stated in this franchise document, the franchisee is authorized to operate and maintain a solid waste facility, and to accept the solid wastes and perform the activities authorized herein.

Franchise begins: December 31, 1998
 (Replaces franchise F-001-98)

Expiration: December 31, 2003

Signed:

Acceptance & Acknowledgement of Receipt: .

 Signature

 Signature of Franchisee

Mike Burton, Metro Executive Officer

 Print name and title

 Print name and title

 Date

 Date

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1.0 ISSUANCE

- 1.1 Franchisee** USA of Waste Oregon, Inc.
869 NW Eastwind Drive
Troutdale, OR 97060 (503) 667-5264
- 1.2 Contact** Adam Winston, District Manager
- 1.3 Franchise Number** When referring to this franchise, please cite:
Metro Solid Waste Facility Franchise Number F-001-98
- 1.4 Term** Franchise effective: December 31, 1998
Franchise expires: December 31, 2003
- 1.5 Facility name and mailing address** Recycle America
869 NW Eastwind Drive
Troutdale, OR 97060 (503) 667-5264
- 1.6 Operator** Waste Management
7227 NE 55th Avenue
Portland, OR 97218 (503) 331-2221
- 1.7 Facility legal description** Charles Fezett Donation Land Claim lying within Section 27,
Township 1N, Range 3E, Willamette Meridian
Multnomah County, State of Oregon
- 1.8 Facility owner** TDK Corp.
P.O. Box 566
Troutdale, OR 97060 (503) 666-2896
- 1.9 Permission to operate** Franchisee warrants that it has obtained the property owner's
consent to operate the facility as specified in this franchise.

2.0 CONDITIONS AND DISCLAIMERS

- 2.1 **Guarantees** The granting of this franchise shall not vest any right or privilege in the franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise.
- 2.2 **Non-exclusive franchise** The granting of this franchise shall not in any way limit Metro from granting other solid waste franchises within the District.
- 2.3 **Property rights** The granting of this franchise does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.
- 2.4 **No recourse** The franchisee shall have no recourse whatsoever against the District or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event the franchise or any part thereof is determined to be invalid.
- 2.5 **Release of liability** Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this franchise or on account of the construction, maintenance, or operation of the facility pursuant to this franchise.
- 2.6 **Binding nature** The conditions of this franchise are binding on the franchisee. The franchisee is liable for all acts and omissions of the franchisee's contractors and agents.
- 2.7 **Waivers** To be effective, a waiver of any terms or conditions of this Franchise must be in writing and signed by the Metro Executive Officer.
- 2.8 **Effect of waiver** Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 2.9 **Choice of law** The Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.10 **Enforceability** If any provision of this Franchise is determined by a court of

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competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.

- 2.11 Franchise not a waiver** Nothing in this franchise shall be construed as relieving any owner, operator, or franchisee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.
- 2.12 Franchise not limiting** Nothing in this franchise is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.
- 2.13 Inadvertent composting** Nothing in this franchise is intended to authorize or establish standards or otherwise approve of inadvertent composting resulting from the storage of organic materials.
- 2.14 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0 AUTHORIZATIONS

- 3.1 Purpose** This section of the franchise describes the wastes that the franchisee is authorized to accept at the facility, and the activities the franchisee is authorized to perform at the facility.
- 3.2 General conditions on solid wastes** The franchisee is authorized to accept at the facility only the solid wastes described in this section. The franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The franchisee is authorized to perform at the facility only those activities that are described in this section.
- 3.4 Putrescible waste** The franchisee is authorized to accept putrescible waste for the purpose of delivering said putrescible waste to a disposal site authorized by this franchise; or for the purpose of transfer to a solid waste facility or disposal site designated by Metro Code Chapter 5.05 to accept putrescible waste.

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- 3.5 Non-putrescible waste** The franchisee is authorized to accept "dry" non-putrescible solid wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites, for the purpose of material recovery.
- 3.6 Source-separated recyclables** The franchisee is authorized to accept source-separated recyclable materials for purposes of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for marketing.
- 3.7 Inert materials** The franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
- 3.8 Source-separated yard debris** The franchisee is authorized to accept source-separated yard debris for transfer to a yard debris facility, a DEQ-permitted composting facility or other DEQ-permitted processing facility. The franchisee shall keep source-separated yard debris separate from other solid waste at the facility and shall provide records showing that source-separated yard debris is delivered to a composting or processing facility, and not disposed of.
- 3.9 Source-separated organic materials** The franchisee is authorized to accept organic materials for the purpose of transfer to a DEQ-permitted composting facility or other DEQ-permitted processing facility. Organic materials may be accepted only if they (a) have been separated from other solid waste by the generator prior to delivery to the facility, and (b) are suitable for controlled biological decomposition such as for making compost. The franchisee shall keep source-separated organic material separate from other solid waste at the facility and shall provide records showing that the source-separated organic materials are delivered to a composting or processing facility, and not disposed of.
- 3.10 Contaminated soils** The franchisee is authorized to accept contaminated soil for transfer to a DEQ permitted disposal site that is authorized to accept contaminated soil.
- 3.11 Special wastes and other wastes** The franchisee is authorized to accept various special wastes for transfer as authorized by DEQ Disposal Site Permit Number 459 including but not limited to filter cake, zircon sand and other sandblasting media, dewatered industrial sludge residue, waste from pollution control devices, charcoal air/water filters, ceramic

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castings, metal shavings, and refractory brick and other wastes with similar characteristics; and other wastes such as street sweepings, catch basin residue, and similar clean-up wastes.

- 3.12 Direct haul** The franchisee is authorized to deliver putrescible waste directly from the facility to Metro's contract operator for disposal of putrescible waste, subject to any conditions, limitations or performance standards specified in this franchise document, in Metro Code or in administrative procedures adopted pursuant to Metro Code Chapter 5.01.
- 3.13 Incidental recovery** The franchisee is authorized to perform "low-level" material recovery on putrescible waste, provided that these material recovery efforts are incidental to the activity of transferring the putrescible waste, and are limited to the gleaning of easily-extractable recyclable or reusable materials from the waste.
- 3.14 Deliveries not limited** This franchise does not limit the quantity of authorized solid wastes or other materials that may be accepted at the facility.

4.0 LIMITATIONS AND PROHIBITIONS

- 4.1 Purpose** This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
- 4.2 Limit on disposal** The franchisee shall dispose of no more than 50,000 tons of putrescible waste and processing residual, as a combined total, within each calendar year.
- 4.3 Prohibited waste** The franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the franchisee's DEQ Disposal Site Permit.
- 4.4 Material recovery required** The franchisee shall perform material recovery on "dry" non-putrescible wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites, or deliver said "dry" non-putrescible wastes to a solid waste facility whose primary purpose is to recover useful materials from

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solid waste.

- 4.5 Prohibition on mixing** The franchisee shall not mix any source-separated recyclable materials, yard debris or organic materials brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling.
- 4.6 No disposal of recyclable materials** Source-separated recyclable materials, yard debris or organic materials accepted at the facility may not be disposed of by landfilling or incineration.
- 4.7 Origin of putrescible waste** The franchisee shall accept putrescible waste that originates within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste.
- 4.8 Limits not exclusive** Nothing in this section of the franchise shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0 OPERATING CONDITIONS

- 5.1 Purpose** This section of the franchise describes criteria and standards for the operation of the facility.
- 5.2 Qualified Operator** The franchisee shall provide an operating staff qualified to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01.
- 5.3 Enclosed operations** All handling, processing, compaction or other forms of managing putrescible wastes shall occur inside facility buildings.
- 5.4 Operating plan** The franchisee shall establish and follow procedures for accepting, managing and processing loads of solid waste received at the facility. Such procedures must be in writing and in a location where facility personnel and the Executive Officer can readily reference them. The franchisee may, from time to time, modify such procedures. The procedures shall include at least the

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following:

- a. Methods of notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility;
- b. Methods of inspecting incoming loads for the presence of prohibited or unauthorized waste;
- c. Methods for managing and transporting for disposal at an authorized disposal site each of the prohibited or unauthorized wastes if they are discovered at the facility;
- d. Objective criteria for accepting or rejecting loads.

- 5.5 Managing prohibited wastes** Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with procedures established in the Operating Plan.
- 5.6 Managing authorized wastes** All authorized solid wastes received at the facility must, within 24-hours from receipt, be either (a) processed, (b) appropriately stored, or (c) properly disposed of.
- 5.7 Storage** Stored materials and solid wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.
- 5.8 Litter and airborne debris** The franchisee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The franchisee shall:
- a. Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
 - b. Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.
 - c. Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris.
- 5.9 Odor** The franchisee shall operate the facility in a manner that is not conducive to the generation of odors. The franchisee shall:
- a. Clean the areas and equipment that come into contact with solid waste on a regular basis.
 - b. Establish and follow procedures for minimizing odor at the

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facility. Such procedures must be in writing and in a location

where facility personnel and Metro inspectors can readily reference them. The franchisee may modify such procedures from time to time. The procedures shall include at least the following: (1) methods that will be used to minimize, manage, and monitor all odors of any derivation including malodorous loads received at the facility, (2) procedures for receiving and recording odor complaints, and (3) procedures for immediately investigating any odor complaints in order to determine the cause of odor emissions, and promptly remedying any odor problem at the facility.

- 5.10 Vectors** The franchisee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.11 Noise** The franchisee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.
- 5.12 Water quality** The franchisee shall:
- a. Operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation.
 - b. Dispose of contaminated water and sanitary sewage generated onsite in a manner complying with local, state, and federal laws and regulations.
- 5.13 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.14 Signage** The franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- a. Name of the facility
 - b. Address of the facility;
 - c. Emergency telephone number for the facility;
 - d. Operating hours during which the facility is open for the receipt of authorized waste;
 - e. Fees and charges;
 - f. Metro's name and telephone number 797-1650; and

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g. A list of all authorized and prohibited wastes.

- 5.15 Complaints** The franchisee shall respond to all written complaints on nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If franchisee receives a complaint, franchisee shall:
- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of unsuccessful attempts; and
 - b. Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year and shall be available for inspection by Metro.
- 5.16 Access to franchise document** The franchisee shall maintain a copy of this Metro Solid Waste Facility Franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0 PERFORMANCE STANDARDS FOR DIRECT HAULING

- 6.1 Purpose** This section of the franchise describes the standards with which the franchisee must comply for putrescible waste that is delivered directly from the facility to Metro's contract operator for disposal of putrescible waste.
- 6.2 Compliance with Arlington regulations** All solid waste transported through the city limits of Arlington, Oregon, shall be subject to any routing, timing, parking or other operational requirements established by the city of Arlington.
- 6.3 Compliance with other regulations** All equipment shall fulfill all federal, state, and local regulations. In addition, the use of exhaust brakes shall be prohibited altogether.

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- 6.4 Transport in sealed containers** Pursuant to the authority granted as a variance to Metro Code Section 5.01.127(c)(3) by the Metro Council, the franchisee may conduct a six-month test of the use of tarped containers to transport authorized waste. Thereafter, unless the Franchisee is granted an additional variance or unless the Metro Council provides otherwise, all solid waste shall be transported in completely sealed containers with leak-proof design considered wind-, water-, and odor-tight, and shall be capable of withstanding arduous, heavy-duty, repetitive service associated with the long-haul transport of solid waste.
- 6.5 Average payloads** The average weight of solid waste payloads transported during each calendar month shall be no less than 25 tons.
- 6.6 Limits on staging areas** Any staging areas used shall be located in areas outside or excluded from the Columbia River Gorge National Scenic Area (NSA).
- 6.7 Limits on stopping points** All transport vehicles shall use only designated stopping points outside the Columbia River Gorge NSA except in cases of emergency.
- 6.8 Limits on use of public facilities** Use of rest areas, turnouts, scenic vista points, and state parks shall be limited to cases of emergency.
- 6.9 Limits on hours of transport** Transportation shall not be conducted in the Columbia River Gorge NSA during the following times:
- a. 4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August, and September.
 - b. Daylight hours on Saturdays in June, July, August, and September.
 - c. All hours on Sunday in June, July, August, and September.
- 6.10 Splash and spray suppression** All solid waste shall be transported by use of vehicles utilizing splash and spray suppressant devices behind each wheel, and utilizing rain suppressant side flaps on all non-turning axles.
- 6.11 Vehicle appearance** All solid waste shall be transported by use of vehicles and equipment that shall be suitably painted and present an acceptable appearance.

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- 6.12 Public meetings** A representative of the franchisee and its transportation carrier shall annually meet with the gorge communities and interested parties to receive input and discuss issues related to transportation of solid waste.
- 6.13 Reporting requirements for carrier** The franchisee shall report to Metro any accidents, citations, and vehicle inspections involving vehicles of their transportation carrier during the transporting of solid waste on behalf of the Franchisee.
- 6.14 Meeting with Metro** A representative of the franchisee and its transportation carrier shall meet monthly with Metro to discuss operational problems, complaints and any extraordinary occurrences.
- 6.15 Other reporting requirements** The franchisee shall immediately report any violations of this section of the franchise to Metro.

7.0 FEES AND RATE SETTING

- 7.1 Purpose** This section of the franchise specifies fees payable by the franchisee, and describes rate regulation by Metro.
- 7.2 Annual fee** The franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
- 7.3 Fines** Each violation of a franchise condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.
- 7.4 Rates not regulated** The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.
- 7.5 Metro fee imposed on disposal** The franchisee is liable for payment of the Metro Regional System Fee on any solid wastes delivered to a disposal site, unless these solid wastes are exempted by Metro Code Chapter 5.01.

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- 7.6 **Credit** Until the franchisee has made application for credit from Metro, and said application has been granted, the franchisee shall not transport putrescible waste directly from the facility to Metro's contract operator for disposal of putrescible waste.
- 7.7 **Direct haul disposal charge** The franchisee shall remit to Metro the direct haul disposal charge as established in Metro Code Chapter 5.02 on each ton of putrescible waste that is transported directly from the facility to Metro's contract operator for disposal of putrescible waste, on the terms and conditions of the grant of credit from Metro.
- 7.8 **Tax in lieu** The franchisee shall remit to Metro the "in lieu of" tax as established in Metro Code Chapter 7.01 on each ton of putrescible waste that is transported directly from the facility to Metro's contract operator for disposal of putrescible waste, on the terms and conditions of the grant of credit from Metro.

8.0 **INSURANCE REQUIREMENTS**

- 8.1 **Purpose** The section describes the types of insurance that the franchisee shall purchase and maintain at the franchisee's expense, covering the franchisee, its employees, and agents.
- 8.2 **General liability** The franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
- 8.3 **Automobile** The franchisee shall carry automobile bodily injury and property damage liability insurance.
- 8.4 **Coverage** Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 8.5 **Additional insureds** Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED.

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- 8.6 **Worker's Compensation Insurance** The franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 8.7 **Notification** The franchisee shall give at least 30 days written notice to the Executive Officer of any lapse or proposed cancellation of insurance coverage.

9.0 **ENFORCEMENT**

- 9.1 **Generally** Enforcement of this franchise shall be as specified in Metro Code.
- 9.2 **Authority vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against franchisee.
- 9.3 **Inspections** The Executive Officer may make such inspection or audit as the Executive Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times with 24 hours notice to assure compliance with this franchise, Metro Code, and administrative procedures adopted pursuant to Metro Code Chapter 5.01.
- 9.4 **No Enforcement Limitations** Nothing in this franchise shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such

ordinances may have upon the terms of this franchise or the franchisee's operation of the facility.

10.0 MODIFICATIONS

- 10.1 Modification** At any time during the term of the franchise, either the Executive Officer or the franchisee may propose amendments or modifications to this franchise.
- 10.2 Modification, suspension or revocation by Metro** The Executive Officer may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:
- a. Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard;
 - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;
 - c. Failure to disclose fully all relevant facts;
 - d. A significant release into the environment from the facility;
 - e. Significant change in the character of solid waste received or in the operation of the facility;
 - f. Any change in ownership or control, excluding transfers among subsidiaries of the franchisee or franchisee's parent corporation;
 - g. A request from the local government stemming from impacts resulting from facility operations.
 - h. Compliance history of the franchisee.

11.0 GENERAL OBLIGATIONS

- 11.1 Compliance with law** Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions

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imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this franchise as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.

- 11.2 Indem-
nification** The franchisee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the franchisee's performance or failure to perform under this franchise, including patent infringement and any claims or disputes involving subcontractors.
- 11.3 Deliver waste
to appropriate
destinations** The franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 11.4 Provide access** The franchisee shall allow the Executive Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this franchise, Metro Code, and the administrative procedures adopted pursuant to Metro Code Chapter 5.01.
- 11.5 Record-
keeping and
reporting.** The franchisee shall comply with the recordkeeping and reporting requirements as provided in Metro Code Chapter 5.01 and in administrative procedures adopted pursuant to Metro Code Chapter 5.01.
- 11.6 Compliance
by agents** The franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

**EXECUTIVE SUMMARY
ORDINANCE 99-815
TRANSFERRING A SOLID WASTE FRANCHISE FOR THE RECYCLE
AMERICA FACILITY**

PROPOSED ACTION

- Transfers the Recycle America Direct-Haul Solid Waste Franchise from Waste Management of Oregon (the "old" Waste Management) to USA Waste of Oregon (the "new" Waste Management).
- The new license replicates the authority granted by the existing franchise to process, perform materials recovery, and reload putrescible waste for direct-haul to the Columbia Ridge Landfill.

WHY NECESSARY

- The "old" Waste Management was the franchisee for the Recycle America direct-haul solid waste franchise. However, the merger of Waste Management into USA Waste created a new company and constituted a change in ownership of the facility.
- Section 5.01.090 of the Metro Code requires the proposed franchise transferee to submit a franchise transfer application and for the Metro Council to act on the application within 120 days after filing.

DESCRIPTION

- The facility conducts materials recovery from dry commercial solid waste. The residual from recovery operations, along with municipal solid waste unsuitable for sorting, is reloaded into transfer trailers for direct-haul to the Columbia Ridge Landfill.

ISSUES/CONCERNS

- None.

BUDGET/FINANCIAL IMPACTS

- Since the existing franchise would be transferred without a change in authorizations, it is not expected to have a financial impact on Metro.

IN CONSIDERATION OF ORDINANCE NO. 99-815, FOR THE PURPOSE OF TRANSFERRING THE SOLID WASTE FRANCHISE FOR OPERATION OF THE RECYCLE AMERICA RELOAD/MATERIALS RECOVERY FACILITY FROM WASTE MANAGEMENT OF OREGON, INC. TO USA WASTE OF OREGON, INC.

August 5, 1999

Presented by: Terry Petersen,
Leann Linson

I. Summary and Recommendation

A. Effect of Passage

Approval of Ordinance No. 99-815 will transfer a Solid Waste Franchise for operation of the Recycle America facility from Waste Management of Oregon Inc. (WMO) to USA Waste of Oregon, Inc. (USAO) following the merger of the two companies. The franchise authorizes the facility to accept solid waste, including putrescible waste, for recovery and direct-haul to the Columbia Ridge Landfill. The facility is authorized to dispose of up to 50,000 tons annually.

B. Executive Officer Recommendation

The Executive Officer recommends approval of Ordinance No. 99-815, transferring the Recycle America franchise from Waste Management of Oregon, Inc. to USA Waste of Oregon, Inc. subject to the terms and conditions that are incorporated into the franchise document attached as "Exhibit A" to Ordinance No. 99-815.

II. Background

A. History of the Facility

Recycle America is a materials recovery facility and reload located at 869 NW Eastwind Drive in Troutdale. The Metro Council originally granted the facility a Solid Waste Franchise on June 20, 1996 through the approval of Ordinance 96-644-B. The original franchise agreement authorized the facility to perform materials recovery on non-putrescible waste and to reload and transfer some special wastes. The franchise itself was issued on July 14, 1996. On August 14, 1998, the facility's Solid Waste Franchise was exchanged for a Solid Waste License under the provisions of section 5.01.400(b) of the newly adopted Solid Waste Facility Regulation chapter of the Code. Waste Management then applied for a direct-haul franchise to accept putrescible waste and deliver it directly to Columbia Ridge Landfill. The Council approved the direct-haul franchise on November 24, 1998.

B. The Applicant and the Applicant's Request

Waste Management, Inc. (the "old" Waste Management) was recently merged into USA Waste Services, Inc. The merged company then changed its name to Waste

Management, Inc. (the "new" Waste Management). However, USA Waste of Oregon, Inc. (USAO) is the name presently used by the new company within the state of Oregon.

In an application delivered on June 22, 1999, Frank Hammond, representing USAO requested that the facility's franchise be transferred from Waste Management of Oregon, Inc. (the Oregon subsidiary of the "old" Waste Management) to USAO. During a later phase of the restructuring, the company will change its Oregon corporate name to Waste Management of Oregon, Inc. (the "new" Oregon Waste Management).

III. Application Procedure

A. Reason for the Ordinance and Metro Code Provisions Related to the Applicant's Request

Section 5.01.090

Section 5.01.090 of the Metro Code governs transfer of franchises. Section 5.01.090 has three parts, as follows:

- (a) *A franchisee may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, its franchise to another person unless an application therefor has been filed in accordance with section 5.01.060 and has been granted. The proposed transferee must meet the requirements of this chapter.*

On June 22, 1999, Metro received from USAO a formal franchise application. The application was determined to be in accordance with section 5.01.060. Details are presented below.

- (b) *The council shall not unreasonably deny an application for transfer of a franchise. If the council does not act on the application for transfer within 90 days after filing of a complete application, the application shall be deemed granted.*

The proposed ordinance is being presented to Council in a timely manner, and well within the 90-day limit.

- (c) *The term for any transferred Franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.*

The current franchise has an expiration date of December 31, 2003. The proposed new franchise, presented as "Exhibit A," to Ordinance No. 99-815, has the same expiration date.

Section 5.01.060

Section 5.01.060 specifies eight items to be addressed in any franchise application.

- (a) *Applications for a franchise or license or for transfer of any interest in, modification, expansion, or renewal of an existing franchise or license shall be filed on forms provided by the executive officer. Franchises and licenses are subject to approval by the council.*

As mentioned above, on June 22, 1999, Metro received from USAO a formal application for transfer of the Recycle America franchise. The application was filed in the format prescribed by the Executive Officer.

- (b) *In addition to the information required on the forms, franchise applicants must submit the following to the executive officer:*

- (1) *Proof that the applicant can obtain and will be covered during the term of the franchise by a corporate surety bond guaranteeing full and faithful performance by the applicant of the duties and obligations of the franchise agreement. In determining the amount of bond to be required, the executive officer may consider the size of the site, facility or station, the population to be served, adjacent or nearby land uses, the potential danger of failure of failure of service, and any other factor material to the operation of the franchise;*

The applicant has obtained the necessary corporate surety bond.

- (2) *In the case of an application for a franchise transfer, a letter of proposed transfer from the existing franchisee;*

A letter and application for a franchise transfer was submitted by Frank Hammond, attorney for the new merged company, USAO.

- (3) *Proof that the applicant can obtain the liability insurance required by this chapter;*

The applicant has provided proof of insurance.

- (4) *If the applicant is not an individual, a list of stockholders holding more than 5 percent of a corporation or similar entity, or of the partners of a partnership. Any subsequent changes in excess of 5 percent of ownership thereof must be reported within 10 days of such changes of ownership to the executive officer;*

USA Waste of Oregon, Inc. is a wholly owned subsidiary of Waste Management of North America, Inc.

- (5) *A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;*

The Recycle America facility is fully permitted by the DEQ. The DEQ permit and all related information have been provided to Metro and are on file in the REM Department.

- (6) *Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the franchisee, the duration of that interest and shall read and agree to be bound by the provisions of section 5.01.180(e) of this chapter if the franchise is revoked or franchise renewal is refused;*

The owner of the real property on which the Recycle America facility is built, TDK Corporation, has signed such a consent.

- (7) *Proof that the applicant has received proper land use approval;*

The City of Troutdale has granted the Recycle America facility a Conditional Use Permit (CUP). The CUP has been provided to Metro and is on file in the REM Department.

- (8) *and such other information as the executive officer deems necessary to determine an applicant's qualifications.*

The applicant is a major solid waste company that operates other authorized facilities in the Metro Region and is well known to the REM Department. No additional information is necessary to determine the applicant's qualifications.

B. Analysis of Application

The application is for a transfer of a solid waste franchise from Waste Management of Oregon to USA Waste of Oregon following the merger of the two companies. It is USAO's intent to continue to operate the facility in the same manner as presently authorized by the facility's Conditional Use Permit, DEQ permit and Metro franchise. USAO has filed a complete application in conformance with the Metro Code that has been found by staff to meet the requirements of Code chapter 5.01.

IV. Fiscal Impact

Ordinance No. 99-815 transfers an existing franchise to a new facility owner without any changes in authorizations. The facility will continue to process waste of the same type and in the same quantity as presently authorized by its existing franchise. Thus, it is anticipated that approval of Ordinance No. 99-815 will have no fiscal impact.

Agenda Item Number 7.2

Ordinance No. 99-815, For the Purpose of Transferring the Solid Waste Franchise for Operation on the Recycle America Reload/Materials Recovery Facility from Waste Management of Oregon, Inc. to USA Waste of Oregon, Inc..

Second Reading

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RENEWING THE SOLID) ORDINANCE NO. 99-814
WASTE LICENSE FOR OPERATION OF THE)
WASTECH MATERIALS RECOVERY FACILITY) Introduced by Mike Burton,
) Executive Officer
)

WHEREAS, Section 5.01.030 of the Metro Code requires a Metro franchise for any person to own and operate a solid waste processing facility, transfer station, or resource recovery facility; and

WHEREAS, Wastech was granted a franchise by the Metro Council in September 1989; and

WHEREAS, that franchise was exchanged for a Solid Waste License under the provisions of section 5.01.400(b) of the Code; and

WHEREAS, Wastech's Solid Waste License will expire on September 14, 1999; and

WHEREAS, USA Waste of Oregon, Inc. has duly filed an application for renewal of the Wastech Solid Waste License in accordance with Metro Code Section 5.01.087; and

WHEREAS, Metro Code Section 5.01.087 specifies that Solid Waste Facility Licenses shall be renewed unless the Executive Officer determines that the proposed renewal is not in the public interest; and

WHEREAS, the Executive Officer has determined that the proposed renewal is in the public interest; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

USA Waste of Oregon shall be granted a renewed Solid Waste License to operate the Wastech facility. The Solid Waste License shall be in a form substantially similar to the attached "Exhibit A."

ADOPTED by the Metro Council this ____ day of _____, 1999.

Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

SOLID WASTE FACILITY LICENSE

Number L-009-99

Issued by

Metro

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

LICENSEE: USA Waste of Oregon, Inc. dba Wastech, Inc. 701 N Hunt Street Portland, OR 97217 (503) 331-2221	FACILITY NAME AND LOCATION: Wastech, Inc. 701 N. Hunt Street Portland, Oregon 97217 (503) 285-5261
OPERATOR: USA Waste of Oregon, Inc. dba Wastech, Inc. 701 N Hunt Street Portland, OR 97217 (503) 331-2221	PROPERTY OWNER: USA Waste of Oregon, Inc. dba Wastech, Inc. 701 N. Hunt Street Portland, Oregon 97217

This License is issued to the Licensee named above and is not transferable. Subject to the conditions stated in this License document, the Licensee is authorized to operate and maintain a solid waste facility, and to accept the solid wastes and perform the activities authorized herein.

License begins: September 14, 1999

Expiration: September 14, 2004

Signed:

Acceptance & Acknowledgement of Receipt:

Signature

Signature of Licensee

Mike Burton, Metro Executive Officer

Print name and title

Print name and title

Date

Date

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1.0 ISSUANCE

- 1.1 Licensee** USA Waste of Oregon, Inc.
701 N. Hunt Street
Portland, OR 97217 (503) 331-2221
- 1.2 Contact** Adam Winston, District Manager
- 1.3 License Number** When referring to this License, please cite:
Metro Solid Waste Facility License Number L-009-99
- 1.4 Term** License effective: September 14, 1999
License expires: September 14, 2004
- 1.5 Facility name and mailing address** Wastech, Inc.
701 N. Hunt Street
Portland, OR 97217 (503) 331-2221
- 1.6 Operator** USA Waste of Oregon, Inc. dba Wastech, Inc.
701 N. Hunt Street
Portland, OR 97217 (503) 331-2221
- 1.7 Facility legal description** Blocks 1 and 2, Swinton. Block 3, Swinton except south 72.5'.
Plus vacated portions of N. Albina and N. Kirby Streets.
Multnomah County, State of Oregon
- 1.8 Property owner** USA Waste of Oregon, Inc. dba Wastech, Inc.
701 N. Hunt Street
Portland, Oregon 97217
- 1.9 Permission to operate** Licensee warrants that it has obtained the property owner's consent to operate the facility as specified in this License.

2.0 CONDITIONS AND DISCLAIMERS

- 2.1 **Guarantees** The granting of this License shall not vest any right or privilege in the Licensee to receive specific quantities of solid waste at the direction of Metro during the term of the License.
- 2.2 **Property rights** The granting of this License does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights.
- 2.3 **No recourse** The Licensee shall have no recourse whatsoever against the District or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this License or because of the enforcement of the License or in the event the License or any part thereof is determined to be invalid.
- 2.4 **Release of liability** Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this License or on account of the construction, maintenance, or operation of the facility pursuant to this License.
- 2.5 **Binding nature** The conditions of this License are binding on the Licensee. The Licensee is liable for all acts and omissions of the Licensee's contractors and agents.
- 2.6 **Waivers** To be effective, a waiver of any terms or conditions of this License must be in writing and signed by the Metro Executive Officer.
- 2.7 **Effect of waiver** Waiver of a term or condition of this License shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 2.8 **Choice of law** The License shall be construed, applied and enforced in accordance with the laws of the State of Oregon.
- 2.9 **Enforceability** If any provision of this License is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this License shall not be affected.
- 2.10 **License not a waiver** Nothing in this License shall be construed as relieving any owner, operator, or Licensee from the obligation of obtaining all required

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permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies.

- 2.11 License not limiting** Nothing in this License is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.
- 2.12 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01.

3.0 AUTHORIZATIONS

- 3.1 Purpose** This section of the License describes the wastes that the Licensee is authorized to accept at the facility, and the activities the Licensee is authorized to perform at the facility.
- 3.2 General conditions on solid wastes** The Licensee is authorized to accept at the facility only the solid wastes described in this section. The Licensee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The Licensee is authorized to perform at the facility only those activities that are described in this section.
- 3.4 Non-putrescible waste** The Licensee is authorized to accept "dry" non-putrescible solid wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites, for the purpose of material recovery.
- 3.5 Source-separated recyclables** The Licensee is authorized to accept source-separated recyclable materials for purposes of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for marketing.
- 3.6 Inert materials** The Licensee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.

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- 3.7 **Source-separated yard debris** The Licensee is authorized to accept source-separated yard debris for transfer to a yard debris facility, a DEQ-permitted composting facility or other DEQ-permitted processing facility. The Licensee shall keep source-separated yard debris separate from other solid waste at the facility and shall provide records showing that source-separated yard debris is delivered to a composting or processing facility, and not disposed of.
- 3.8 **Deliveries not limited** This License does not limit the quantity of authorized solid wastes or other materials that may be accepted at the facility.

4.0 **LIMITATIONS AND PROHIBITIONS**

- 4.1 **Purpose** This section of the License describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
- 4.2 **Disposal not limited** The Licensee shall not be limited as to the number of tons of processing residual that may be disposed.
- 4.3 **Prohibited waste** The Licensee shall not knowingly accept or retain any material amounts of the following types of wastes: putrescible wastes, materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Licensee's DEQ Disposal Site Permit.
- 4.4 **Material recovery required** The Licensee shall perform material recovery on "dry" non-putrescible wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites, or deliver said "dry" non-putrescible wastes to a solid waste facility whose primary purpose is to recover useful materials from solid waste.
- 4.5 **Prohibition on mixing** The Licensee shall not mix any source-separated recyclable materials or yard debris materials brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling.

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- 4.6 **No disposal of recyclable materials** Source-separated recyclable materials, yard debris or organic materials accepted at the facility may not be disposed of by landfilling or incineration.
- 4.7 **Limits not exclusive** Nothing in this section of the License shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this License document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0 OPERATING CONDITIONS

- 5.1 **Purpose** This section of the License describes criteria and standards for the operation of the facility.
- 5.2 **Qualified Operator** The Licensee shall provide an operating staff qualified to carry out the functions required by this License and to otherwise ensure compliance with Metro Code Chapter 5.01.
- 5.3 **Operating plan** The Licensee shall establish and follow procedures for accepting, managing and processing loads of solid waste received at the facility. Such procedures must be in writing and in a location where facility personnel and the Executive Officer can readily reference them. The Licensee may, from time to time, modify such procedures. The procedures shall include at least the following:
- a. Methods of notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility;
 - b. Methods of inspecting incoming loads for the presence of prohibited or unauthorized waste;
 - c. Methods for managing and transporting for disposal at an authorized disposal site each of the prohibited or unauthorized wastes if they are discovered at the facility;
 - d. Objective criteria for accepting or rejecting loads.
- 5.4 **Managing prohibited wastes** Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with procedures established in the Operating Plan.

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- 5.5 Managing authorized wastes** All authorized solid wastes received at the facility must, within 24-hours from receipt, be either (a) processed, (b) appropriately stored, or (c) properly disposed of.
- 5.6 Storage** Stored materials and solid wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.
- 5.7 Litter and airborne debris** The Licensee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The Licensee shall:
- a. Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
 - b. Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.
 - c. Keep all areas within the site free of litter and debris.
- 5.8 Odor** The Licensee shall operate the facility in a manner that is not conducive to the generation of odors. The Licensee shall:
- a. Clean the areas and equipment that come into contact with solid waste on a regular basis.
 - b. Establish and follow procedures for minimizing odor at the facility. Such procedures must be in writing and in a location where facility personnel and Metro inspectors can readily reference them. The Licensee may modify such procedures from time to time. The procedures shall include at least the following: (1) methods that will be used to minimize, manage, and monitor all odors of any derivation including malodorous loads received at the facility, (2) procedures for receiving and recording odor complaints, and (3) procedures for immediately investigating any odor complaints in order to determine the cause of odor emissions, and promptly remedying any odor problem at the facility.

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- 5.9 Vectors** The Licensee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.10 Noise** The Licensee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.
- 5.11 Water quality** The Licensee shall:
- a. Operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation.
 - b. Dispose of contaminated water and sanitary sewage generated onsite in a manner complying with local, state, and federal laws and regulations.
- 5.12 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.13 Signage** The Licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- a. Name of the facility
 - b. Address of the facility;
 - c. Emergency telephone number for the facility;
 - d. Operating hours during which the facility is open for the receipt of authorized waste;
 - e. Fees and charges;
 - f. Metro's name and telephone number 797-1650; and
 - g. A list of all authorized and prohibited wastes.
- 5.14 Complaints** The Licensee shall respond to all written complaints on nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If Licensee receives a complaint, Licensee shall:
- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of unsuccessful attempts; and
 - b. Log all such complaints by name, date, time and nature of

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complaint. Each log entry shall be retained for one year and shall be available for inspection by Metro.

- 5.15 Access to License document** The Licensee shall maintain a copy of this Metro Solid Waste Facility License on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

6.0 FEES AND RATE SETTING

- 6.1 Purpose** This section of the License specifies fees payable by the Licensee, and describes rate regulation by Metro.
- 6.2 Annual fee** The Licensee shall pay an annual License fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the License fee at any time by action of the Metro Council.
- 6.3 Fines** Each violation of a License condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.
- 6.4 Rates not regulated** The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.
- 6.5 Metro fee imposed on disposal** The Licensee is liable for payment of the Metro Regional System Fee on any solid wastes delivered to a disposal site, unless these solid wastes are exempted by Metro Code Chapter 5.01.

7.0 INSURANCE REQUIREMENTS

- 7.1 Purpose** The section describes the types of insurance that the Licensee shall purchase and maintain at the Licensee's expense, covering the Licensee, its employees, and agents.
- 7.2 General liability** The Licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage,

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with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.

- 7.3 Automobile** The Licensee shall carry automobile bodily injury and property damage liability insurance.
- 7.4 Coverage** Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 7.5 Additional insureds** Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED.
- 7.6 Worker's Compensation Insurance** The Licensee, its subcontractors, if any, and all employers working under this License, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 7.7 Notification** The Licensee shall give at least 30 days written notice to the Executive Officer of any lapse or proposed cancellation of insurance coverage.
- 8.0 Enforcement**
-
- 8.1 Generally** Enforcement of this License shall be as specified in Metro Code.
- 8.2 Authority vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this License shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Licensee.
- 8.3 Inspections** The Executive Officer may make such inspection or audit as the Executive Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during

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business hours with or without notice or at such other times with 24 hours notice to assure compliance with this License, Metro Code, and administrative procedures adopted pursuant to Metro Code Chapter 5.01.

8.4 No Enforcement Limitations

Nothing in this License shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this License be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this License or the Licensee's operation of the facility.

9.0 MODIFICATIONS

9.1 Modification

At any time during the term of the License, either the Executive Officer or the Licensee may propose amendments or modifications to this License.

9.2 Modification, suspension or revocation by Metro

The Executive Officer may, at any time before the expiration date, modify, suspend, or revoke this License in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:

- a. Violation of the terms or conditions of this License, Metro Code, or any applicable statute, rule, or standard;
- b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this License;
- c. Failure to disclose fully all relevant facts;
- d. A significant release into the environment from the facility;
- e. Significant change in the character of solid waste received or in the operation of the facility;
- f. Any change in ownership or control, excluding transfers among subsidiaries of the Licensee or Licensee's parent corporation;
- g. A request from the local government stemming from impacts resulting from facility operations.
- h. Compliance history of the Licensee.



10.0 General Obligations

- 10.1 Compliance with law** Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this License, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this License as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the License document, as well as any existing at the time of the issuance of the License but not cited or attached, and permits or conditions issued or modified during the term of the License.
- 10.2 Indemnification** The Licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the Licensee's performance or failure to perform under this License, including patent infringement and any claims or disputes involving subcontractors.
- 10.3 Deliver waste to appropriate destinations** The Licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 10.4 Provide access** The Licensee shall allow the Executive Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this License, Metro Code, and the administrative procedures adopted pursuant to Metro Code Chapter 5.01.
- 10.5 Record-keeping and reporting.** The Licensee shall comply with the recordkeeping and reporting requirements as provided in Metro Code Chapter 5.01 and in administrative procedures adopted pursuant to Metro Code Chapter 5.01.

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10.6

**Compliance
by agents**

The Licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this License.

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EXECUTIVE SUMMARY
ORDINANCE 99-814
RENEWING A SOLID WASTE LICENSE FOR THE WASTECH FACILITY

PROPOSED ACTION

- Grants a renewed Solid Waste License to USA Waste of Oregon to continue to operate its existing Wastech materials recovery facility located in Portland, Oregon. The license has a term of five years and replicates the authorities Wastech already has under its existing license.

WHY NECESSARY

- Metro Code Section 5.01.030 requires a Metro franchise, license, or certificate for any person to own and operate a processing facility, transfer station, or resource recovery facility.
- Wastech's existing solid waste license will expire on September 14, 1999.
- Under the terms and conditions of the license, the facility will continue to assist the region in accomplishing the goals and objectives of the Regional Solid Waste Management Plan.

DESCRIPTION

- The facility conducts materials recovery of recyclables from dry commercial and industrial solid waste. The majority of the waste processed at the facility is from the licensee's own collection vehicles.
- Material recovery is done by hand-sorting from loads tipped onto an asphalt pad. The residual is top-loaded for disposal at various landfills.
- Wood is reloaded for transport to another location where it is chipped for fuel.

ISSUES/CONCERNS

- None.

BUDGET/FINANCIAL IMPACTS

- Metro solid waste planning and projections have assumed that Wastech's operations will continue as part of the region's solid waste and recycling system. Renewal of the Wastech License is not anticipated to have any budget or financial impacts.

IN CONSIDERATION OF ORDINANCE NO. 99-814, FOR THE PURPOSE OF
RENEWING THE SOLID WASTE LICENSE FOR OPERATION OF THE WASTECH
MATERIALS RECOVERY FACILITY

July 15, 1999

Presented by: Terry Petersen,
Leann Linson

I. Summary and Recommendation

A. Effect of Passage

Approval of Ordinance No. 99-814 will authorize the Executive Officer to issue a Solid Waste License for operation of the Wastech facility located at 701 Hunt St. in Portland, Oregon. Wastech is presently licensed by Metro to operate as a dry waste materials recovery facility. The proposed license constitutes a renewal of the facility's existing license that will expire on September 14, 1999 and replicates the authorities granted in the existing license.

B. Executive Officer Recommendation

The Executive Officer recommends approval of Ordinance No. 99-814, renewing the Wastech Solid Waste License subject to the terms and conditions that are incorporated into the license document attached as "Exhibit A" to Ordinance No. 99-814.

II. Background

A. History of the Facility

The Wastech facility was first franchised by Metro in December of 1984 for a term of five years. The name of the facility at that time was Oregon Processing and Recovery Center (OPRC) and the franchisee was Oregon Waste Management, Inc. and Genstar Conservation Systems, Inc., a joint venture. At its inception, OPRC accepted only source-separated recyclables and paper-rich commercial loads. The facility charged for loads based on a sliding scale with the most recoverable loads paying the lowest rate. Though the facility accepted only dry high-grade waste, the franchise agreement also authorized the acceptance of putrescible waste.

In July 1988, OPRC was acquired by Wastech, Inc. and a new franchise was issued, again for a five-year term. Shortly thereafter, Wastech requested that its franchise be amended to a term of ten years in order to better secure financing for a major expansion of the facility. At that time, OPRC was the Metro region's primary recovery facility and the proposed expansion represented a significant potential increase in the region's recovery capacity. On September 14, 1989, a new franchise was issued with a term of ten years. However, the market value of recyclables experienced a decline, and the proposed expansion was never implemented.

In January 1998, the facility was acquired by USA Waste Services, Inc. Soon after, the facility began accepting commercial and industrial wastes with a low recoverable content and a significant amount of putrescible waste. The facility greatly increased its tonnage and began operating largely as a reload. Sorting and reloading was performed on an uncovered asphalt pad in front of the facility's building and adjacent to the Columbia Slough. The facility was also discovered delivering waste to the North Wasco County Landfill without the required Metro Non-system License.

In December of 1998, USA Waste voluntarily exchanged its franchise for a license under the newly adopted Code Chapter 5.01 and became a dry waste only facility. The license was issued with the same expiration date as the franchise it was exchanged for; September 14, 1999. The switch to dry waste and the resulting boost in recovery resolved a series of compliance issues that had arisen upon USA Waste's acquisition of the facility. In 1999, USA Waste and Waste Management merged to form a new company. Within the state of Oregon, the new company is named USA Waste of Oregon.

B. The Applicant and the Applicant's Request

The applicant, USA Waste of Oregon, has applied for a renewal of the Wastech Solid Waste Facility License. The proposed license will replicate the authorities the facility presently has to accept non-putrescible wastes, source-separated recyclables, and yard debris. The applicant is in the process of seeking land use authority from the City of Portland to add a 10,000-square foot building to the facility in order to expand its ability to process recyclable materials and to bring all operations, except for wood recovery, within enclosed buildings. The plan for this proposed expansion is consistent with the authority granted by the proposed Solid Waste Facility License renewal.

III. Application Procedure

A. Metro Code Provisions Related to the Applicant's Request

Section 5.01.087(a) of the Metro Code governs the renewal of licenses:

Solid Waste Facility Licenses shall be renewed unless the Executive Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300) not less than 60 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the Executive Officer. The Executive Officer may attach conditions or limitations to any renewed License.

The Wastech facility performs materials recovery and assists the region in achieving its recycling goals. The Executive Officer finds that it is in the public interest to renew

Wastech's Solid Waste License. Further, USA Waste submitted its application more than 60 days prior to the expiration of its existing license and included a statement of proposed material changes (detailed plans for the proposed new building) and the required \$300 application fee. The Executive Officer does not recommend that any special conditions or limitations be attached to the proposed license renewal.

IV. Fiscal Impact

Ordinance No. 99-814 renews an existing license without any changes in authorizations. The facility will only process waste of the same type of material as presently authorized by its existing license. Thus, it is anticipated that approval of Ordinance No. 99-814 will have no fiscal impact on Metro.

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Agenda Item Number 7.3

Ordinance No. 99-817A, For the Purpose of Amending the Metro Code 2.09.060 and 2.09.100 to Modify the Gross Receipts Threshold to \$250,000 and to Increase Fees for the Metro Contractor's Business License Program.

Second Reading

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO 99-817-A
METRO CODE 2.09.060 AND 2.09.100)
~~INCREASING THE ELIGIBILITY~~) Introduced by Executive Officer Mike Burton
~~REQUIREMENTS AND TO MODIFY~~)
THE GROSS RECEIPTS THRESHOLD)
TO \$250,000 AND TO INCREASE FEES)
FOR THE METRO CONTRACTOR'S)
BUSINESS LICENSE PROGRAM)

WHEREAS, ORS 701.015 authorized Metro to provide a Contractor's Business License allowing small independent construction and landscape contractors to do business in numerous cities within the Metro Region; and

WHEREAS, the 1999 Oregon Legislature amended ORS 701.015 to increase from \$125,000 to \$250,000 the amount of the gross receipts limitation contained in the statute; and

WHEREAS, in order to reflect this statutory change, it is necessary that the Metro Code be amended; and

WHEREAS, as a result of the passage of the amendments to ORS 701.015, the League of Oregon Cities has requested that Metro increase the fee charged by Metro for the Metro Contractor's Business License; and

WHEREAS, the fee increase requested by the League of Oregon Cities constitutes the first increase in the fee charge for the Metro Contractor's Business License since the inception of the business license in 1988;

WHEREAS, an increase for the Metro Contractor's Business License is appropriate and is in the public interest;

Now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code 2.09.060 is amended to read:

"2.09.060 License Applicability

(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 the district.

(b) If a contractor or landscape contractor has been issued a contractor's business license by the district, the contractor or landscape contractor may conduct business without any other business license in participating jurisdictions in which the contractor or landscape contractor:

- (1) Has no office;
- (2) Has not derived gross receipts of ~~\$125,000~~ \$250,000 or more from business conducted within the boundary of the participating jurisdiction during the calendar year for which the business license is owed;" and

2. That Metro Code 2.09.100 is amended to read:

"2.09.100 Fee

The fee to be paid by any contractor or landscape contractor for a contractor's business license is ~~\$110~~ \$135 and is non-refundable."

ADOPTED by the Metro Council this ____ day of _____ 1999.

Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

jcp
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House Bill 2512

Sponsored by Representative HANSEN; Representatives ATKINSON, BOWMAN, DEVLIN, GARDNER, LOKAN, SNODGRASS, STARR, SUNSERI, THOMPSON, WILSON, Senators DUNCAN, LIM, SHANNON, SHIELDS, TROW (at the request of METRO)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Increases threshold amount of gross income receipts required of construction contractor or landscape contractor before contractor becomes subject to business license tax of city located within metropolitan service district.

A BILL FOR AN ACT

1
2 Relating to city business license tax within metropolitan service district; amending ORS 701.015.

3 Be It Enacted by the People of the State of Oregon:

4 **SECTION 1.** ORS 701.015 is amended to read:

5 701.015. (1) A contractor or landscape contractor shall pay directly to any city within the
6 boundaries of a metropolitan service district any business license tax imposed by the city when:

7 (a) The principal place of business of the contractor or the landscape contractor is within the
8 city; or

9 (b) The principal place of business of the contractor or the landscape contractor is not within
10 the city but the contractor or landscape contractor derives gross receipts of [~~\$125,000~~] \$250,000 or
11 more from business conducted within the boundaries of the city during the calendar year for which
12 the business license tax is owed.

13 (2) A contractor or landscape contractor who conducts business during any year in any city
14 within the boundaries of the metropolitan service district other than a city to which the contractor
15 or landscape contractor has paid a business license tax for that year may apply for a business li-
16 cense from the metropolitan service district.

17 (3) When a contractor or landscape contractor obtains a business license from the metropolitan
18 service district under subsection (2) of this section, if a city within the boundaries of the metropol-
19 itan service district other than a city to which the contractor or landscape contractor is required
20 to directly pay a business license tax under subsection (1) of this section demands payment of a
21 business license tax by the contractor or landscape contractor, the city shall waive such payment
22 upon presentation of proof by the contractor or landscape contractor that the contractor or land-
23 scape contractor has a business license issued by the metropolitan service district. Possession by the
24 contractor or landscape contractor of a current business license issued by the metropolitan service
25 district under subsection (2) of this section shall be proof sufficient to obtain the waiver described
26 in this subsection.

27 (4) The metropolitan service district shall issue a business license to a contractor or landscape
28 contractor when:

29 (a) The contractor or landscape contractor presents proof to the district that the contractor or
30 landscape contractor has paid the business license tax imposed by each city within the boundaries

NOTE: Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in boldfaced type.

1 of the district to which the contractor or landscape contractor must directly pay a business license
2 tax under subsection (1) of this section; and

3 (b) The contractor or landscape contractor pays a license fee to the district. The license fee
4 charged under this paragraph shall be twice the average business license tax charged contractors
5 by cities located within the metropolitan service district plus an amount that is sufficient to reim-
6 burse the district for the administrative expenses of the district incurred in carrying out its duties
7 under this section.

8 (5) The metropolitan service district shall distribute the business license fees collected by the
9 district under this section, less administrative expenses, to the cities that are located wholly or
10 partly within the district and that collect a business license tax. In any year, each such city shall
11 receive such share of the license fees as the number of residential building permits that it issued
12 during that year bears to the total number of residential building permits that were issued during
13 that year by all of the cities located wholly or partly within the district. Distribution of moneys
14 under this subsection shall be made at least once in each year. The metropolitan service district
15 shall determine the number of residential building permits issued by cities within the district from
16 statistics and other data published by the State Housing Council.

17 (6) As used in this section:

18 (a) "Business license tax" means any fee paid by a person to a city or county for any form of
19 license that is required by the city or county in order to conduct business in that city or county.
20 The term does not include any franchise fee or privilege tax imposed by a city upon a public utility
21 under ORS 221.420 or 221.450 or any provision of a city charter.

22 (b) "Conducting business" means to engage in any activity in pursuit of gain including activities
23 carried on by a person through officers, agents and employees as well as activities carried on by a
24 person on that person's own behalf.

25 (c) "Landscape contractor" means a person or business who is licensed under ORS 671.510 to
26 671.710 as a landscape contractor.

27 (d) "Principal place of business" means the location in this state of the central administrative
28 office of a person conducting business in this state.

STAFF REPORT

RESOLUTION OF ORDINANCE NO. 99-817 FOR THE PURPOSE OF AMENDING METRO CODE 2.09060 AND 2.09100 INCREASING THE ELIGIBILITY REQUIREMENTS AND FEES FOR THE METRO CONTRACTOR'S BUSINESS LICENSE PROGRAM.

Date: August 26, 1999 Presented by: Kerry Gilbreth and Kristine Mijares

Purpose of the Proposed Ordinance

Proposed ordinance 99-817 would amend the Metro Code reflecting changes to Metro's Contractor's Business License (CBL) program. The ordinance would change Metro Code 2.09.060 to indicate a statutory increase to the CBL gross receipts limitation from \$125,000 to \$250,000. Additionally, the ordinance would change Metro Code 2.09.100 to increase the annual nonrefundable CBL fee from \$110 to \$135 as requested by the cities participating in the program. This change will go into affect 90 days after adoption, January 5, 2000.

Background

In 1988, the State enacted ORS 701.015 mandates Metro provide a business license allowing small independent construction and landscape contractors to do business in numerous cities within its boundaries. The intent of the legislation was to relieve some of the bureaucratic and financial hardship of contractors having to be individually licensed within each city they worked. As a means to limit qualification for the Metro CBL to small independent contractors, the State imposed a per city, per year gross receipts limitation of \$125,000. Contractors must obtain individual city licenses in all cities in which they exceed that dollar limit. In the past few years, there has been growing complaint from contractors that the initial \$125,000 limit is too low in the current marketplace and is contrary to the original purpose of Metro CBL.

The 1999 legislature addressed this concern by approving House Bill 2512 (exhibit A), which increases the gross receipts limitation from \$125,000 to \$250,000. The Bill is effective October 23, 1999. In order to reflect this statutory change, it is necessary that Metro Code 2.09.060(b)(2) be amended.

Following approval of HB 2512, the League of Oregon Cities, speaking on behalf of the cities participating in the Metro CBL program, as well as representatives of several individual cities themselves, requested an increase in the fee charged for the Metro CBL under Metro Code section 2.09.100. The league and city representatives expressed a concern that the increased gross receipts limitation resulting from HB 2512 would result in a greater number of contractors being qualified for the Metro CBL, thus reducing the amount of revenue earned by cities via direct city-level business licensing. All fees

collected by Metro through the CBL program, after administrative costs, are distributed among the participating cities as a means to provide a source of revenue in lieu of that which would have been earned by cities by directly issued business licenses. The cities reasoned an increase in the Metro CBL fee would help assure that revenue received by the participating cities would not be significantly reduced. This is the first increase for the Metro CBL non-refundable fee since the program's inception in 1988.

ORS 701.015(4)(b) reads "The license fee under this paragraph shall be twice the average business license tax charged contractors by cities located within the metropolitan service district plus an amount that is sufficient to reimburse the district for the administrative expenses of the district incurred in carrying out its duties under this section."

Metro and the League of Oregon Cities each completed an analysis of city business licensing costs with comparative results. A focus meeting involving Metro, the League of Oregon Cities, and representatives of cities was held to discuss the fee increase issue. With regard to the fee provisions as stated above in ORS 701.015(4)(b), results of the business licensing cost analysis, and consideration of Metro's administrative costs in running the CBL program, a fee increase of \$110 to \$135 was suggested by the League of Oregon Cities. In order to reflect this fee increase, it is necessary that Metro Code 2.09.100 be amended.

Budget Impact

It is anticipated that the increase in fee will result in a projected annualized increase in revenue of \$70,000. Because the ordinance will be effective January 5, the projected increase in revenue for the first year is about half of the annualized amount. Since the distribution to the cities is calculated from revenue that is collected in the prior year a budget amendment is not needed.

Executive Officer's Recommendation

The Executive officer recommends adoption of ordinance 99-817.

Ordinance No. 99-818A, For the Purpose of Amending Metro Code Requirements for Urban Growth Boundary Amendments, Urban Reserve Planning Requirements in Title 11 of the Urban Growth Management Functional Plan and Appendices A and B of the Regional Framework Plan and Metro Code Requirements for Local Government Changes and Declaring an Emergency.

Second Reading

Metro Council Meeting
Thursday, September 30, 1999
Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE) ORDINANCE NO 99-818-A
REQUIREMENTS FOR URBAN GROWTH)
BOUNDARY AMENDMENTS, URBAN RESERVE) Introduced by Councilors
PLANNING REQUIREMENTS IN TITLE 11 OF THE) McLain and Monroe
URBAN GROWTH MANAGEMENT FUNCTIONAL)
PLAN AND APPENDICES A AND B OF THE)
REGIONAL FRAMEWORK PLAN AND METRO)
CODE REQUIREMENTS FOR LOCAL)
GOVERNMENT BOUNDARY CHANGES AND)
DECLARING AN EMERGENCY)

WHEREAS, in March 1997, the Metro Code was amended in Ordinance 96-655E to require Urban Reserve Plans prior to all major amendments and legislative amendments of the regional Urban Growth Boundary; and

WHEREAS, in September 1998, the Urban Growth Management Functional Plan adopted by Ordinance 96-647C was amended to add a new Title 11 by Ordinance 98-772B which allowed major amendments and legislative amendments of the Urban Growth Boundary to occur prior to completion of Urban Reserve Plans. Appendix A of the Regional Framework Plan adopted in Ordinance 97-715B restates the Urban Growth Management Functional Plan and was also amended by Ordinance 98-772B; and

WHEREAS, the Oregon Legislature transferred the functions of the Portland Metropolitan Boundary Commission to Metro by Chapter 516, Section 11, Oregon Laws 1997 which took effect December 31, 1998; and

WHEREAS, the Oregon Legislature authorized Metro to review and approve annexations to Metro's jurisdictional boundary under Chapter 282, Oregon Laws 1999 (Senate Bill 1031) effective June 18, 1999; and

WHEREAS, notice of this ordinance was sent to the Department of Land Conservation and Development on August 6, 1999, more than 45 days before the first evidentiary hearing on this ordinance; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 3.01 is amended in Sections 3.01.010, 3.01.012, 3.01.015, 3.01.020, 3.01.025, 3.01.033, 3.01.035, 3.01.040, 3.01.050 and 3.01.070 and Section 3.01.012 to read as set forth in attached Exhibit A. These amendments constitute amendments to the current acknowledged Metro Code Chapter 3.01 Urban Growth Boundary and Urban Reserve Procedures.

2. Appendix B of the Regional Framework Plan, adopted by Ordinance 97-715B which restates Metro Code 3.01 Concerning Urban Reserves and Expansion of the UGB is amended to read as set forth in attached Exhibit A.

3. Title 11 of the Urban Growth Management Functional Plan which is also Metro Code 3.07 is amended in Sections 3.07.1110, 3.07.1120 and 3.07.1130 and 3.07.1140 to read as set forth in attached Exhibit A.

4. Appendix A of the Regional Framework Plan adopted by Ordinance 97-715B which restates the Urban Growth Management Functional Plan is also amended to read as set forth in attached Exhibit A.

5. Metro Code 3.09 Local Government Boundary Changes Section 3.09.120 is amended to read as set forth in attached Exhibit A.

6. This ordinance is necessary for the immediate preservation of public health, safety and welfare because revisions to requirements for Urban Growth Boundary amendments should be effective immediately in order to allow Metro to comply with the State of Oregon mandate to

move the Urban Growth Boundary; an emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this ____ day of _____ 1999.

Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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9/15/99

EXHIBIT A

METRO CODE AMENDMENTS: COMPREHENSIVE PLAN REQUIREMENTS FOR URBAN GROWTH BOUNDARY AMENDMENT AREAS ~~URBAN RESERVE PLANS~~

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3.01 PLANNING

3.01.010 Definitions

(a) "Administrative adjustment" means an addition of five net acres or less to the UGB to adjust the UGB where the current UGB is coterminous with a transportation right-of-way that is changed by a modification to the alignment of the transportation facility.

(b) "Council" has the same meaning as in chapter 1.01.

(c) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.

(d) "District" has the same meaning as in chapter 1.01.

~~(e) "First tier urban reserves" means those urban reserves to be first urbanized because they can be most cost-effectively provided with urban services by affected cities and service districts as so designated and mapped in a Metro council ordinance.~~

(fe) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-15-000.

(gf) "Gross developable vacant land" means the total buildable land area within the UGB, as compiled by Metro for the purpose of determining the need for changes in the urban land supply. These are lands that can be shown to lack significant barriers to development. Gross developable vacant lands including include, but are not limited to, all recorded lots on file with the county assessors equal to or larger than either the minimum lot size of the zone in which the lot is located or the minimum lot size which will be applied in an urban holding zone which:

- (1) Are without any structures as corroborated through examination of the most recent aerial photography at the time of inventory; or
- (2) Have no ~~improvement value~~ improvements according to the most recent assessor records.

(hg) "Gross redevelopable land" means the total area of redevelopable land and infill parcels within the UGB including:

- (1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and
- (2) All recorded lots on file with the county assessors ~~that are~~ 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment properties will be developed by the district to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that the district substitute that data for inclusion in the gross developable land inventory.

(ih) "Gross developable land" means the total of gross developable vacant land and gross redevelopable land.

(ji) "Legislative amendment" means an amendment to the UGB initiated by the district, which is not directed at a particular site-specific situation or relatively small number of persons.

(kj) "Locational adjustment" means a limited quasi-judicial change to the UGB which is either an addition or deletion of 20 net acres or less outside of an urban reserve, pursuant to the criteria found in Section 3.01.035 of this chapter considered by quasi-judicial procedures.

(lk) "Major amendment" means a quasi-judicial change of the UGB of any size from within an urban reserve, or more than 20 net acres if outside an urban reserve, more than twenty net acres, pursuant to the criteria found in section 3.01.030 of this chapter considered by quasi-judicial procedures.

(ml) "Natural area" means an area exclusively or substantially without any human development, structures, and paved areas which is wholly or substantially in a native and unaffected state. Further, it shall be identified in a city, county or district open space inventory or plan, prior to the initiation of an amendment.

(nm) "Net acre" for purposes of calculating the total land area within a proposal to amend the UGB means an area measuring 43,560 square feet measured in acres which excludes:

- (1) Any developed road rights-of-way through or on the edge of ~~which the existing or proposed UGB would run~~ an amendment; and
- (2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected ~~under statewide planning Goal 5~~ in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code

provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and,

(3) All publicly-owned land designated for park and open space uses.

(en) "Net developable land" means the total of net developable vacant land and net redevelopable land.

(po) "Net developable vacant land" means the amount of land remaining when gross developable vacant land is reduced by the amount of the estimated land needed for the provision of additional roads, schools, parks, private utilities and other public facilities.

(ep) "Net redevelopable land" means the amount of land remaining when gross redevelopable land is reduced by the estimated land needed for the provision of additional roads, schools, parks, private utilities and other public facilities. The district shall determine the appropriate factor to be used for each jurisdiction in consultation with the jurisdiction within which the specific redevelopable land is located.

(rq) "Nonurban land" means land currently outside the ~~most recently amended~~ UGB.

(sr) "Party" means any individual, agency, or organization who participates orally or in writing in the creation of the record established at a public hearing.

(ts) "Petition" means a petition to amend the UGB either as a major amendment or as a locational adjustment.

(uf) "Planning period" means the period covered by the most recent officially adopted district forecasts, which is approximately a 20-year period.

(vu) "Property owner" means a person who owns the primary legal or equitable interest in the property.

(wv) "Regional forecast" means a 20-year forecast of employment and population by specific areas within the region, which has been adopted by the district.

(xw) "Site" means the subject property for which an amendment or locational adjustment is being sought.

(yx) "Special land need" means a specific type of identified land needed which complies with Goal 14, Factors 1 and 2 that cannot be reasonably accommodated on first-tier urban reserve land.

(zy) "UGB" means the Urban Growth Boundary for the district pursuant to ORS 268.390 and 197.005 through 197.430.

(aaz) "Urban land" means that land inside the UGB.

~~(bbaa) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this code and applicable statutes and administrative rules adjacent to the present UGB defined to be a priority location for any future UGB amendments when needed. Urban reserves are defined as the land likely to be needed including all developable land inside the current urban growth boundary, for a 30 to 50 year period.~~

~~(cebb) "Urban facilities" means those public urban facilities for which state law allows system development charges to be imposed including transportation, water supply and treatment, sewage, parks and storm drainage facilities.~~

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 97-711, Sec. 2.)

3.01.012 Urban Reserve Areas

(a) Purpose. The purpose of this section is to comply with ORS 197.298 by identifying lands designated urban reserve land by Metro as the first priority land for inclusion in the Metro Urban Growth Boundary.

(b) Designation of Urban Reserves~~Amount of Land Required.~~

~~(1)~~ The Council shall designate the amount of urban reserves estimated to accommodate the forecast need.

~~(2)~~ The areas designated as urban reserves shall be sufficient to accommodate expected urban development for a 30 to 50 year period, taking into account an including an estimate of all potential developable and redevelopable land in within the current urban areagrowth boundary.

~~(3)~~ ~~Metro~~ The Council shall estimate the capacity of the urban reserves consistent with the procedures for estimating capacity of the urban area set forth in section 3.01.020as defined in section 3.01.010.

~~(4)~~ The minimum residential density to be used in ~~calculating the need for urban reserves,~~ estimating the capacity of the areas designated as urban reserves and required in concept plans shall be an average of at least 10 dwelling units per net developable acre or lower densities which conform to the 2040 Growth Concept Plan design type designation for the urban reserve area.

~~(4) Metro shall designate the amount of urban reserves estimated to accommodate the forecast need.~~

(5) ~~Metro~~ The Council may designate a portion of the land required for urban reserves in order to phase designation of urban reserves.

~~(e) Mapped Urban Reserves.~~

(16) Metro has designated as urban reserve areas those lands indicated on the 2040 Growth Concept map which was adopted as part of the Regional Urban Growth Goals and Objectives.

~~(2) Urban Growth Boundary amendments shall include only land designated as urban reserves consistent with unless designated urban reserve lands are inadequate to meet the need. If land designated as urban reserves is inadequate to meet the need, the priorities in ORS 197.298 shall be followed.~~

~~Prior to adding land to the Urban Growth Boundary, the Metro Council shall modify the Metro 2040 Growth Concept to designate regional design types consistent with the Metro 2040 Growth Concept for the land added.~~

~~(d) First Tier. First tier urban reserves shall be considered for inclusion in the Metro Urban Growth Boundary prior to other urban reserves unless a special land need is identified which cannot be reasonably accommodated on first tier urban reserves.~~

(c) Plans For Urban Reserve Areas. Subject to applicable law, cities and counties may prepare and adopt comprehensive plan amendments for urban reserve areas consistent with all provisions of the Urban Growth Management Functional Plan prior to the inclusion of an urban reserve area within the Urban Growth Boundary. Prior to the preparation and adoption of any such comprehensive plan amendments, at the request of a city or county, the Council shall

establish the 2040 Growth Concept design types and the boundaries of the area to be planned, if it has not previously done so.

~~(e) Urban Reserve Plan Required. A conceptual land use plan and concept map which demonstrates compliance with Goal 2 and Goal 14 and section 3.01.020 or section 3.01.030, with the RUGGO and with the 2040 Growth Concept design types and any applicable functional plan provisions shall be required for all major amendment applications and legislative amendments of the Urban Growth Boundary. Except as provided in section 3.01.015(e), the plan and map shall include at least the following, when applicable:~~

~~(1) Provision for either annexation to a city and any necessary service districts at the time of the final approval of the Urban Growth Boundary amendment consistent with section 3.01.065 or an applicable city county planning area agreement which requires at least the following:~~

~~(A) City or county agreement to adopt comprehensive plan provisions for the lands added to the Urban Growth Boundary which comply with all requirements of urban reserve plan conditions of the Urban Growth Boundary approval;~~

~~(B) City and county agreement that lands added to the Urban Growth Boundary shall be rezoned for urban development only upon annexation or agreement for delayed annexation to the city and any necessary service district identified in the approved Concept Plan or incorporation as a new city; and~~

~~(C) County agreement that, prior to annexation to the city and any necessary service districts, rural zoning that ensures a range of opportunities for the orderly, economic, and efficient provision of urban services when these lands are included in the Urban Growth~~

Boundary remains in place until city annexation and the adoption of urban zoning.

~~(2) Notwithstanding (1) above, the Metro Council may approve a major or legislative amendment to the Urban Growth Boundary if the proposed amendment is required to assist the region to comply with the 2040 Growth Concept or to assist the region, a city or county in demonstrating compliance with statute, rule, or statewide goal requirements for land within the Urban Growth Boundary. These requirements include ORS 197.296, 197.299 and 197.303, the statewide planning goals and Regional Urban Growth Goals and Objectives. An urban services agreement consistent with ORS 195.065 shall be required as a condition of approval for any amendment under this subsection.~~

~~(3) The areas of Urban Reserve Study Areas #11, 14 and 65 are so geographically distant from existing city limits that annexation to a city is difficult to achieve. If the county and affected city and any necessary service districts have signed an urban service agreement or an urban reserve agreement coordinating urban services for the area, then the requirements for annexation to a city in (1)(B) and (1)(C) above shall not apply.~~

~~(4) Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities which conform to the 2040 Concept Plan design type designation for the area.~~

~~(5) Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of~~

recommendations in Title 7 of the Urban Growth Management Functional Plan.

~~(6) Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.~~

~~(7) Provision for sufficient commercial and industrial development for the needs of the area to be developed and the needs of adjacent land inside the Urban Growth Boundary consistent with 2040 Growth Concept design types.~~

~~(8) A conceptual transportation plan consistent with the Regional Transportation Plan, and consistent with protection of natural resources as required by Metro functional plans.~~

~~(9) Identification, mapping and a funding strategy for protecting areas from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include cost estimates to implement a strategy to fund resource protection.~~

~~_____ (10) A conceptual public facilities and services plan, including rough cost estimates for the provision of sewer, water, storm drainage, transportation, fire and police protection facilities and parks, including financing strategy for those costs.~~

~~_____ (11) A conceptual school plan which provides for the amount of land and improvements needed for school facilities. Estimates of the need shall be coordinated among affected school districts, the affected city or county, and affected special districts consistent with the procedures in ORS 195.110(3), (4) and (7).~~

~~_____ (12) An Urban Reserve Plan map showing, at least, the following, when applicable:~~

~~_____ (A) Major roadway connections and public facilities;~~

~~_____ (B) Location of unbuildable lands including but not limited to steep slopes, wetlands, floodplains and riparian areas;~~

~~_____ (C) General locations for commercial and industrial lands;~~

~~_____ (D) General locations for single and multi family housing;~~

~~_____ (E) General locations for public open space, plazas and neighborhood centers; and~~

~~_____ (F) General locations or alternative locations for any needed school, park or fire hall sites.~~

~~(13) The urban reserve plan shall be coordinated among the city, county, school district and other service districts, including a dispute resolution process with an MPAC report and public hearing consistent with RUGGO Objective 5.3. The urban reserve plan shall be considered for local approval by the affected city or by the county, if subsection (3), above, applies in coordination with any affected service district and/or school district. Then the Metro Council shall consider final approval of the plan.~~

(Ordinance No. 96-655E, Sec. 1. Amended by Ordinance No. 98-772B, Sec. 1.)

3.01.015 Legislative Amendment Procedures

(a) The process for determination of need and location of lands for amendment of the UGB is provided in section 3.01.020.

(b) Notice shall be provided as described in section 3.01.050.

~~(c) Metro shall consult with the appropriate city and/or county concerning comprehensive plan changes that may be needed to implement a legislative amendment.~~

~~(d) Metro shall consult with the appropriate city, county, school and service districts to identify lands inside first tier urban reserves which are the most capable of being served by extension of service from existing service providers for the purpose of preparing concept plans in advance for any short term need for inclusion of additional lands in the Urban Growth Boundary.~~

(ec) When the Metro Council shall initiate Legislative Amendments when it determines pursuant to Goal 14 and section 3.01.020 that there is a need to add land to the Urban Growth Boundary, ~~it shall initiate legislative amendments to do so. In determining which lands to add to the boundary to meet the identified need, the Council shall consider all applicable~~

~~criteria including Goal 2 and Goal 14, section 3.01.012(d), and the urban reserve planning requirements set forth in section 3.01.012(e). If insufficient land is available that satisfies the requirements for an urban reserve plan as specified in section 3.01.012(e), then the Metro Council may consider first tier lands where a city or county commits to complete and adopt such an urban reserve plan and provides documentation to support this commitment in the form of a work program, timeline for completion, and identified funding for the program adopted by the city or county.~~

~~(d) Before adopting any legislative amendment, Metro shall consult with cities, counties and MPAC to determine which cities and counties, if any, are prepared to initiate comprehensive plan amendments for urban reserve areas, if they are included, within the Urban Growth Boundary.~~

~~(e) Where a city or county has adopted comprehensive plan amendments for an urban reserve area to Section 3.01.012(c), the Metro Council shall rely upon the planned status of that urban reserve in considering applicable criteria.~~

~~(f) All land added to the Urban Growth Boundary to meet a need for land shall be subject to the urban reserve plan requirements of Title 11 of the Urban Growth Management Functional Plan, Metro Code section 3.07.1110 et seq.~~

~~(ff) Legislative amendment decisions shall be accompanied by abased upon substantial evidence in the decision record which demonstrates how the Urban Growth Boundary amendment complies with applicable state and local law and statewide goals as interpreted by section 3.01.020 and subsequent appellate decisions and includes applicable concept plans and maps demonstrating consistency with RUGGO including the 2040 Growth Concept and compliance with any applicable functional plan provisions.~~

~~(gg) The following public hearings process shall be followed for legislative amendments:~~

- (1) The district council shall refer a proposed amendment to the appropriate council committee at the first council reading of the ordinance.
- (2) The committee shall take public testimony at as many public hearings as necessary. At the conclusion of public testimony, the committee shall deliberate and make recommendations to the council.
- (3) The council shall take public testimony at its second reading of the ordinance, discuss the proposed amendment, and approve the ordinance with or without revisions or conditions, or refer the proposed legislative amendment to the council committee for additional consideration.
- (4) Testimony before the council or the committee shall be directed to Goal 14 and Goal 2 considerations interpreted at section 3.01.020 of this chapter.
- (5) ~~When~~ Prior to the council acts acting to approve a legislative amendment, including land outside the district, the council shall annex the territory to the district. The annexation decision shall be consistent with the requirements of section 3.09.120 of this Code. If the annexation decision becomes the subject of a contested case pursuant to Chapter 3.09 of this code, the Legislative amendment to the Urban Growth Boundary shall not be approved until the contested case is either withdrawn or the annexation is approved by the Boundary Appeals Commission, whichever occurs first.

(A) ~~Initial action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the district within six months of the date of adoption of the resolution; or,~~

~~(B) The district may initiate a district boundary annexation concurrent with a proposed UGB amendment;~~

~~(C) The council shall take final action, within 30 calendar days of notice that annexation to the district has been approved~~

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No 98-772B, Sec. 1.)

3.01.020 Legislative Amendment Criteria

(a) The purpose of this section is to address ORS 197.298, Goals 2 and 14 of the statewide planning goals and RUGGO. This section details a process which is intended to interpret Goals 2 and 14 for specific application to the district UGB. Compliance with this section shall constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the Regional Urban Growth Goals and Objectives.

(b) While all of the following Goal 14 factors must be addressed, the factors cannot be evaluated without reference to each other. Rigid separation of the factors ignores obvious overlaps between them. Demonstration of compliance with one factor or subfactor may not constitute a sufficient showing of compliance with the goal, to the exclusion of the other factors when making an overall determination of compliance or conflict with the goal. For legislative amendments, if need has been addressed, the district shall demonstrate that the priorities of ORS 197.298 have been followed and that the recommended site was better than alternative sites, balancing factors 3 through 7.

(1) Factor 1: Demonstrated need to accommodate long-range urban population growth.

- (A) The district shall develop 20-year Regional Forecasts of Population and Employment, which shall include a forecast of net developable land need, providing for review and comment by cities, counties, special districts and other interested parties. After deliberation upon all relevant facts the district shall adopt a forecast. This forecast shall be completed at least every five years or at the time of periodic review, whichever is sooner. Concurrent with the adoption of the district's growth forecast, the district shall complete an inventory of net developable land, providing the opportunity for review and comment by all cities and counties in the district.
- (B) The forecast and inventory, along with all other appropriate data shall be considered by the district in determining the need for urban developable land. The results of the inventory and forecast shall be compared, and if the net developable land equals or is larger than the need forecast, then the district council shall hold a public hearing, providing the opportunity for comment. The council may conclude that there is no need to move the UGB and set the date of the next five-year review or may direct staff to address any issues or facts which are raised at the public hearing.
- (C) If the inventory of net developable land is less than the need forecast, the district shall conduct a further analysis of the inventory to determine whether any significant surplus of developable land in one or more land use categories could be suitable to address the unmet forecasted need. Council shall hold a public hearing prior to its determination of whether any estimated deficit of net developable land is sufficient to justify an analysis of locations for a legislative amendment the UGB.

(D) For consideration of a legislative UGB amendment, the district council shall review an analysis of land outside the present UGB to determine those areas best suited for expansion of the UGB to meet the identified need.

~~E) Consistent with 3.01.012(e) areas included in a legislative amendment of the UGB shall have completed an urban reserve conceptual plan. If suitable lands with completed urban reserve plans are not sufficient to meet the identified need, additional legislative amendments of the UGB may be adopted as urban reserve plans are completed. This legislative review process for the regional UGB shall continue to consider legislative UGB amendments until the identified need is fully met.~~

(FE) The district must find that the identified need cannot reasonably be met within the UGB, consistent with the following considerations:

- (i) That there is not a suitable site with an appropriate comprehensive plan designation.
- (ii) All net developable land with the appropriate plan designation within the existing UGB shall be presumed to be available for urban use during the planning period.
- (iii) Market availability and level of parcelization shall not render an alternative site unsuitable unless justified by findings consistent with the following criteria:

- (I) Land shall be presumed to be available for use at some time during the planning period of the UGB unless legal impediments, such as deed restrictions, make it unavailable for the use in question.

- (II) A parcel with some development on it shall be considered unavailable if the market value of the improvements is not significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment will be developed by the district to provide a means to define what is significant when comparing structure value and land values. When a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that the district substitute that data in the district gross developable land inventory.

- (III) Properly designated land in more than one ownership shall be considered suitable and available unless the current pattern or level of parcelization makes land assembly during the planning period unfeasible for the use proposed.

- (2) Factor 2: Need for housing, employment opportunities and livability may be addressed under either subsection (A) or (B) or both, as described below.

- (A) For a proposed amendment to the UGB based upon housing or employment opportunities the district must demonstrate that a need based upon an economic analysis can only be met through a change in the location of the UGB. For housing, the proposed amendment must meet an unmet need according to statewide planning Goal 10 and its associated administrative rules. For employment opportunities, the proposed amendment must meet an unmet long-term need according to statewide planning Goal 9 and its associated administrative rules. The amendment must consider adopted comprehensive plan policies of jurisdictions adjacent to the site, when identified by a jurisdiction and must be consistent with the district's adopted policies on urban growth management, transportation, housing, solid waste, and water quality management.
- (B) To assert a need for a UGB amendment based on livability, the district must:
- (i) factually define the livability need, including its basis in adopted local, regional, state, or federal policy;
 - (ii) factually demonstrate how the livability need can best be remedied through a change in the location of the UGB;
 - (iii) identify both positive and negative aspects of the proposed UGB amendment on both the livability need and on other aspects of livability; and
 - (iv) demonstrate that, on balance, the net result of addressing the livability need by amending the UGB will be positive.

(3) Factor 3: Orderly and economic provision of public facilities and services. An evaluation of this factor shall be based upon the following:

(A) For the purposes of this section, economic provision shall mean the lowest public cost provision of urban services. When comparing alternative sites with regard to factor 3, the best site shall be that site which has the lowest net increase in the total cost for provision of all urban services. In addition, the comparison may show how the proposal minimizes the cost burden to other areas outside the subject area proposed to be brought into the boundary.

(B) For the purposes of this section, orderly shall mean the extension of services from existing serviced areas to those areas which are immediately adjacent and which are consistent with the manner of service provision. For the provision of gravity sanitary sewers, this could mean a higher rating for an area within an already served drainage basin. For the provision of transit, this would mean a higher rating for an area which could be served by the extension of an existing route rather than an area which would require an entirely new route.

(4) Factor 4: Maximum efficiency of land uses within and on the fringe of the existing urban area. An evaluation of this factor shall be based on at least the following:

(A) The subject area can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle,

and transit use; and the ability to provide for a mix of land uses to meet the needs of residents and employees. If it can be shown that the above factors of compact form can be accommodated more readily in one area than others, the area shall be more favorably considered.

(B) The proposed UGB amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with local comprehensive plan policies and regional functional plans, by assisting with achieving residential and employment densities capable of supporting transit service; supporting the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improving the likelihood of realizing a mix of land uses to meet the needs of residents and employees.

(5) Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall be based upon consideration of at least the following:

(A) If the subject property contains any resources or hazards subject to special protection identified in the local comprehensive plan and implemented by appropriate land use regulations, findings shall address how urbanization is likely to occur in a manner consistent with these regulations.

(B) Complementary and adverse economic impacts shall be identified through review of a regional economic opportunity analysis, if one has been completed. If there is no regional economic opportunity analysis, one may be completed for the subject land.

(C) The long-term environmental, energy, economic, and social consequences resulting from the use at the proposed site. Adverse impacts shall not be significantly more adverse than would typically result from the needed lands being located in other areas requiring an amendment of the UGB.

(6) Factor 6: Retention of agricultural land. This factor shall be addressed through the following:

(A) Prior to the designation of urban reserves, the following hierarchy shall be used for identifying priority sites for urban expansion to meet a demonstrated need for urban land:

(i) Expansion on rural lands excepted from statewide planning Goals 3 and 4 in adopted and acknowledged county comprehensive plans. Small amounts of rural resource land adjacent to or surrounded by those "exception lands" may be included with them to improve the efficiency of the boundary amendment. The smallest amount of resource land necessary to achieve improved efficiency shall be included;

(ii) If there is not enough land as described in (i) above to meet demonstrated need, secondary or equivalent lands, as defined by the state, should be considered;

(iii) If there is not enough land as described in either (i) or (ii) above, to meet demonstrated need, secondary agricultural

resource lands, as defined by the state should be considered;

(iv) If there is not enough land as described in either (i), (ii) or (iii) above, to meet demonstrated need, primary forest resource lands, as defined by the state, should be considered;

(v) If there is not enough land as described in either (i), (ii), (iii) or (iv) above, to meet demonstrated need, primary agricultural lands, as defined by the state, may be considered.

(B) After urban reserves are designated and adopted, consideration of factor 6 shall be considered satisfied if the proposed amendment is wholly within an area designated as an urban reserve.

(C) After urban reserves are designated and adopted, a proposed amendment for land not wholly within an urban reserve must also demonstrate that the need cannot be satisfied within urban reserves.

(7) Factor 7: Compatibility of proposed urban development with nearby agricultural activities.

The record shall include an analysis of the potential impact on nearby agricultural activities including the following:

- (i) A description of the number, location and types of agricultural activities occurring within one mile of the subject site;
- (ii) An analysis of the potential impacts, if any, on nearby agricultural activities taking place on lands designated for agricultural use in the applicable adopted county or city comprehensive plan, and mitigation efforts, if any impacts are identified. Impacts to be considered shall include consideration of land and water resources which may be critical to agricultural activities, consideration of the impact on the farming practices of urbanization of the subject land, as well as the impact on the local agricultural economy.

(c) The requirements of statewide planning Goal 2 will be met by addressing all of the requirements of section 3.01.020(b), above, and by factually demonstrating that:

- (1) The land need identified cannot be reasonably accommodated within the current UGB; and
- (2) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts; and
- (3) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas than the proposed site and requiring an exception.

(d) The proposed location for the UGB shall result in a clear transition between urban and rural lands, using natural and built features, such as roads, drainage divides, floodplains, powerlines, major topographic features, and historic patterns of land use or settlement.

(e) Satisfaction of the requirements of section 3.01.020(a) and (b) does not mean that other statewide planning goals do not need to be considered. If the proposed amendment involves other statewide planning goals, they shall be addressed.

(f) Section 3.01.020(a), (b), (c) and (d) shall be considered to be consistent with and in conformance with the Regional Urban Growth Goals and Objectives.

(g) Where efficiencies in the future development of an existing urban reserve are demonstrated, the Metro Council may amend the urban reserve in the same UGB amendment process to include additional adjacent nonresource lands up to 10 percent of the total acreage. Any urban reserve amendment shall demonstrate compliance with the Urban Reserve Rule (OAR 660-021-0030).

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1; Ordinance No. 97-711, Sec. 1.)

3.01.025 Major Amendment Procedures

~~(a) All major amendments shall be solely upon lands designated in urban reserves, when designated consistent with 3.01.012. All major amendments shall demonstrate compliance with the following: The first priority for all major amendment petitions shall be lands designated in urban reserves. All major amendments shall demonstrate compliance with the following:~~

- (1) The criteria in section 3.01.030 of this Code as well as the procedures in OAR 660-18-000;

(2) Notice of public hearings for major amendments as described in section 3.01.050;

(3) Public hearings procedures as described in sections 3.01.055 through 3.01.065;

~~(4) The urban reserve plan requirements in section 3.01.012(e); and 3.01.015(e); and~~

(54) Final action on major amendments shall be taken as described in section 3.01.070.

(b) Where efficiencies in the future development of an urban reserve are demonstrated by the applicant, petitions may include a request that the Metro Council amend the urban reserves in the same UGB amendment process to include additional adjacent nonresource lands up to 10 percent of the total acreage in the petition. Any requested urban reserve amendment shall demonstrate compliance with the Urban Reserve Rule (OAR 660-021-0030).

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1)

3.01.033 Applications for Major Amendments and Locational Adjustments

(a) Petitions for Major Amendments or Locational Adjustments may be filed by:

(1) A county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or

~~(2) The owners of the property included in the petition or a group of more than 50 percent of the property owners who own more than 50 percent of the land area in each area included in the petition.~~

~~(ab) All A petitions filed pursuant to this chapter for amendment of the UGB must include a completed petition shall be on a form provided by the district. Petitions which do not include the appropriate completed form provided by the district will not be considered for approval and must be complete before it will be considered.~~

~~(b) Major Amendments or Locational Adjustments may be filed by:~~

~~(1) A county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or~~

~~(2) The owners of the property included in the petition or a group of more than 50 percent of the property owners who own more than 50 percent of the land area in each area included in the petition.~~

~~(c) Completed petitions for amending the UGB through either a major amendment or locational adjustment, shall be considered by the district if must be filed annually prior to between February 1st and March 15. No petition shall be accepted under this chapter if the The proposed amendment or locational adjustment to the UGB would shall not result in an island of urban land outside the existing UGB, or if the proposed addition contains within it result in the creation of an island of non-urban land excluded from the petition. The district will determine not later than seven working days after the filing deadline whether a petition is complete and notify the petitioner of any deficiencies. The petitioner must remedy any identified deficiencies within 14 days of notification, or the petition and fees shall be returned to the petitioner and no further consideration shall be given. Completeness of petitions shall be the petitioners' responsibility.~~

(d) Upon request by a councilor or the executive officer, the council may, by an affirmative vote of two-thirds of the full council, waive the filing deadline for a particular petition or petitions and hear such petition or petitions at any time. Such waiver shall not waive any other requirement of this chapter.

(e) The district shall give notice of the March 15 deadline for acceptance of petitions for UGB major amendments and locational adjustments under this chapter not less than 90 calendar days before a deadline and again ~~20~~ 60 calendar days before a deadline in a newspaper of general circulation in the district and in writing to each city and county in the district. A copy of the notice shall be mailed not less than 90 calendar days before a deadline to anyone who has requested notification. The notice shall explain the consequences of failing to file before the deadline and shall specify the district officer or employee from whom additional information may be obtained.

(f) All petitions shall be reviewed by district staff and a report and recommendation submitted to the hearings officer. For locational adjustments, the staff report shall be submitted not less than 10 calendar days before the hearing. For major amendments, the staff report shall be submitted not less than 21 calendar days before the hearing. A copy of the staff report and recommendation shall simultaneously be sent to the petitioner(s) and others who have requested copies. Any subsequent staff report used at the hearing shall be available at least seven days prior to the hearing.

(g) ~~It shall be the responsibility of the~~ The petitioner to shall provide a list of names and addresses for notification purposes, consistent with section 3.01.055, when submitting a petition. Said list of names and addresses shall be certified in one of the following ways:

- (1) A list attested to by a title company as a true and accurate list of property owners as of a specified date; or

- (2) A list attested to by a county assessor, or designate, pledging that the list is a true and accurate list of property owners as of a specified date; or
- (3) A list with an attached affidavit completed by the proponent affirming that the names and addresses are a true and accurate list of property owners as of a specified date.

(h) Upon request of the applicant, the executive officer may postpone the scheduling of the hearing for no more than 90 days. The applicant shall request rescheduling of the hearing within 90 days or the petition shall be considered inactive and withdrawn. The applicant shall be refunded the portion of the fee deposit not required for costs as outlined in 3.01.045.

(hi) Local Position on Petition:

- (1) Except as provided in subsection 4 of this section, a petition shall not be considered completed for hearing unless the petition includes a written statement by the governing body of each city or county with land use jurisdiction over the area included in the petition that:
 - (A) recommends that Metro approve the petition; or
 - (B) recommends that Metro deny the petition; or
 - (C) expresses no preference on the petition.
- (2) Except as provided in subsection 4 of this section, a petition shall not be considered completed for hearing unless the petition includes a written statement by any special district which has an agreement with the governing body of each city or county with land use jurisdiction over the

area included in the petition to provide one or more urban services to the subject area that:

- (A) recommends that Metro approve the petition; or
 - (B) recommends that Metro deny the petition; or
 - (C) expresses no preference on the petition.
- (3) If a city, county or special district holds a public hearing to establish its position on a petition, the city or county shall:
- (A) provide notice of such hearing to the district and to any city or county whose municipal boundaries or urban planning area boundary abuts the area affected; and
 - (B) provide the district with a list of the names and addresses of parties testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.
- (4) Upon request by an applicant, the executive officer shall waive the requirements of subsections (1) and (2) of this section regarding written recommendations from the city or county with land use jurisdiction or a special district which provides one or more urban services if the applicant shows that a request for comment was filed with the local government at least 120 calendar days previously and that the local government or service provider has not yet adopted a position.
- (ij) Petitions outside district boundary:

(1) Petitions to extend the UGB to include land outside the district shall not be accepted unless accompanied by a copy of a petition for annexation to the district.

~~(A) A copy of a petition for annexation to the district to be submitted to the Portland Metropolitan Area Local Government Boundary Commission pursuant to ORS chapter 199; and~~

~~(B) A statement of intent to file the petition for annexation within 90 calendar days of Metro action, or after the appeal period following final action by a court concerning a Metro action, to approve the petition for UGB major amendment or locational adjustment.~~

(2) A city or county may, in addition to the action required in subsection B of this section, approve a plan or zone change to implement the proposed adjustment in the area included in a petition prior to a change in the district UGB if:

(A) The district is given notice of the local action;

(B) The notice of the local action states that the local action is contingent upon subsequent action by the district to amend its UGB; and

(C) The local action to amend the local plan or zoning map becomes effective only if the district amends the UGB consistent with the local action.

(3) If the city or county has not contingently amended its plan or zoning map to allow the land use category of the proposed amendment proposed in a

petition, and if the district does approve the UGB amendment, the local plan or map change shall be changed to be consistent with the UGB amendment within one year.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 98-732, Sec. 1.)

3.01.035 Locational Adjustment Procedures

(a) It is the purpose of sections 3.01.035 and 3.01.037 to establish procedures to be used by the district in making minor UGB amendments. The sections are intended to incorporate relevant portions of statewide goals 2 and 14, and, by restricting the location, size, character, and annual acreage of UGB adjustments that may be approved under this chapter, this section obviates the need to specifically apply these goal provisions to UGB amendments approved hereunder.

(b) Locational adjustments shall be limited to areas outside designated urban reserve areas. All locational adjustment additions and administrative adjustments for any one year shall not exceed 100 net acres and no individual locational adjustment shall exceed 20 net acres. Natural areas adjustments shall not be included in the annual total of 100 acres, and shall not be limited to 20 acres, except as specified in 3.01.035(g), below. Completed locational adjustment applications shall be processed on a first come, first served basis.

(c) All petitions for locational adjustments except natural area petitions shall meet the following criteria:

- (1) Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas

within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion.

- (2) Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans.
- (3) Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.
- (4) Retention of agricultural land. When a petition includes land with Agricultural Class I-IV soils designated in the applicable comprehensive plan for farm or forest use, the petition shall not be approved unless it is factually demonstrated that:
 - (A) Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
 - (B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable.
- (5) Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of all factors of this subsection must clearly outweigh the adverse impact of any incompatibility.

(6) Demonstrate average residential densities of at least 10 dwelling units per net developable residential acre, or lower densities, which conform to the 2040 Growth Concept concept, plan designation for the area.

(d) Petitions for locational adjustments shall demonstrate compliance with the 2040 Growth Concept and other applicable regional goals and objectives.

(de) Petitions for locational adjustments to remove land from the UGB may be approved under the following conditions:

- (1) Consideration of the factors in section 3.01.035(c) demonstrate that it is appropriate the land be excluded from the UGB.
- (2) The land is not needed to avoid short-term urban land shortages for the district and any long-term urban land shortage that may result can reasonably be expected to be alleviated through the addition of urban land in an appropriate location elsewhere in the region.
- (3) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and transportation facilities will thereby be significantly under-utilized.

(ef) A petition for a locational adjustment to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:

- (1) The requirements of paragraph 3.01.035(c)(4) are met.
- (2) The net amount of vacant land proposed to be added may not exceed 20 acres; nor may the net amount of vacant land removed exceed 20 acres.

- (3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors of section 3.01.035 (c)(1-3 and 5) of this chapter.

(fg) Petitions for locational adjustments to add land to the UGB may be approved under the following conditions:

- (1) An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB.
- (2) For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) of this section.
- (3) The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors ~~above~~ in subsection (c).

(gh) All natural area petitions for locational adjustments must meet the following conditions:

- (1) Any natural area locational adjustment petition shall be proposed at the initiative of the property owner, with concurrence from the agency proposed to accept the land.

- (2) At least 50 percent of the land area in the petition, and all land in excess of 40 acres, shall be owned by or donated to a county, city, parks district or the district, in its natural state, without mining, logging or other extraction of natural resources, or alteration of watercourses, water bodies or wetlands.
- (3) Any developable portion of the lands included in the petition, not designated as a natural area, shall not exceed twenty acres and shall lie between the existing UGB and the area to be donated.
- (4) The natural area portion owned by or to be donated to a county, city, parks district, or the district must be identified in a city or county comprehensive plan as open space or natural area or equivalent, or in the district's natural areas and open space inventory.
- (5) The developable portion of the petition shall meet the criteria set out in parts (b), (c)(1), (c)(2) and (c)(3) of section 3.01.035.

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 98-732, Sec. 2.)

3.01.040 Metro Conditions of Approval Requirements For Areas Added To The Urban Growth Boundary By A Legislative or Major Amendment

(a) All land added to the Urban Growth Boundary shall be subject to the Urban Growth Boundary area comprehensive plan requirements of Title 11 of the Urban Growth Management Functional Plan (Metro Code section 3.07.1110 et seq.).

(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to 3.01.012(d), when it adopts a Legislative or major amendment adding land to the UGB, the Council shall take the following actions:

- (1) The Council shall consult with affected local governments and MPAC to determine whether local governments have agreed, pursuant to ORS 195.065 to 195.085 or otherwise, which local government shall adopt comprehensive plan amendments for the area consistent with requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.). Where the affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate. If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.
- (2) The Council shall establish the 2040 Growth Concept design type designations applicable to the land added to the Urban Growth Boundary, including the special land need, if any, that is the basis for the amendment.
- (3) The Council shall establish the boundaries of the area that shall be included in the conceptual level of planning required by Title 11 of the Urban Growth Management Functional Plan (Metro Code Section 3.07.1110 et seq.). The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) The Council shall also establish the time period for city or county compliance with the requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.); however, the time period shall not be less than two (2) years from the time a local government is designated pursuant to Section 3.01.40 (b) (1) above.

(5) The Council may adopt text interpretations of the requirements of Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.) that shall be applicable to the required City or County comprehensive plan amendments. These interpretations may address special land needs that are the basis for the amendment but otherwise such interpretations shall not impose specific locational development requirements. Text interpretations may include determinations that certain provisions of Title 11 are not applicable to specific areas because of the size or physical characteristics of land added to the Urban Growth Boundary.

~~———— (a) — The district may attach conditions of approval which may be needed to assure compliance of the developed use with statewide goals and regional land use planning, including, but not limited to, the following:~~

~~———— (1) — Conditions which may relate to findings of need for a particular type of use and for which the district finds a need to protect the opportunity for development of this type of use at the proposed site;~~

~~———— (2) — Those conditions to assist in the provision of urban services as may be recommended by cities, counties with land use jurisdiction or special districts which have agreements with cities or counties to provide urban services to the area proposed for amendment.~~

~~———— (b) — The district may determine that certain conditions of approval are so important to inclusion of land into the urban growth boundary that if those conditions are not met the urban growth boundary approval may be revoked automatically or by action of the district.~~

~~———— (c)(b) Amendments to conditions of approval for a major amendment, including modifications of time to complete an approval condition, may be considered by the district council upon a petition by the property owner which includes evidence substantiating a change in a condition of approval; or upon the council's own motion if the approval condition states that further Metro review is required.~~

~~———— (d)(c) Petitions for amendments to conditions of approval for a major amendment shall follow the procedures for applications for major amendment and council action on quasi-judicial amendments, except for the following:~~

~~———— (1) Petitions for amendments to conditions of approval may be filed at any time following council approval of a major amendment;~~

~~———— (2) Petitions for amendments to conditions of approval shall be heard by the council unless referred to the hearings officer by the council.~~

(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 96-655E, Sec. 1)

3.01.050 Hearing Notice Requirements

(a) 45-Day Notice. A proposal to amend the UGB by a legislative amendment, major amendment or locational adjustment shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the final hearing on adoption. The notice shall be accompanied by the appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.

(b) Newspaper Ads. A 1/8 page advertisement in a newspaper of general circulation of the district for all legislative amendments and major amendments. For legislative amendments and major amendments the initial newspaper advertisements shall be published at least 45 days prior to the public hearing and shall include the same information listed in subsection (a). For locational adjustments, a ~~1/8~~ page newspaper advertisement shall be published not more than 20, nor less than 10 calendar days prior to the hearing.

(c) Notice of public hearing shall include:

- (1) The time, date and place of the hearing.
- (2) A description of the property reasonably calculated to give notice as to its actual location. A street address or other easily understood geographical reference can be utilized if available.
- (3) For major amendments and locational adjustments,
 - (A) An explanation of the proposed action, including the nature of the application and the proposed boundary change.
 - (B) A list of the applicable criteria for approval of the petition at issue.
 - (C) A statement that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (4) Notice that interested persons may submit written comments at the hearing and appear and be heard.

- (5) Notice that the hearing will be conducted pursuant to district rules and before the hearings officer unless that requirement is waived by the Metro council;
- (6) Include the name of the Metro staff to contact and telephone number for more information;
- (7) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the final hearing, and that a copy will be made available at no cost or reasonable cost. Further that if additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing; and
- (8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and

(d) Not less than 20 calendar days before the hearing, notice shall be mailed to the following persons:

- (1) The petitioner(s) and to owners of record of property on the most recent property tax roll where the property is located.
- (2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify owners of record.

- (3) Cities and counties in the district, or cities and counties whose jurisdictional boundaries either include or are adjacent to the subject property, and affected agencies who request regular notice.
- (4) The neighborhood association, community planning organization or other citizen group, if any, which has been recognized by the city or county with land use jurisdiction for the subject property.
- (5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to participate in land use planning processes by the cities and counties whose jurisdictional boundaries either include or are adjacent to the site.
- (6) The regional representatives of the director of the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation.
- (7) Any other person requesting notification of UGB changes.

(e) At the conclusion of the hearing, the hearings officer may continue the hearing to a time, place and date certain, without additional notice.

3.01.070 Notice of Decision

(a) The district shall give each county and city in the district notice of each amendment of the UGB. Mailing the notice required by Ballot Measure 56 (Nov. 1998) [ORS Chapter 268] or ORS 197.615 shall satisfy this subsection.

(b) For the local government designated as having the responsibility for land use planning for the area(s) added to the UGB, the district shall also notify the government with jurisdiction, which notice shall include a statement of provide an additional notice stating the time period for completing comprehensive plan amendments for the area local action that will be required to make local comprehensive plans consistent with the amended UGB and the date by which that action must be taken.

3.07 TITLE 11: URBAN GROWTH BOUNDARY AMENDMENT AREA COMPREHENSIVE URBAN RESERVE PLAN REQUIREMENTS

3.07.1105 Purpose and Intent

It is the purpose of this Title 11 to require that all territory added to the Urban Growth Boundary shall be included within a city or county's comprehensive plan prior to urbanization. The comprehensive plan amendment must be consistent with the Functional Plan. The intent of this Title is that comprehensive plan amendments shall promote the integration of the new land added to the Urban Growth Boundary into existing communities or provided for the establishment of new communities.

3.07.1110 Interim Protection of Areas Brought Inside Urban Growth Boundary

Prior to the approval by report to the Metro Council and adoption by all local governments having jurisdiction over any territory added to the Urban Growth Boundary of comprehensive plan amendments consistent with an urban reserve consistent with section 3.07.1130 of this title which plan meetsing all requirements of the Urban Growth Boundary amendment urban reserve plan requirements set forth in section 3.07.1120 of this title, a city or county shall not approve of:

- A. Any land use regulation or zoning map amendments specific to the territory allowing higher residential density than allowed by acknowledged provisions in effect prior to the adoption of the Urban Growth Boundary amendment;
- B. Any land use regulation or zoning map amendments specific to the territory allowing commercial or industrial uses not allowed under acknowledged provisions in effect prior to the adoption of the Urban Growth Boundary Amendment;
- C. Any land division or partition that would result in the creation of any new parcel which would be less than 20 acres in total size.

(Ordinance No. 98-772B, Sec. 2.)

3.07.1120 Urban Growth Boundary Amendment Urban Reserve Plan Requirements

All territory ~~that is added to the Metro region~~ Urban Growth Boundary as either a major amendment or a legislative amendment pursuant to Metro Code chapter 3.01 shall be ~~is~~ subject to _____ adopted comprehensive plan provisions an Urban Growth Boundary amendment urban reserve plan by Metro Code 3.01.012(d), adopted by the city or county which will exercise urban land use planning authority over the territory and approved by the Metro Council as consistent with the applicable requirements of all applicable Titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. chapter 3.01 of the Metro Code. : Such plans ~~The comprehensive plans provision shall contain a conceptual land use plan and concept map urban growth plan diagram and policies that which demonstrates compliance with the RUGGO, including and the Metro Council adopted 2040 Growth Concept design types, and all applicable functional plan provisions. Urban reserve Comprehensive plan amendments shall demonstrate compliance with either subsections A, or B or C, and shall also include all details required in subsections B K DC ML:~~

A. ~~Provision for either annexation to a city and or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all required urban services, at the time of the final approval of the Urban Growth Boundary amendment consistent with section 3.01.065 or an applicable city-county planning area agreement which requires at least the following:~~

~~1. City or county agreement to adopt comprehensive plan provisions for the lands added to the Urban Growth Boundary which comply with all requirements of urban reserve plan conditions of the Urban Growth Boundary approval;~~

~~2. City and county agreement that lands added to the Urban Growth Boundary shall be rezoned for urban development only upon annexation or agreement for delayed annexation to the city and any necessary service district identified in the approved Concept Plan or incorporation as a new city; and~~

~~3. County agreement that, prior to annexation to the city and any necessary service districts, rural zoning that ensures a range of opportunities for the orderly, economic, and efficient provision of urban services when these lands are included in the Urban Growth Boundary remains in place until city annexation and the adoption of urban zoning.~~

~~B. The Metro Council may approve an urban reserve plan where the Urban Growth Boundary amendment was required to assist the region to comply with the 2040 Growth Concept or to assist the region, a city or county in demonstrating compliance with statute, rule, or statewide goal requirements for land within the Urban Growth Boundary. These requirements include ORS 197.296, 197.299 and 197.303, the statewide planning goals and Regional Urban Growth Goals and Objectives. An urban services agreement consistent with ORS 195.065 shall be required as a condition of approval for any urban reserve plan under this subsection.~~

~~C.~~ The areas of Urban Reserve Study Areas #11, 14 and 65 are so geographically distant from existing city limits that annexation to a city is difficult to achieve. If the county and affected city and any necessary service districts have signed an urban service agreement or an urban reserve agreement coordinating urban services for the area, then the requirements for annexation to a city in A(2) and A(3) above shall not apply.

DB. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities which conform to the 2040 Growth Concept Plan design type designation for the area.

EC. Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.

FD. Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.

GE. Provision for sufficient commercial and industrial development for the needs of the area to be developed ~~and the needs of adjacent land inside the Urban Growth Boundary~~ consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.

- ~~H~~F. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan and that is also consistent with the protection of natural resources either identified in acknowledged comprehensive plan inventories or as required by Metro functional plans Title 3 of the Urban Growth Management Functional Plan. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.
- ~~I~~G. Identification, mapping and a funding strategy for protecting areas from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include ~~cost estimates to implement a strategy to fund resource protection~~ a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, or easement dedication to ensure that all significant natural resources are protected.
- ~~J~~H. A conceptual public facilities and services plan, ~~including rough cost estimates for the provision of~~ sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches. ~~facilities and parks, including financing strategy for those costs.~~
- ~~K~~I. A conceptual school plan ~~that which~~ provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the Urban Growth Boundary. ~~Estimates-~~ The estimates of the need shall be

coordinated among affected school districts, the affected city or county, and affected special districts consistent with the applicable procedures in ORS 195.110(3), (4) and (7).

~~L.J.~~ ~~An Urban Reserve Plan map~~ An urban growth diagram for the designated planning area showing, at least, the following, when applicable:

1. General locations of arterial, collector and essential local streets~~Major roadway~~ and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;
2. Location of steep slopes and unbuildable lands including but not limited to steep slopes, wetlands, floodplains and riparian areas;
3. General locations for mixed use areas, commercial and industrial lands;
4. General locations for single and multi-family housing;
5. General locations for public open space, plazas and neighborhood centers; and
6. General locations or alternative locations for any needed school, park or fire hall sites.

~~MK.~~ The ~~urban reserve plan~~ amendments shall be coordinated among the city, county, school district and other service districts, ~~including a dispute resolution process with an MPAC report and public hearing consistent with RUGGO Objective 5.3.~~ The urban reserve plan shall be considered for local approval by the affected city or by the county, if subsection C, above, applies, in coordination with any affected service district and/or school district. ~~Then the Metro Council shall consider final approval of the plan.~~

(Ordinance No. 98-772B, Sec. 2.)

3.07.1130 Implementation of Urban Growth Boundary Amendment Urban Reserve Comprehensive Plan Requirements

~~Urban Growth Boundary urban reserve plans shall be adopted as components of city or county comprehensive plans. The adopted plan shall be a conceptual plan and concept map consistent with the applicable adopted 2040 Growth Concept design types that shall govern comprehensive plan, land use regulation and map amendments that implement the Urban Growth Boundary amendment urban reserve plan after the territory is included in the Urban Growth Boundary.~~

A. On or before 60 days prior to the adoption of any comprehensive plan amendment subject to this Title 11, the local government shall transmit to Metro the following:

1. A copy of the comprehensive plan amendment proposed for adoption;
2. An evaluation of the ~~urban reserve comprehensive plan amendment~~ for compliance with ~~urban reserve plan~~ the Functional Plan and 2040 Growth Concept design types requirements and any additional conditions of approval of the urban growth boundary amendment. This evaluation shall include an explanation of how the plan implements the 2040 Growth Concept;
3. Copies of all applicable comprehensive plan provisions and implementing ordinances as proposed to be amended.

B. The Council may grant an extension of time for adoption of the required Comprehensive Plan Amendment if the local government has demonstrated substantial progress or good cause for failing to adopt the amendment on time. Requests for extensions of time may accompany the transmittal under subsection A of this section.

(Ordinance No. 98-772B, Sec. 2.)

3.07.1140 Effective Date and Notification Requirements

The provisions of this Title 11 are effective immediately. Prior to making any amendment to any comprehensive plan or implementing ordinance for any territory that has been added to the Urban Growth Boundary after the effective date of this code amendment, a city or county shall comply with the notice requirements of section 3.07.830 and include in the required staff report an explanation of how the proposed amendment complies with the requirements of this Title 11 in addition to the other requirements of this functional plan.

(Ordinance No. 98-772B, Sec. 2.)

3.09 LOCAL GOVERNMENT BOUNDARY CHANGES

3.09.120 Minor Boundary Changes To Metro's Boundary

(a) Minor boundary changes to the Metro Boundary may be initiated by property owners and electors, or as otherwise provided by law. Petitions shall meet the minimum requirements of section 3.09.040 above. The Executive Officer shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.

(b) Notice of proposed minor boundary changes to the Metro Boundary shall be given as required pursuant to section 3.09.030.

(c) Hearings will be conducted consistent with the requirements of section 3.09.050. When it takes action on a minor boundary change, the Metro Council shall consider the requirements of section 3.09.050 and all provisions of applicable law.

(d) Minor boundary changes to the Metro Boundary are not subject to an expedited process.

(e) Contested case appeals of decisions regarding minor boundary changes to the Metro Boundary are subject to appeal as provided in section 3.09.070.

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Agenda Item Number 8.1

Resolution No. 99-2815A, For the purpose of Establishing a Response to ESA Listings for Salmon and Steelhead within a Natural Resource and Watershed Policy Framework.

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING) RESOLUTION NO 99-2815A
METRO'S RESPONSE TO ESA)
LISTINGS FOR SALMON AND) Introduced by Councilor Susan McLain
STEELHEAD, WITHIN A NATURAL)
RESOURCE AND WATERSHED POLICY)
FRAMEWORK)

WHEREAS, Metro's role and commitment to building and protecting a vibrant, livable regional community is spelled out in the Regional Framework Plan; and

WHEREAS, The Regional Framework Plan contains goals and objectives pertaining to the protection and enhancement of water quality, parks, natural areas, open spaces, fish, wildlife and riparian areas; and

WHEREAS, Salmon and steelhead species in the Metro region have been listed in 1998 and 1999 as threatened under the Endangered Species Act, and

WHEREAS, ESA solutions will be developed to include the specific needs of watersheds and the Willamette Basin as a whole, and

WHEREAS, the urban areas within Metro's boundaries comprise a portion of several watersheds, and

WHEREAS, it is beneficial to promote communication and coordination of the ESA response both between watersheds and between urban and rural portions of each watershed, and

WHEREAS, Metro is aware that many jurisdictions and organizations are working to find ESA solutions, and

WHEREAS, Metro has adopted policies, and is finalizing additional policies, related to natural resource protection for the multiple benefits that accrue to the urban and natural communities, including fish and wildlife; and

WHEREAS, Metro has been actively engaged in seeking specific solutions to the ESA listings through the refocusing of staff resources and policy development; and

WHEREAS, Metro will be reviewing the fiscal implications of its ESA responsibilities through the annual budget process, and through the solid waste savings review; now, therefore

BE IT RESOLVED:

1. That Metro will proactively seek comprehensive solutions to ESA listings for salmon and steelhead in cooperation with other jurisdictions and organizations working on this issue.
2. That Metro will review policies and activities for its own operations and facilities and seek to eliminate negative impacts on listed species.
3. That Metro will continue, within its Framework and functional planning land use authority, to develop regulatory policy and programs that will improve conditions for listed species.
4. That Metro will work in partnership with organizations such as watershed councils and water and soil conservation districts, other jurisdictions, the state and federal governments, within both urban and rural areas of the affected watersheds to respond to the ESA listings of salmon and steelhead and to develop a recovery plan(s).
5. That Metro will continue to actively engage the public in educational and solution-seeking activities related to the ESA listings, and in related Metro natural resource protection activities and policy development.

6. That Metro will survey local organizational and jurisdictional partners to seek to identify services and opportunities that Metro could provide leading towards watershed based solutions.

7. That the Metro Executive will continue to assist in developing programs and policies leading to a salmon and steelhead recovery plan, with the assistance of the Salmon Recovery Coordinator, and in coordination with established Metro advisory committees, such as MPAC, WRPAC and the Metro Council.

8. That program and policies leading to a steelhead and salmon recovery plan be developed using activities outlined in exhibit A, and that progress be reported quarterly to the Metro Council.

9. That any recommendations to increase Metro's regulation or service delivery functions related to ESA beyond its charter and statute-based Framework and functional land use planning authorities will be considered through the advice and decision making processes in its charter.

ADOPTED by the Metro Council this ____ day of _____ 1999.

Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel
B:\RESOLUT.MST

Exhibit A to Resolution 99-2815A

Framework for Metro Response to ESA listing of Salmon and Steelhead. Metro will undertake to help develop solutions for ESA listed anadromous fish, within the broader context of natural resources protection and watershed planning. The following categories are meant to specify major spheres of activity in development of policy, program and public outreach.

Development of Policy and Regulatory Solutions

- Title 3—Water Quality, floodplain and riparian protection, as they relate to Metro's land use planning authorities. Compliance required by December of 1999. Monitor compliance and assist local jurisdictions to complete plan and implement.
- Goal 5—Fish & wildlife habitat protection, as they relate to Metro's land use planning authorities, as developed through WRPAC. Additional riparian protection. CPR workshops and Open Houses in April & May. Upland habitat analysis in summer of '99. Final product in spring 2000.
- Watershed planning and Stormwater Management, as they relate to Metro's land use planning authorities, as developed through WRPAC—Final recommendations in year 2000.
- Refinements, applications or further development of Regional Framework Plan, Urban Growth Management Plan or Greenspaces Master Plan.

Create a Steering Committee to review all Metro Programs for policy and operations effects, through the lens of ESA listings and solutions.

- Department review of effects of internal activities on steelhead and salmon.
- Ensure Metro programs and projects and facilities demonstrate leadership in resource protection.
- Cross-check departmental policies and do same with non-Metro jurisdictions.
- Use Metro expertise to create technically and scientifically sound analysis and solutions.

Cooperate/Coordinate with Others

- Encourage other jurisdictions and organizations with responsibility for rural portions of the affected watersheds to pro-actively pursue ESA solutions, and to coordinate their activities with Metro and others with responsibilities in the urban portions of the affected watersheds.
- Work to ensure that policy development, programs and resources are coordinated within the region.

- Provide a forum to talk about cross-jurisdictional issues.
- Seek solutions that are watershed-based and can be supported by multiple jurisdictions.
- Identify Metro services and opportunities that could be used by or in cooperation with others at the watershed level to develop or implement solutions. Examples could include mapping, grant writing or staff assistance.
- Cooperate in regional educational opportunities, such as newsletters, websites, promotion of best practices.
- Seek regional opportunities for a coordinated response through IGA's or other linked solutions.

Actively engage the Public

Continue to involve the public through workshops, public hearings, public education and solution-seeking.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2815 FOR THE PURPOSE OF
ESTABLISHING A RESPONSE TO ESA LISTINGS FOR SALMON AND STEELHEAD
WITHIN A NATURAL RESOURCE AND WATERSHED POLICY FRAMEWORK

Date: June 21, 1999

Prepared by: Michael Morrissey

In 1998 and 1999 the National Marine Fisheries Service (NMFS) listed steelhead and salmon species as threatened in watersheds within (and beyond) the Metro region. Other outcomes are expected from NMFS including issuing 4(d) rules that will help define allowed local activities with regard to "take", final designation of critical salmon and steelhead habitat, and other activities leading to the development of an ESA Recovery Plan. The recovery plan may be developed with significant input from state, local and regional jurisdictions, and Metro is in a key position to help shape this recovery plan from a regional perspective.

In addition, Metro has been engaged in policy and program development in the natural resources and watershed protection arena, both prior to and since the ESA listings. Some examples of this Metro work includes Title 3-Stream and Floodplain protection, Goal 5—fish and wildlife habitat protection, and stormwater management and watershed planning, being carried out largely through the work of the Water Resources Policy Advisory Committee (WRPAC). Other activities include parks inventory and natural areas protection, and other aspects of the Regional Framework Plan and the Urban Growth Management Functional Plan. Metro will continue work on these activities with an eye to proactive development of policies and programs, even in advance of more specific guidance from federal agencies on salmon and steelhead recovery.

Metro has also hired a salmon recovery coordinator and begun activation of a steering committee to guide review of Metro operational activities and policies. Resolution 99-2815 declares that Metro is undertaking a response to the ESA listings in a proactive manner, within a broader, ongoing context of natural resources and watershed policy development. The attachment to the staff report categorizes the types of activities Metro expects to carry forward its policy and program development and, allows the Council to provide emphasis and direction through the Growth Management Committee, as these activities are carried forward.

Attachment A to staff report for Resolution 99-2815

Framework for Metro Response to ESA listing of Salmon and Steelhead. Metro will undertake to develop solutions for ESA listed anadromous fish, within the broader context of natural resources protection and watershed planning. The following categories are meant to specify major spheres of activity in development of policy, program and public outreach.

Development of Policy and Regulatory Solutions

- Title 3—Water Quality, floodplain and riparian protection. Compliance required by December of 1999. Monitor compliance and assist local jurisdictions to complete plan and implement.
- Goal 5—Fish & wildlife habitat protection, as developed through WRPAC. Additional riparian protection. CPR workshops and Open Houses in April & May. Upland habitat analysis in summer of '99. Final product in spring 2000.
- Watershed planning and Stormwater Management, as developed through WRPAC—Final recommendations in year 2000.
- Refinements, applications or further development of Regional Framework Plan, Urban Growth Management Plan or Greenspaces Master Plan.

Create a Steering Committee to review all Metro Programs for policy and operations effects, through the lens of ESA listings and solutions.

- Department review of effects of internal activities on steelhead and salmon.
- Ensure Metro programs and projects and facilities demonstrate leadership in resource protection.
- Cross-check departmental policies and do same with non-Metro jurisdictions.
- Use Metro expertise to create technically and scientifically sound analysis and solutions.

Cooperate/Coordinate with Others

- Work to ensure that policy development, programs and resources are coordinated within the region.
- Seek solutions that are watershed-based and can be supported by multiple jurisdictions.
- Cooperate in regional educational opportunities, such as newsletters, websites, promotion of best practices.
- Seek regional opportunities for a coordinated response through IGA's or other linked solutions.

Actively engage the Public

Continue to involve the public through workshops, public hearings, public education and solution-seeking.

Agenda Item Number 8.2

Resolution No. 99-2823, For the Purpose of Changing the Positions of Nancy Kraushaar, Mark Schoening, and Debrah Marriott on the Water Resources Policy Advisory Committee.

Metro Council Meeting
Thursday, September 30, 1999
Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CHANGING THE) RESOLUTION NO. 99-2823
POSITIONS OF NANCY KRAUSHAAR,)
MARK SCHOENING AND DEBRAH)
MARRIOTT ON THE WATER) Introduced by Councilor Susan McLain
RESOURCES POLICY ADVISORY) Chair, WRPAC
COMMITTEE)

WHEREAS, The Water Resource Policy Advisory Committee (WRPAC) unanimously approved proposed revisions to the WRPAC bylaws at their March 27, 1996 meeting; and

WHEREAS, The Metro Council approved the revisions to the Bylaws as approved by WRPAC via adoption of Resolution No. 96-2321B and directed WRPAC to seek nominations for voting and non-voting positions (WRPAC Bylaws subsequently amended by Resolution 99-2780); and

WHEREAS, Resolution Nos. 96-2418A, 97-2517, 97-2588, 97-2717, 98-2733, 99-2767, 99-2793 and 99-2797 subsequently established and appointed voting and non-voting members to serve on WRPAC; and

WHEREAS, The representatives for the Cities of Clackamas County, Mark Schoening, Lake Oswego, and Nancy Kraushaar, Oregon City, voting member and alternate, respectively, have indicated a desire to switch positions to facilitate attendance issues; and

WHEREAS, Bill Young, representative for the Lower Columbia River Estuary Program in a non-voting position is retiring and his alternate, Debrah Marriott, has indicated that the Program wishes her to serve in the vacated position; and

WHEREAS, Per WRPAC Bylaws Section 2(A)(i), WRPAC was notified of these proposed membership changes via a memo from the Chair, Councilor Susan McLain, published in the agenda packet for the meeting of July 19, 1999, and no objections or comments were raised at that time; now, therefore,

BE IT RESOLVED, That the Metro Council appoints Debrah Marriott as member for the Lower Columbia River Estuary Program on WRPAC and approves switching the member and alternate representatives for the Cities of Clackamas County.

ADOPTED by the Metro Council this _____ day of _____, 1999.

Rod Monroe, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2823, FOR THE PURPOSE OF CHANGING THE POSITIONS OF NANCY KRAUSHAAR, MARK SCHOENING AND DEBRAH MARRIOTT ON THE WATER RESOURCES POLICY ADVISORY COMMITTEE

Date: July 20, 1999

Prepared by: Rosemary Furfey

BACKGROUND INFORMATION

The Metro Water Resources Policy Advisory Committee (WRPAC) was formed in the early 1980s to advise the Metro Council on technical matters related to regional water resource planning.

WRPAC was formally organized and re-formed via Resolution No. 96-2418A which adopted a membership list of entities/persons to serve on WRPAC.

WRPAC's bylaws were revised and adopted by the Metro Council via Resolution No. 96-2321B. Section 2(B) of the Bylaws states: "Representatives and their alternates will be formally appointed by the Metro Council." (Those bylaws were updated also via Resolution No. 99-2780.)

The Metro Council, via Resolution No. 99-2823, would switch member and alternate representing the Cities of Clackamas County, Mark Schoening and Nancy Kraushaar respectively, so that Nancy Kraushaar, Oregon City, would become the voting member and Mark Schoening, Lake Oswego, would become the alternate member. Mr. Schoening and Ms. Kraushaar have made this request to facilitate attendance at WRPAC meetings because Ms. Kraushaar is able to attend more often than Mr. Schoening. This is a voting position.

Additionally, Bill Young of the Lower Columbia River Estuary Program has retired and Debrah Marriott, Program Director, has indicated she wishes to fill the vacancy. She is currently Mr. Young's alternate and this is a non-voting position.

Per the Bylaws, WRPAC was notified of these proposed membership changes with a memo from Councilor Susan McLain, WRPAC Chair, that was printed in the WRPAC agenda packet for the meeting of July 19, 1999.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 99-2783.

Resolution No. 99-2827, For the Purpose of Confirming the Nominations of Rick Charriere, Seth Tane, Richard Reynolds and Julie Garver to the Regional Parks and Greenspaces Advisory Committee. .

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

Agenda Item Number 8.4

Resolution No. 99-2829, For the Purpose of Appointing Greg Diloreto and Rebecca Geisen as Alternate Members of the Water Resources Advisory Committee.

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 99-2827
NOMINATIONS OF RICK CHARRIERE, SETH)
TANE, RICHARD REYNOLDS AND JULIE GARVER)
TO THE REGIONAL PARKS AND GREENSPACES) Introduced by
ADVISORY COMMITTEE) Mike Burton, Executive Officer

WHEREAS, The Metro Council approved Resolution 94-2026A to establish the Regional Parks and Greenspaces Advisory Committee; and

WHEREAS, The Regional Parks and Greenspaces Advisory Committee meets monthly to review and advise on the policies, plans and programs of the Metro Regional Parks and Greenspaces Department; and

WHEREAS, Four (4) vacancies exist on the Regional Parks and Greenspaces Advisory Committee; and

WHEREAS, Resolution 94-2026A requires Council confirmation of nominees to the committee; now, therefore,

BE IT RESOLVED

1.) That the Metro Council hereby confirms the four (4) nominees listed in Exhibit A to fill vacancies on the Regional Parks and Greenspaces Advisory Committee.

ADOPTED by the Metro Council on this ___ day of _____, 1999.

Rod Monroe, Presiding Officer

REGIONAL PARKS AND GREENSPACES ADVISORY COMMITTEE

Nominations Forwarded by the Executive Officer to the Council for Conformation

Clackamas County

Rick Charriere (incumbent)- Oregon City School District volunteer, Metro Regional Parks and Greenspaces Advisory Committee, Metro Water Resources Advisory Committee alternate, Plumbers Joint Apprenticeship and Training Committee.

Multnomah County

Seth Tane (incumbent)- Metro Regional Parks and Greenspaces Advisory Committee, Metro Water Resources Advisory Committee, Litton Neighborhood Association, 1000 Friends of Oregon.

Washington County

Richard Reynolds- Planner for the City of Beaverton; academic background in parks, recreation and urban planning; President of the North Star Heights Road Corporation; The Nature Conservancy, Audubon Society of Portland.

Clark County

Julie Garver (incumbent)- Metro Regional Parks and Greenspaces Advisory Committee, Hough Neighborhood Association, Vancouver Housing Authority.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2827 FOR THE PURPOSE OF CONFIRMING THE NOMINATIONS OF RICK CHARRIERE, SETH TANE, RICHARD REYNOLDS AND JULIE GARVER TO THE REGIONAL PARKS AND GREENSPACES ADVISORY COMMITTEE

Date: July 23, 1999

Presented by: Ron Klein

BACKGROUND AND ANALYSIS

On October 13, 1994 Metro Council adopted Resolution 94-2026A to establish the Regional Parks and Greenspaces Advisory Committee. The purpose of the committee is to review, comment, and make recommendations related to policies, plans, programs, user fee structure, annual budget plans and similar issues facing the Metro Regional Parks and Greenspaces department. The committee serves an advisory role to Metro Council, Executive Officer and the Metro Regional Parks and Greenspaces Department.

The committee has 11 positions: one representative from each Metro Council district; one representative from Clackamas, Multnomah and Washington counties outside Metro boundaries; and one representative from Clark County. Attachment 1 lists current members serving on the Regional Parks and Greenspaces Advisory Committee. Committee positions subject to Metro Council confirmation include all four positions representing areas outside Metro boundaries. The vacancies are a result of term expiration.

Citizen applications were solicited through announcements at public meetings, to the Metro Committee for Citizen Involvement and Metro Regional Parks and Greenspaces Advisory Committee, communications to the Metro Executive Office and Metro Councilors, and outreach through the Washington County Extension Service. Four (4) citizens submitted applications including three incumbent committee members representing Clark, Clackamas and Multnomah counties outside Metro boundaries.

The appointments for confirmation are made by the Executive Officer for Metro Council consideration (Exhibit A).

STAFF RECOMMENDATION

Staff recommends consideration of Rick Charriere (Clackamas County), Seth Tane (Multnomah County), Richard Reynolds (Washington County) and Julie Garver (Clark County) for confirmation to four (4) positions on the Regional Parks and Greenspaces Advisory Committee as forwarded to the Metro Council by the Executive Officer.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 99-2827.

Metro Regional Parks and Greenspaces Advisory Committee Roster

District # 1

Robert Akers (Bob)
1038 S.E. 224th, Gresham, OR 97030
(Term expires March 31, 2000)

District # 2

Sylvia Milne
1864 SE Anspach Street, Milwaukie OR 97267
(Term expires March 31, 2001)

District # 3

John Griffiths (Chairman)
10245 S.W. 153rd Ave., Beaverton, OR 97007
524-6170 (h) or 264-7282 (w) / 264-7756 (fax)
(Term expires March 31, 2000)

District # 4

A. Jay Hamlin
337 NE 2nd Ave., Hillsboro, OR 97124
(Term expires March 31, 2000)

District # 5

J. Michael Reid
2920 N.E. 24th Avenue, Portland, OR 97212
(Term expires March 31, 2000)

District # 6

Brian Scott
1725 NE 61st Avenue, Portland, OR 97213
(Term expires March 31, 2001)

District # 7

Jim Battan (Vice-chairman)
7710 S.W. 51st Place, Portland, OR 97219
(Term expires March 31, 2000)

Clackamas County, outside Metro boundary

Rick Charriere (committee alt rep on WRPAC)
19595 S. Fischers Mill Road, Oregon City 97045
(Term expires March 31, 2002 pending Metro Council confirmation)

Multnomah County, outside Metro boundary

Seth Tane (committee rep on WRPAC)
13700 NW Newberry Road, Portland, OR 97231
(Term expires March 31, 2002 pending Metro Council confirmation)

Washington County, outside Metro boundary

Vacant committee position

Clark County, Washington

Julie Garver
1301 Officers Row, Vancouver, WA 98661
(Term expired March 31, 2002 pending Metro Council confirmation)

Metro Staff

Charles Ciecko, Director
Metro Regional Parks and Greenspaces
600 NE Grand Ave., Portland, Oregon 97232
797-1843

Ron Klein
Metro Regional Parks and Greenspaces
600 NE Grand Ave., Portland, Oregon 97232
797-1774

Liaison to Metro Council

Councilor Ed Washington
600 N.E. Grand Ave., Portland, Oregon 97232
797-1546

Agenda Item Number 8.5

Resolution No. 99-2830, For the Purpose of Adopting the FY 00-03 Metropolitan Transportation Improvement Plan (MTIP).

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE) RESOLUTION NO. 99-2830
FY 2000-03 METROPOLITAN TRANSPOR-)
TATION IMPROVEMENT PROGRAM) Introduced by
) Jon Kvistad,
) JPACT Chair

WHEREAS, State and federal regulations require that funding for transportation improvements occurring within Metro's jurisdiction must be shown in a Metropolitan Transportation Improvement Program; and

WHEREAS, The Transportation Equity Act for the 21st Century allocated some \$76 million of new federal funds to the region that were not previously accounted for in the FY 98 MTIP in fiscal years 1998 through 2003; and

WHEREAS, New state transportation revenues are available in fiscal years 2002 and 2003; and

WHEREAS, Metro and ODOT cooperated in an 18-month process to solicit project nominations for these funds, which included extensive outreach to eligible agencies, public involvement and technical analysis; and

WHEREAS, Metro coordinated with ODOT to assure full consideration of Transportation Enhancement projects nominated through a Region 1 solicitation process; and

WHEREAS, By Resolution No. 99-2791 Metro approved allocation of \$76 million of "regional flexible funds" consisting of federal Transportation Enhancement, Congestion Mitigation/Air Quality (CMAQ), and regional Surface Transportation Program funds to specific projects; and

WHEREAS, It remains to program these funds according to year, phase of work and fund type; and

WHEREAS, ODOT also nominated and Metro approved allocation of very limited state and federal modernization funds to major freeway and highway projects; and

WHEREAS, ODOT uses technical management and ranking systems to also allocate significant sums of preservation, safety, operations and bridge maintenance and rehabilitation funds to projects within the urban area; and

WHEREAS, Tri-Met, the region's transit provider, is also recipient of federal formula and discretionary funds dedicated to transit purposes that must be approved by Metro for inclusion in the MTIP; now, therefore,

BE IT RESOLVED:

1. The program of funds shown in Exhibit 1 of the Resolution is approved.
2. Program approval is contingent on completion and federal approval of a Regional Air Quality Conformity Determination.

ADOPTED by the Metro Council this _____, day of _____, 1999.

Rod Monroe, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

EXHIBIT A – RESOLUTION NO. 99-2830

FY 00-03 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM

(INCLUDING REVISIONS TO FY 99)

**Table of Contents for Exhibit A
Resolution No. 99-2830
FY 00 – 03 Metropolitan Transportation Improvement Program**

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**FY 99 - 03 METRO APPROVED
REGIONAL TRANSPORTATION ENHANCEMENT, CMAQ AND STP PROGRAM**

TRANSPORTATION ENHANCEMENT		99	00	01	02	03	TOTAL
Rural Projects			0.600	0.987	0.341	0.329	2.257
Troutdale Intermodal Park			0.080				0.080
Cedar Creek Greenway Trail			0.076				0.076
Fanno Creek: Allen/Denny				0.200			0.200
Naito Prkwy: Everett/Harrison				1.421	0.378		1.799
CBI10	Wilsonville: Boeckman/Town Cntr Loop					0.240	0.240
CBI9	Town Cntr Park: Bike/Ped Connection						0.000
CBI2	Fuller Rd: Harmony/King				0.092	0.500	0.592
CBI7	Clack. Reg. Ctr. Trail			0.278			0.278
CP1	Scott Crk Lane Pedestrian Path		0.080				0.080
CTr2	Will. Shoreline Trestle/Track Repair					0.500	0.500
MBI1	Gresham/Fairview Trail			0.224			0.224
PBI1	Morrison Br. Ped/Bike Access.			0.100			0.100
PBI6a	E. Bank Trail: OMSI/Springwater (Con)			0.720			0.720
PBI6b	E. Bank Trail - Phase 2 (ROW only)					0.269	0.269
PBI9	Greeley/Interstate					0.144	0.144
PP2	Capitol Hwy: Bertha/BH Hwy			0.400			0.400
PP5	Red Electric Line: Will Prk/Oleson			0.05	0.085		0.135
TE2	Portland Bike Signage		0.129				0.129
TE3	NE 47th Environmental Restoration		0.250				0.250
WBI1	Fanno Crk: Allen/Denny			0.075			0.075
WBI10	Fanno Crk Trail Phase 2 (PE/RW?)			0.135		0.100	0.235
WP4	Sentinel Plaza: Cornell/Cedar Hills/113th		0.030	0.150			0.180
TE SUBTOTAL		0.000	1.245	4.740	0.896	2.082	8.963
ESTIMATED REVENUE		0.156	1.960	1.960	1.960	1.960	7.840
DIFFERENCE		0.156	0.715	-2.780	1.064	-0.122	-0.967

Running Total 0.156 0.871 -1.909 -0.845 -0.967

CMAQ		99	00	01	02	03	TOTAL
Interstate MAX			6.000	4.000			10.000
East Bank II (Esplanade?)		3.018					3.018
Regional TDM Program				0.412			0.412
Hall Blvd: SPRR/Ridgecrest			0.322				0.322
Cedar Hills: Walker Butner			0.632				0.632
WP7	Cedar Hills: Walker/Butner		0.085				0.085
WBI2	Hall Blvd: 12th/Allen		0.166		0.718	0.554	1.438
WBL2	Main St: 10th/20th (Cornelius)				1.800		1.800
WP5	SW 170th: Merlo/Elmonical LRT Stat'n					0.270	0.270
CM7	Clack. Co. ITS/ATMS - .048		0.130	0.622			0.752
WBI5	Cornell Rd: Elam Young/Ray					0.540	0.540
CBL3	McLoughlin: Harrison/SPRR X'ing					1.900	1.900
MBL1	Division: Wallula/Kelly	0.300	1.100	1.100			2.500
PBL1	Hawthorne: 20th/55th			0.180		1.320	1.500
TE1	Pioneer Courthouse		0.200				0.200
RT1	Reg. Contribut'n for Bus Purchase				3.500	4.500	8.000
RT2	Service Increase for Reg/T.C. TCL		1.425	1.425	1.425	1.457	5.732
TDM4	Region 2040 Initiatives		0.250	0.250	0.250	0.250	1.000
TDM5	TMA Assistance Program		0.250	0.250	0.250	0.250	1.000
CMAQ SUBTOTAL		3.318	10.560	8.239	7.943	11.041	41.101
ESTIMATED REVENUE		3.929	7.570	7.824	9.272	9.471	38.066
DIFFERENCE		0.611	-2.990	-0.415	1.329	-1.570	-3.035
Running Total		0.611	-2.379	-2.794	-1.465	-3.035	

**FY 99 - 03 METRO APPROVED
REGIONAL TRANSPORTATION ENHANCEMENT, CMAQ AND STP PROGRAM**

STP		99	00	01	02	03	TOTAL
	Corn Pass Road (Rural STP)			0.417			0.417
	Cedar Hills: Walke/Butner (Rural STP)		0.236				0.236
	Interstate MAX			2.000	6.000	6.000	14.000
	South Busway Study	1.500					1.500
	Lovejoy		6.563				6.563
	<i>Bus Purchase (Sig Pri) - 1.114</i>						0.000
	<i>Region TOD Program Reserve - .126</i>						0.000
	<i>Regional Ped to MAX Program - .161</i>						0.000
	<i>Civic Neighborhood Station (TOD) - .750</i>						0.000
	<i>Civic Neighborhood Station (STP) - .278</i>						0.000
	Bus Support, Equipment & Facilities	1.843					1.843
	Standard Bus Purchase	0.586					0.586
	Metro Planning		0.659				0.659
	Sunnyside Rd:102/122nd ROW/CON		1.500		4.970		6.470
CM5	Sunnyside Rd/Mt. Scott Creek				1.400		1.400
CBL2	Willamette Dr. - "A" St/McKillican			0.200			0.200
CR2	Johnson Crk Blvd: 36th/45th			1.076			1.076
CM2	Harmony/Linwood/Railroad Av PE		0.449				0.449
CM14	Hwy 213/Beavercreek Rd.					3.000	3.000
TDM6	SMART TDM Program		0.110		0.110		0.220
CB13	<i>Phillip Creek Greenway Trail - .202</i>						0.000
CBL1	<i>Harmony Rd: 82nd/Fuller - 1.750</i>						0.000
RTOD1	Metro TOD Program - 2.000			1.000	1.000		2.000
	Bus Support, Equipment & Facilities	2.659					2.659
	Bus Signal & Communications	1.027					1.027
	Rail Station Stops & Terminals	0.269					0.269
	Rail Support Equip. & Facilities	0.045					0.045
RT1	Regional Contribut'n for Bus Purchase/PDX	10.000					10.000
MM1	207th Connector: Halsey/Glisan	1.345					1.345
VM3	223rd O'Xing (PE/ROW)			0.267			0.267
MM7	Gresham/Mult. Co. ITS		0.100	0.400			0.500
PBr2a	Morrison Electrical		0.100	0.700			0.800
PBr2b	Burnside Electrical			0.060	0.440		0.500
PBL3	W. Burnside: Brdg/NW 23rd		0.269				0.269
PF1	Lower Albina Overcrossing			2.000	2.000		4.000
PF2	N. Marine Dr. Reconstruction					2.295	2.295
PM1	Portland Arterial/Frwy. ITS		0.150	0.600			0.750
PM10	SE Foster Rd/Kelly Creek			0.600			0.600
PM6	MLK/Interstate ITS					0.550	0.550
PR10	Naito Parkway: Davis/Market					2.275	2.275
WM1	Farmington Rd: Hocken/Murray		0.933				0.933
WM13	SE 10th: E Main/SE Baseline			0.090			0.090
WM17	I-5/Nyberg Interchange (PE/ROW)			0.342			0.342
WM19	SW Greenburg Rd: Wash Sq/Tiedeman			0.270			0.270
WM4	Wash. Co. ATMS		0.070	0.150	0.150		0.370
WM5	Murray O'Xing: Milikan/Terman			0.172	0.414	0.414	1.000
WTR1	Wash. Co. Commuter Rail	0.500	0.500				1.000
TDM1	Regional TDM Program			0.288	0.700	0.999	1.987
TDM2	Portland Area Telecommuting		0.100	0.100			0.200
TDM3	ECO Information Clearinghouse		0.047	0.047	0.047	0.047	0.188
RPIg5	OPB Pilot		0.100				0.100
RPIg1	Core Reg. Planning Program			0.679	0.699	0.705	2.083
RPIg3	I-5 Trade Corridor Study					0.250	0.250
RPIg6	Regional Freight Program Analysis			0.050	0.050		0.100
	STP SUBTOTAL	19.774	11.886	11.508	17.980	16.535	77.683
	ESTIMATED REVENUE	19.068	14.153	14.638	14.461	14.762	77.082
	DIFFERENCE	-0.706	2.267	3.130	-3.519	-1.773	-0.601
	Running Total	-0.706	1.561	4.691	1.172	-0.601	

TE/CMAQ/STP PROGRAMMED GRAND TOTAL:	23.092	23.691	24.487	26.819	29.658	127.747
LIMITATION TARGET GRAND TOTAL:	23.153	23.683	24.422	25.693	26.193	123.144
DIFFERENCE:	0.061	-0.008	-0.065	-1.126	-3.465	-4.603
Running Total	0.061	0.053	-0.012	-1.138	-4.603	

TEA-21 HIGH PRIORITY PROJECTS AND SCHEDULED APPROPRIATION

(Millions)

PROJECT	TOTAL	98*	99	00	01	02	03
Tri-Met Buses	3.500	0.000	1.750	1.750	0.000	0.000	0.000
Ped to MAX (Gresham)	1.000	0.110	0.150	0.180	0.180	0.190	0.190
Portland Transit Signal Priority	4.500	0.495	0.675	0.810	0.810	0.855	0.855
Lovejoy Ramp	5.000	0.550	0.750	0.900	0.900	0.950	0.950
Broadway Bridge	10.000	1.100	1.500	1.800	1.800	1.900	1.900
So. Rivergate O'Xing	13.000	1.430	1.950	2.340	2.340	2.470	2.470
Murray O'Xing	3.750	0.413	0.563	0.675	0.675	0.713	0.713
Tualatin/Sherwood Bypass	0.375	0.041	0.056	0.068	0.068	0.071	0.071
I-5/217/Kruse Way Intrchnng	7.000	0.770	1.050	1.260	1.260	1.330	1.330
I-205/Sunnybrook Intrchnng & Related Arterial	19.000	2.090	2.850	3.420	3.420	3.610	3.610
Funds at 100% of Authorization	67.125	6.999	11.294	13.203	11.453	12.089	12.089
Funds at 90% of Authorization	60.413	6.299	10.164	11.882	10.307	10.880	10.880
Difference**	6.713	0.700	1.129	1.320	1.145	1.209	1.209

* Six year splits based on 11%, 15%, 18%, 18%, 19%, 19% stipulated in the six year authorization.

** To obtain 100% of high priority project funding over six years, formula fund obligation authority of this amount must be used.

FY 1999 - 2003 FRO APPROVED
TEA-21 "HIGH PRIORITY" PROJECTS
OBLIGATION SCHEDULE

KEY #	FACILITY		PROJECT					Total	DESCRIPTION OF WORK
	NAME	NAME	99	00	01	02	03		
10027	Lovejoy St	Lovejoy Ramp Replacement (Unit 2)		4,570				4,570	Replace ramps
11065	Broadway St.	Broadway Br. Phase 1		700				700	Implement Bridge Rehabilitation
11066	Broadway St.	Broadway Br. Phase 2		835				835	Implement Bridge Rehabilitation
11067	Broadway St.	Broadway Br. Phase 3		1,285				1,285	Implement Bridge Rehabilitation
	Broadway St.	Broadway Br. (Ph 7)					2,042	2,042	Implement Bridge Rehabilitation
11063	Various Urban Streets	Signal Priority Receiver Installation		3,930				3,930	Implement Transit Signal Priority System
11062	Various Urban Streets	Signal Priority Emitters		1,500				1,500	Implement Transit Signal Priority System
11068	Various	Tri-Met Bus Purchase (3.5M is fed \$)		3,500				3,500	Bus Purchase
03346	East Portland Fwy	Sunnybrook Interchange (Unit 1)			7,500			7,500	Build Interchange (some T-21\$)
11064	Stark St.	SE 181st - SE 190th				1,130		1,130	Ped/Bike/Transit Improvements
08815	N. Lombard	Lombard RR Crossing (\$16m I-21/\$4m other)				20,000		20,000	Grade separation/Facility Impr fr Intersctn
11134	Broadway St.	Broadway Br. (Ph 6)				6,725		6,725	Repair bridge
09788	Tualatin/Sherwood Toff Rd	Pacific West - I - 5 Connector					375	375	New Facility Study Project
GRAND TOTAL			0	16,320	7,500	27,855	2,417	54,092	

1. Sums reflect anticipated year of project obligation. Each project is appropriated roughly 1/6th of its TEA-21 authorization in each of the six years of the Act.
2. Obligations shown prior to 2003 anticipate routine Advance Construction agreements with ODOT.
3. The table does not reflect sums already obligated in FY 99 and those already reflected in State Modernization Program
4. Does not reflect \$25 million I-MAX authorization which will be programmed only upon execution of a Full Funding Grant Agreement with FTA.

**FY 1999 - 2003 METRO APPROVED
 ODOT REGION 1 MODERNIZATION PROGRAM**

FACILITY NAME	PROJECT NAME	Work Phase	Year					Total	DESCRIPTION OF WORK
			99	00	01	02	03		
Sunset Hwy	Camelot/Sylvan (Unit 2)	PE							Construct Interchange
		ROW	280					280	
		CON		19,859				19,859	
		TOTAL	280	19,859				20,139	
I-5	I-5/217/Kruse Way Interchange Ph 1.	PE							Reconstruct the Interchange (includes \$7M TEA-21 Hi Priority Funds)
		ROW							
		CON	35,770					35,770	
		TOTAL	35,770					35,770	
Halsey St.	Halsey St. Bike Path	PE							Construct Bike Path w/Mult. Co.
		ROW							
		CON		800				800	
		TOTAL		800				800	
East Portland Fwy	Sunnybrook Interchange (Unit 1) *	PE							Build interchange (Includes approx \$16M TEA-21 Funds)
		ROW	1,306					1,306	
		CON			19,041			19,041	
		TOTAL	1,306		19,041			20,347	
Front Avenue	Everett-Harrison (Bike Path) **	PE							Construct Bike Path
		ROW							
		CON				222		222	
		TOTAL				222		222	
Sunset Hwy	Camelot - Sylvan (Phase 3)	PE		1,544				1,544	Replace structure & widen Hwy
		ROW							
		CON					24,308	24,308	
		TOTAL		1,544			24,308	25,852	
Tualatin/Sherwood Toll Rd	Pacific West - I - 5 Connector (MATCH)	PE					105	105	Match for project
		ROW							
		CON							
		TOTAL					105	105	
GRAND TOTAL			37,356	22,203	19,041	222	24,413	103,235	

**1999 - 2003 METRO APPROVED
ODOT REGION 1 PRESERVATION PROGRAM**

EY #	FACILITY		PROJECT NAME	PE	99	00	01	02	03	Total	DESCRIPTION OF WORK
	NAME	NAME									
11227 09344 09342	Pacific West Hwy	SW 60th - Tualatin Rv	PE ROW CON TOTAL	180 180	 2,556 2,556	 2,736	 	 	 	 	3" inlay/o'lay
10573	Lwr Columbia River Hwy	MP 3.92 - St. John's Bridge (80%)	PE ROW CON TOTAL	479 479	 2,492 2,492	 2,971	 	 	 	 	Inlay/o'lay pavement
11070 07973 03696	Pacific	Interstate Br. - NE Oregon	PE ROW CON TOTAL	 	 22,202 22,202	 22,202	 	 	 	 	Overlay
09386	Clackamas Hwy	E. Portland Fwy - SE 98th (51%)	PE ROW CON TOTAL	 	 	 1,328 1,328	 	 	 	 	Paving, grind & overlay
10664	Clackamas Hwy	SE 98th - Rock Creek (80%)	PE ROW CON TOTAL	120 120	 2,756 2,756	 2,876	 	 	 	 	Paving, grind & overlay
10666	B-H Hwy	Beaverton/Tigard Hwy - Wash Co (85%)	PE ROW CON TOTAL	115 115	 2,093 2,093	 2,208	 	 	 	 	Paving
09382	Columbia Rvr Hwy	Sundial - Sandy River	PE ROW CON TOTAL	90 90	 1,591 1,591	 1,681	 	 	 	 	Overlay
10680	TV Hwy	Hocken - Minter Bridge Road (83%)	PE ROW CON TOTAL	 	 129 129	 3,921 3,921	 4,050	 	 	 	Paving, grind & overlay
0693	E. Portland Fwy	Columbia River Br. - Willamette River	PE ROW CON TOTAL	 	 515 515	 18,844 18,844	 19,359	 	 	 	Pave NB & SB lanes
10731	Mt. Hood Hwy	MP 1.02 - 3.46 * Ross Island Br. - SE 50th	PE ROW CON TOTAL	 	 	 132 132	 3,534 3,534	 3,666	 	 	Pave
10679	TV Hwy	Quince - District Boundary	PE ROW CON TOTAL	 	 	 307 307	 5,362 5,362	 5,669	 	 	Paving, grind & overlay
10762	Pacific Hwy	SW Carman Dr. - Tualatin River	PE ROW CON TOTAL	 	 264 264	 	 2,330 2,330	 2,594	 	 	Pave
09364	Pacific Hwy	Capital Hwy - Marquam Bridge	PE ROW CON TOTAL	 	 63 63	 	 12,167 12,167	 12,230	 	 	2" Inlay, barrier, g rail, bridge
GRAND TOTAL				984	27,893	8,534	22,765	23,392	83,569		

**FY 1999 - 2003 METRO APPROVED
ODOT REGION 1 SAFETY PROGRAM**

KEY #	FACILITY NAME	PROJECT NAME						Total	DESCRIPTION OF WORK
			99	00	01	02	03		
11227 09342 09344	Pacific West Rv Hwy	SW 60th - Tualatin	PE ROW CON TOTAL						3" inlay/overlay
				839				839	
10573	Lwr Col. River Hwy	MP 3.92 - St. John's Bridge (20%)	PE ROW CON TOTAL						Replace Br rail, etc.
				633				633	
10581	Sunset Hwy	Jefferson St. Tunnel	PE ROW CON TOTAL	140					Illumination-tunnel & transitional
					982			982	
				140	982			1,122	
09391	E Portland Fwy	I-205 @ Glisan St. Ramps	PE ROW CON TOTAL	46					Add right turn lanes, Revise Slip Ramp
					10			10	
					379			379	
				46	389			435	
07146	Sandy Blvd.	Pacific East-NE 37th Ave.	PE ROW CON TOTAL	52					CSIP Signals
					450			450	
				52	450			502	
09370	Clackamas Hwy	River Rd.- Clackamas Interchange	PE ROW CON TOTAL	70					CSIP Signals
					10			10	
					557			557	
				70	567			637	
09358	Cascade North Hwy	Airport Way - Flavel	PE ROW CON TOTAL	50					
					400			400	
				50	400			450	
09386	Clackamas Hwy	E Portland Fwy-SE 98th (49%)	PE ROW CON TOTAL	85					Add third lane
					154			154	
						1,265		1,265	
				85	154	1,265		1,504	
10664	Clackamas Hwy	SE 98th - Rock Creek (20%)	PE ROW CON TOTAL						Safety improvements
						669		669	
						669		669	
10666	BH Hwy	Beaverton/Tigard Hwy Wash Co (15%)	PE ROW CON TOTAL						Safety improvements
					21			21	
						383		383	
					21	383		404	
10667	Pacific East Hwy	Pacific East @ South 2nd St.	PE ROW CON TOTAL	50					Left turn channelization
					10			10	
						286		286	
				50	10	286		346	
09394	NE Portland Hwy	Pacific East - Philadelphia Ave	PE ROW CON TOTAL	75					CSIP Signals
					5			5	
						415		415	
				75	5	415		495	
09396	SW 198th Ave.	SW 198th Ave. @ SW Johnson St.	PE ROW CON TOTAL	40					Install fully actuated signal/illum.
					80			80	
						210		210	
				40	80	210		330	
10680	Tualatin Valley Hwy	Hocken - Minter Bridge Road (17%)	PE ROW CON TOTAL						Paving, grnd & overlay
						5		5	
							779	779	
					5	779		784	
10682	Pacific Hwy	I-5 @ Nyberg Rd (SB ramp)	PE ROW CON TOTAL						Additional lane, more storage
					103			103	
						32		32	
							725	725	
				103	32	725		860	
08005	Beaverton/Tualatin Hwy @ Scholls ualatin Hwy	Beaverton/Tualatin Hwy @ Scholls ualatin Hwy	PE ROW CON TOTAL						Right turn channelization
					129			129	
						222		222	
							261	261	
				129	222	261		612	

**FY 1999 - 2003 METRO APPROVED
ODOT REGION 1 SAFETY PROGRAM**

KEY #	FACILITY PROJECT		99	00	01	02	03	Total	DESCRIPTION OF WORK
	NAME	NAME							
10683	Sunset Hwy	Sunset Hwy @ Jackson School Rd	PE	144				144	Left turn channelization; ramp
			ROW		53			53	
			CON			1,067		1,067	
			TOTAL	144	53	1,067		1,264	
11219	Various	2002 Region 1 HEP Reserve	PE		312				
			ROW						
			CON			848		848	
			TOTAL			848		848	
10731	Mt. Hood Hwy	MP 1.02 - 3.46 * Ross Island Br. - SE 50th	PE						Safety features
			ROW			5		5	
			CON				562	562	
			TOTAL			5	562	567	
10679	Tualatin Valley Hwy	Quince - District Boundary * 4%	PE						Paving, grind & overlay
			ROW						
			CON		5		236	241	
			TOTAL		5		236	241	
06010	Beaverton/ Tigard Hwy	Beaverton Tigard Hwy @ Scholls	PE		106			106	Add l/r turn lanes, inclu signal/interconnect
			ROW			11		11	
			CON				660	660	
			TOTAL		106	11	660	777	
09390	Oswego Hwy	Oswego Hwy @ Terwilliger Blvd.	PE		69			69	Left turn channelization
			ROW			43		43	
			CON				386	386	
			TOTAL		69	43	386	498	
10867	Hillsboro/Sil verton Hwy	Hillsboro/Silverton Hwy @ SE Walnut	PE		106			106	Safety Intersection Improvement
			ROW			104		104	
			CON				584	584	
			TOTAL		106	104	584	794	
11220	Various	2003 HEP Region 1 Reserve	PE						
			ROW						
			CON				873	873	
			TOTAL				873	873	
GRAND TOTAL			608	4,905	3,826	3,844	3,301	16,484	

**1999 - 2003 METRO APPROVED
ODOT REGION 1 OPERATIONS PROGRAM**

KEY #	FACILITY NAME	PROJECT NAME		99	00	01	02	03	Total	DESCRIPTION OF WORK	
09365	Various	2000 ATMS Ramp Meters	PE	6					6	Ramp Meters	
			ROW						0		
			CON		978						978
			TOTAL	6	978						984
10668	Various	2001 ATMS Ramp Meters (Phase 5)	PE		93				93	Ramp Meters	
			ROW								
			CON			1,058					1,058
			TOTAL		93	1,058					1,151
10695	Various	2002 ATMS Ramp Meters (Phase 6)	PE			90			90	Ramp Meters	
			ROW								
			CON				1,196				1,196
			TOTAL			90	1,196				1,286
10871	Various	2003 ATMS Ramp Meters (Phase 7)	PE				92		92	Ramp Meters	
			ROW								
			CON					1,231			1,231
			TOTAL				92	1,231			1,323
10019	Various	2000 ATMS Communctns Infrastrct	PE	55					55	Communications	
			ROW								
			CON		1,235						1,235
			TOTAL	55	1,235						1,290
10669	Various	2001 ATMS Communctns Infrastrct (Phase 5)	PE		103				103	Communications	
			ROW								
			CON			1,851					1,851
			TOTAL		103	1,851					1,954
10696	Various	2002 ATMS Communications Infrastruct (Ph 6)	PE			106			106	Communications	
			ROW								
			CON				1,903				1,903
			TOTAL			106	1,903				2,009
10870	Various	2003 ATMS Communications Infrastruct (Ph 7)	PE				109		109	Communications	
			ROW								
			CON					1,958			1,958
			TOTAL				109	1,958			2,067
10644	Various	2000 ATMS Hardware & Softwre (Phase 4)	PE							Hardware & Software	
			ROW								
			CON		257						257
			TOTAL		257						257
10670	Various	2001 ATMS Hardware & Softwre (Phase 5)	PE							Hardware & Software	
			ROW								
			CON			265					265
			TOTAL			265					265
10697	Various	2002 ATMS Hardware & Softwre (Phase 6)	PE							Hardware & Software	
			ROW								
			CON				326				326
			TOTAL				326				326
10872	Various	2003 ATMS Hardware & Softwre (Phase 7)	PE							Hardware & Software	
			ROW								
			CON					336			336
			TOTAL					336			336
10646	Various	Variable Message Signs (Phase 4)	PE	30					30	VMS	
			ROW								
			CON		587						587
			TOTAL	30	587						617
10651	Various	Signal Upgrades (Unit 1)	PE	95					95	Signal Upgrades	
			ROW		51				51		
			CON		978						978
			TOTAL	95	1,029						1,124
10672	Various	Signal Upgrades (Unit 2)	PE		51				51	Signal Upgrades	
			ROW								
			CON			1,004					1,004
			TOTAL		51	1,004					1,055
10699	Various	Signal Upgrades (Unit 3)	PE			53			53	Signal Upgrades	
			ROW								
			CON				1,033				1,033
			TOTAL			53	1,033				1,086
10874	Various	Signal Upgrades (Unit 4)	PE				54		54	Signal Upgrades	
			ROW								
			CON					1,063			1,063
			TOTAL				54	1,063			1,117
09366	Various	Traffic Loop Repair Unit 10	PE	50					50	Repair/replace traffic loops	
			ROW								
			CON		772						772
			TOTAL	50	772						822

**1999 - 2003 METRO APPROVED
ODOT REGION 1 OPERATIONS PROGRAM**

KEY #	FACILITY NAME	PROJECT NAME		99	00	01	02	03	Total	DESCRIPTION OF WORK
09384	Various	Traffic Loop Repair Unit 11	PE		51				51	Repair/replace traffic loops
			ROW							
			CON			740			740	
			TOTAL		51	740			791	
10671	Various	Traffic Loop Repair Unit 12	PE			33			33	Repair/replace traffic loops
			ROW							
			CON				782		782	
			TOTAL			33	782		815	
10698	Various	Traffic Loop Repair Unit 13	PE				34		34	Repair/replace traffic loops
			ROW							
			CON					782	782	
			TOTAL				34	782	816	
09368	Mt. Hood Hw MP 49.10 - MP 49.23		PE	187					187	Rockfall Mitigation
			ROW		15				15	
			CON		2,523				2,523	
			TOTAL	187	2,539				2,726	
09397	Various	Columbia Co. Community Transit	PE							Buy two modified vans
			ROW							
			CON		100				100	
			TOTAL		100				100	
10577	Beaverton/ Tigard Hwy	Beaverton/Tigard @ Denny Road	PE	40					40	Signals-both ramp terminal intersections
			ROW		10				10	
			CON		595				595	
			TOTAL	40	605				645	
07579	Beaverton/Tu	Beaverton/Tualatin @ Locust	PE	25					25	Alignment/ bike lane install
			ROW		21				21	
			CON		237				237	
			TOTAL	25	257				282	
09388	Mt. Hood Hw MP 72.00 - MP 75.00 (Rockfall)		PE	257					257	Rockfall Mitigation
			ROW		10				10	
			CON			3,659			3,659	
			TOTAL	257	10	3,659			3,926	
10021	Sunset Hwy	Vista Ridge Tunnel - Stadium Fwy	PE		154				154	Add turn lane Revise inclu SB Stadium Ext
			ROW							
			CON				1,778		1,778	
			TOTAL		154		1,778		1,932	
10877	Pacific East I	MP 13.90 - MP 14.10	PE			38			38	Rockfall Mitigation
			ROW				5		5	
			CON					711	711	
			TOTAL			38	5	711	755	
10921	Columbia Riv	MP 47.85 - MP 48.2 (Farley Slide)	PE			212			212	Slide Correction
			ROW				5		5	
			CON					2,663	2,663	
			TOTAL			212	5	2,663	2,880	
10869	Sunset Hwy	Sunset Hwy @ Glencoe Rd	PE			71			71	Signalize ramp; Rt turn channelization; access
			ROW				435		435	
			CON					501	501	
			TOTAL			71	435	501	1,007	
GRAND TOTAL				745	8,718	7,328	7,753	9,245	33,789	

FY 1999 - 2003 METRO APPROVED
ODOT REGION 1 BRIDGE PROGRAM

KEY #	FACILITY NAME	PROJECT NAME		99	00	01	02	03	Total	DESCRIPTION OF WORK
				PE	ROW	CON	PE	ROW		
07969	Columbia River Hwy	OWR & NRR (WB) Br. (Also I-M)	PE							Replace Deck/Rail (w/Pres Project)
			ROW							
			CON		432				432	
			TOTAL		432				432	
09367	Various	FY2000 Protective Screening (Reg 1)	PE	62					62	Protective Screening at 14 sites
			ROW							
			CON		636				636	
			TOTAL	62	636				698	
10652	East Portland Fwy	NB/SB Parkplace Br over Clack. Rr, Br #8837A & B	PE	56					56	Joint Retrofit, Deck Overlay
			ROW							
			CON		1,407				1,407	
			TOTAL	56	1,407				1,463	
10655	East Portland Fwy	NB/SB O-xing SE Foster Rd/ Woodstock Blvd. Br# 13538 & 13538A	PE	45					45	Joint Retrofit, Deck Overlay
			ROW							
			CON		1,075				1,075	
			TOTAL	45	1,075				1,120	
10657	Lower Columbia River Hwy	Half Viaduct Br # 05291	PE	28					28	Replace Structure
			ROW		31				31	
			CON		900				900	
			TOTAL	28	931				959	
09342	Pacific West Hwy	SB Tualatin Rr, Br # 1417S 9%	PE	50					50	Rail Retrofit
			ROW							
			CON		218				218	
			TOTAL	50	218				268	
10664	East Portland Fwy	Oxing Col. Rr (S. Chan.)/NE Marine Dr.Br.#16188	PE	88					88	Joint Retrofit, Deck Overlay
			ROW							
			CON		883				883	
			TOTAL	88	883				971	
09403	Morrison St.	Morrison Br. East Ramp, Br #2758A & 8589	PE	618					618	Sup.Struct.rehab/o/lay deck
			ROW							
			CON		6,182				6,182	
			TOTAL	618	6,182				6,800	
09402	Hawthorne/Madison	Hawthorne Bridge East Ramps	PE	50					50	Bent Cap Rehabilitation
			ROW							
			CON		450				450	
			TOTAL	50	450				500	
07253	Childs Rd.	Oswego Canal (Childs Rd.) Br. #06429	PE							Widen Structure
			ROW							
			CON		350				350	
			TOTAL		350				350	
09383	Columbia River Hwy	WB/EB Sandy River, Br #6875 & A	PE							Joint Retrofit, Deck Overlay
			ROW			601			601	
			CON							
			TOTAL			601			601	
09393	Northeast Portland Hwy	St. John's Bridge	PE	194					194	Painting, Etc.
			ROW							
			CON			27,903			27,903	
			TOTAL	194		27,903			28,097	
09385	Various	FY 2001 Protective Screening (Reg 1)	PE		82				82	Protective Screening - overpass
			ROW							
			CON			815			815	
			TOTAL		82	815			897	
09404	Burnside St	Burnside Br. Approach Ramps	PE							Sup. Str. Rehab/o/lay Ph 1 seismic
			ROW	600					600	
			CON			4,400			4,400	
			TOTAL	600		4,400			5,000	
10682	Pacific Hwy	I-5 @ Nyberg Rd (SB ramp)	PE		103				103	Additional lane, more storage
			ROW			32			32	
			CON			725			725	
			TOTAL		103	757			860	
08005	Beaverton/Tualatin Hwy	Beaverton/Tualatin Hwy @ Scholls	PE		129				129	Right turn channelization
			ROW			222			222	
			CON			261			261	
			TOTAL		129	483			612	
10683	Sunset Hwy	Sunset Hwy @ Jackson School Rd	PE		144				144	Left turn channelization; ramp
			ROW			53			53	
			CON			1			1	
			TOTAL		144	54			198	
10684	Various	FY 2002 Protective Screening (Reg 1)	PE			49			49	Protective Screening- overpass
			ROW							
			CON			489			489	
			TOTAL			538			538	

FY 1999 - 2003 METRO APPROVED
ODOT REGION 1 BRIDGE PROGRAM

KEY #	FACILITY NAME	PROJECT NAME		99	00	01	02	03	Total	DESCRIPTION OF WORK	
				PE	ROW	CON	TOTAL	PE			ROW
09350	Pacific East Hwy	MLK (O-Xing SPRR #2115) (Viad.)	PE								Replace structure
			ROW			3,087			3,087		
			CON			30,020			30,020		
			TOTAL			33,107			33,107		
10685	Pacific Hwy	I-5 (Col.Rv) Br.(NB/SB) Br. #01377A & 07333 ** (WashDOT portion \$3,110,000	PE			529				529	Electrical Upgrade
			ROW								
			CON			6,764			6,764		
			TOTAL			7,293			7,293		
10705	SE Bybee Blvd	McLoughlin Blvd - SPRR Br. #020264 A & B	PE		300					300	Replace Structures
			ROW				25		25		
			CON				3,375		3,375		
			TOTAL		300		3,400		3,700		
10706	Summit Dr.	Springbrook Cr.(Summit Dr.) Br #06456	PE		95					95	Replace Structure
			ROW				5		5		
			CON				800		800		
			TOTAL		95		805		900		
11132	Broadway St.	Broadway Br. (Ph 4)	PE		820					820	Repair bridge
			ROW								
			CON				7,830		7,830		
			TOTAL		820		7,830	0	8,650		
10745	Various	FY 2003 Protective Screening (Reg 1)	PE					125		125	Protective Screening - overpass
			ROW								
			CON				1,259		1,259		
			TOTAL				1,259	125	1,384		
10753	Stadium Fwy	O-Xing Hwy 61, Br #9254G	PE					109		109	Overlay, rails
			ROW								
			CON				281		281		
			TOTAL				281	109	390		
10653	NB Oxing SPRR (Twin Struct)	NB/SB Oxing SPRR (Twin Struct) Br.#9717&9717A	PE					45		45	Joint Retrofit, Deck Overlay
			ROW								
			CON				786		786		
			TOTAL				786	45	831		
10656	Oswego Hwy	Oregon City Arch, Br # 357	PE	56						56	Overlay, rails, joints
			ROW								
			CON				1,491		1,491		
			TOTAL	56			1,491		1,547		
10692	Sunset Hwy	WB O-xing Hwy 61 (SW Clay), Br # 9254C	PE			106				106	Overlay, Rails
			ROW								
			CON				515		515		
			TOTAL			106	515		621		
10663	Stark Street	Stark St. Viaduct	PE				60			60	Replace structure
			ROW								
			CON					580	580		
			TOTAL				60	580	640		
11136	Broadway St.	Broadway Br. (Ph 7) *	PE				1,580			1,580	
			ROW								
			CON					2,662	2,662		
			TOTAL				1,580	2,662	4,242		
GRAND TOTAL				1,847	14,237	76,056	18,007	3,520	113,668		

**FY 99 - 03 METRO APPROVED
SECTION 5309 (FORMER SECTION 3) PROGRAM**

PROJECT	FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
Fixed Guideway Modernization		3.149	3.356	3.860	4.318	14.683
Standard Bus Purchase (Approx. 14)		3.500				3.500
Westside Light Rail Project		14.062				14.062
I-MAX Light Rail Project		46.000	42.700	83.200	91.500	263.400
Powell Garage Rehabilitation/Expansion		0.500	8.000	8.000		16.500
TOTAL	0.000	67.211	54.056	95.060	95.818	312.145

FY 99 - 03 METRO APPROVED
SECTION 5307 (FORMER SECTION 9) PROGRAM

PROJECT	FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
Bus - Support Equipment & Facilities		19.324	20.890	21.450	23.023	84.687
Rail - Support Equipment & Facilities				1.000	1.000	2.000
Bus - Transit Enhancements (Accessible Stops)		0.196	0.212	0.227	0.243	0.878
TOTAL		19.520	21.102	22.677	24.266	87.565

**FY 99 - 03 METRO APPROVED
TRI-MET GENERAL FUND AND MISC PROGRAM FUNDS**

PROJECT		FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
Bus Support Equipment & Facilities	Gen Fund		2.000	2.000	2.000	2.000	8.000
Bus Signals & Communications	Gen Fund		2.000	2.000	2.000	2.000	8.000
Rail Support Equipment & Facilities	Gen Fund		2.000	2.000	2.000	2.000	8.000
Wilsonville/Canby Jobs Access Program	§ 3037	0.150					0.150
Regional Jobs Access Program	§ 3037	1.009					1.009
TOTAL		1.159	6.000	6.000	6.000	6.000	25.159

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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2830 FOR THE PURPOSE OF ADOPTING THE FY 2000 – 03 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM

Date: August 19, 1999

Presented by: Andrew Cotugno

PROPOSED ACTION

Approval of this resolution would update and amend the Metropolitan Transportation Improvement Program (MTIP) to allocate all projected highway and transit funds to projects and work phases in FY 1999 through 2003, contingent on completion and federal approval of a Regional Air Quality Conformity Determination. It would formally adopt these changes as the FY 2000–2003 MTIP.

BACKGROUND AND ANALYSIS

Metro and ODOT began coordination of the FY 2000 MTIP/STIP Update in February 1998. Because of delayed Congressional action on the new six-year federal transportation act (TEA-21), Metro previously underestimated revenue assumptions for the FY 98 MTIP for the first four years of TEA-21. None of the FY 02 and FY 03 funds were allocated to projects. Finally, ODOT Region 1 was also allocated about \$34 million of state funds for allocation to state system modernization. The result was that about \$75.8 million of regional funds were available for allocation to new projects following TEA – 21 adoption. This consists of about \$33 million of regional STP funds, \$37 million of CMAQ funds and \$8.8 million of Transportation Enhancement funds, and \$34 million of state funds to freeway projects.

Metro began the MTIP allocation process by adopting comprehensive revisions of its project selection procedures in the summer of 1998. Between September 2 and October 16, 1998, Metro solicited the region's eligible jurisdictions and agencies for candidate projects. ODOT informed the region of its desire to program the \$34 million of state modernization funds on several freeway projects, including improvement of the I-5/217/Kruse Way Interchange, completion of Phase 3 of the US 26/Sylvan Interchange and the Phase 1 of the Sunnybrook Split Diamond Interchange.

Preliminary technical analysis of the projects proceeded through December and draft rankings were released for agency review in mid-January. Refined draft rankings were released for public review on February 8, 1999. After numerous workshops and hearings, JPACT and the Metro Council on May 27 approved Metro Resolution No. 99-2791 allocating the regional flexible funds and state modernization funds to projects. A complete schedule of the adoption process is shown in Attachment 1.

Programming of Funds

The allocation of funds that occurred in May did not address the specific year individual projects were scheduled or the type of funds that would be used. Exhibit 1 of the current resolution addresses these issues.

Additionally, the May action did not approve ODOT's proposed allocation or schedule for preservation, operations, safety and bridge program funding. Neither did it address scheduling of the TEA-21 High Priority projects (allocations were approved by Resolution No. 99-2705) nor Tri-Met's programming of anticipated Section 5307 (former Section 9 formula and discretionary), Section 5309 (former Section 3, formula and discretionary), and general fund and miscellaneous programs. These actions are accomplished in the current resolution (see Exhibit 1 of the resolution).

ODOT Programs

In addition to the modernization funds previously allocated to projects, ODOT has proposed programming of an additional \$247.5 million of funds to preservation, operations, bridge and safety programs which are summarized below.

<u>PROGRAM</u>	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>TOTAL</u>
Preservation	984	27,893	8,534	22,765	23,392	83,569
Operations	745	8,718	7,328	7,753	9,245	33,789
Bridge	1,847	14,237	76,056	18,007	3,520	113,668
<u>Safety</u>	<u>608</u>	<u>4,905</u>	<u>3,826</u>	<u>3,844</u>	<u>3,301</u>	<u>16,484</u>
TOTAL	4,184	55,753	95,744	52,369	39,458	247,510

Preservation Program. Two projects account for nearly half of the four-year preservation program. The first is the overlay of I-5 (Pacific Highway) from NE Oregon Street to the Interstate Bridge (\$22.2 million). This complements the Interstate Bridge Painting project currently underway. Much of the cost is associated with raising structures that cross I-5. This is needed because application of the overlay material would raise the level of the road surface to the point that federal height standards would be violated unless the structures are raised. The alternative, to grind out the road surface, would be more expensive than raising the structures. Additional I-5 work is scheduled for southern segments including Capitol Highway to the Marquam Bridge (\$12.1 million) and SW Carmen to the Tualatin River \$2.6 million). This work accounts for nearly 45 percent of all preservation funds scheduled in the urban portion Region 1.

The second project will repave I-205 (E. Portland Freeway) from the Glenn Jackson Bridge to the Willamette River Bridge in Oregon City (\$19.4 million). I-205 has reached its 20-year design life and the concrete surface has worn to the reinforcement bars in some locations.

Operations. The Operations program is focused on improvement of facility performance without expanding capacity. Of the total four-year program schedule of \$33.8 million, nearly two-thirds (\$21.4 million) is allocated to installing technologies to observe freeway conditions, installing ramp metering (principally along I-205) and automating incident detection and response abilities in the ODOT Traffic Management Center. Additional funding is allocated to improve signal systems, including the associated loop detectors, adjacent to freeways and on the state highways maintained by ODOT. Finally, a number of rock fall and slide repair projects are included.

State System and Local Highway Bridge Repair and Replacement (HBRR). The largest ODOT funding category is the Bridge program. Repairs are scheduled for two state system bridges: 1) painting the St. John's Bridge (\$28 million); and 2) replacement of the Grand/MLK Viaduct (\$33.1 million) dominate the program. The St. John's Bridge project is complicated by the need to keep the old lead-based paint from falling into the Willamette River. The viaduct replacement is plagued by highly unstable foundation conditions.

Several other large expenditures are programmed on Willamette River bridges maintained by Multnomah County. The Morrison (\$6.8 million), Burnside (\$5.0 million) and Broadway (\$8.6 million) bridges are scheduled for HBRR-supported work. Additionally, the Morrison/Burnside bridges were allocated \$1.3 million of STP funds for electrical repairs and the Broadway Bridge was also allocated \$10 million of TEA-21 High Priority funds. Total funds allocated to work on these bridges in the four-year program are therefore:

- Morrison Bridge \$7.6 million
- Burnside Bridge \$5.5 million
- Broadway Bridge \$18.6 million

Attachment 2 shows the relationship of these scheduled improvements relative to the total capital need Multnomah County has identified for all the Willamette River bridges.

The gas tax/registration fee increase authorized by the Legislature would dedicate a portion of the new revenues to Willamette River bridges maintained by Multnomah County. However, the tax and fee increases are likely to be the subject of a referendum at the May election and the bridge funding increases may not occur. In light of these uncertainties, Metro has proposed that the requested bridge programming be provisional and that the entire issue of Willamette River bridges' capital needs be revisited after the new funding sources are confirmed.

Highway Safety Program. The Highway Safety program blends state and federal safety dollars. The federal program is limited to projects under \$500,000. The state program is not limited. Most of the projects are small and consist of simple operational and alignment improvements such as providing left-turn pockets, improving sight distance and corridor enhancements geared to improved signage and signalization. A

number of the projects shown in Appendix A show a "percent value" in the project name. This indicates that the safety dollars have been "bundled" with other program funds and are part of a larger project. Actually, this is true of all the program areas to some degree; individual project elements provide preservation, operations, bridge and safety benefits and draw funding from each program.

Transit Program

Funding for the regional transit program has become increasingly diverse. The program traditionally relied on the old Section 9 and Section 3 federal funding programs. Since adoption of ISTEA, and continuing with adoption of the TEA-21 authorization, the region has taken the opportunities provided in the federal funding statute to "flex" federal transportation dollars to the transit component of the regional program. Both state and regional STP dollars and CMAQ funds have been allocated for a variety of purposes including light rail construction, bus purchases, operation of the regional TDM (Transportation Demand Management) program housed at Tri-Met and support of TOD (Transit-Oriented Development) projects linked to light rail and other high quality transit corridors. This trend has continued in the current allocation.

Resolution No. 99-2791 approved allocation of these regional dollars and these funds are reflected in Exhibit 1. Additionally though, Tri-Met continues to receive federal funds which are programmed in the current resolution. Table 1 (following), shows in consolidated form, all the transit-related funds approved by Metro for programming in the MTIP. (It should be noted that some \$3 million of funds approved for the TOD program in this and prior allocations have been exchanged for Tri-Met general funds and are now represented as allocations for bus-related maintenance programs.)

Light Rail Program. The single largest block of funds consists of anticipated FTA support for the Interstate MAX Light Rail Extension (I-MAX) project (\$263.4 million). Another \$24 million of regional flexible (federal) dollars are also allocated to the project, bringing total support for the project to \$287.4 million. Formula-driven Fixed Guideway Modernization funds are also allocated to the region to maintain the Eastside MAX facilities. Total light rail-related funding is therefore \$301.5 million.

It should also be noted that Tri-Met and the City of Portland are cooperating in construction of the Portland Streetcar project. This project uses no federal funds but is a significant element of the region's rail-based transit and transit-oriented development strategy.

Finally, the region allocated \$18 million of regional dollars to supplement existing transit service by one percent, largely to address standing room only conditions during peak hour on the most popular bus lines. An explicit condition of this support was that Tri-Met would allocate the same amount of general funds toward partial funding of the Airport LRT Extension. This has occurred and the project is currently under construction. It relies on no federal transportation funds and is therefore not an explicit element of the MTIP.

TABLE 1

FY 99 - FY 03 METRO AUTHORIZED TRANSIT PROGRAM

GROUPED BY MAINTENANCE, SERVICE ENHANCEMENT AND SERVICE CAPTIAL PURPOSES

MAINTENANCE			FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
	Agency	Funding Source						
Powell Garage Rehabilitation/Expansion	Tri-Met	§ 5309		0.500	8.000	8.000		16.500
Bus Support Equipment & Facilities	Tri-Met	Gen Fund		2.000	2.000	2.000	2.000	8.000
Preventive Maintenance (bus)	Tri-Met	§ 5307		19.324	20.890	21.450	23.023	84.687
Preventive Maintenance (bus)	Tri-Met	STP	4.502					4.502
Bus Support, Equip & Facilities Subtotal			4.502	21.824	30.890	31.450	25.023	113.689
Bus Signals & Communications	Tri-Met	Gen Fund		2.000	2.000	2.000	2.000	8.000
Bus Signals & Communications	Tri-Met	STP	1.039					1.039
Bus Signal & Communications Subtotal			1.039	2.000	2.000	2.000	2.000	9.039
Preventive Maintenance (rail)	Tri-Met	§ 5307				1.000	1.000	2.000
Rail Support Equipment & Facilities	Tri-Met	Gen Fund		2.000	2.000	2.000	2.000	8.000
Rail Support Equipment & Facilities	Tri-Met	STP	0.045					0.045
OTHER FEDERAL AID	SMART	?	?	?	?	?	?	
Rail Support Equipment & Facilities Subtotal			0.045	2.000	2.000	3.000	3.000	10.045
TOTAL			5.586	26.324	42.890	44.450	30.023	132.773

ENHANCEMENT			FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
Station/Stop Amenities		Funding Source						
Transit Enhancements (Accessible Bus Stops)	Tri-Met	§ 5307		0.196	0.212	0.227	0.243	0.878
Progress Park/Ride (TCL)	Tri-Met	CMAQ		0.525				0.525
Bus Stations, Stops, Terminals (TCL)	Tri-Met	CMAQ		0.900	1.425	1.425	1.457	5.207
Rail Stations, Stops & Terminals	Tri-Met	STP	0.269					0.269
TOTAL			0.269	1.621	1.637	1.652	1.700	6.879

TDM and TMA Support Activity			FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
		Funding Source						
Regional TDM	Reg.	CMAQ			0.412			0.412
Regional TDM	Reg.	STP			0.288	0.700	0.999	1.987
Subtotal					0.700	0.700	0.999	2.399
Region 2040 Initiatives	Tri-Met	CMAQ		0.250	0.250	0.250	0.250	1.000
TMA Assistance Program	Metro	CMAQ		0.250	0.250	0.250	0.250	1.000
Wilsonville/Canby Jobs Access Program	ODOE	§ 3037	0.150					0.150
Regional Jobs Access Program	Tri-Met	§ 3037	1.009					1.009
TOTAL			1.159	0.500	1.200	1.200	1.499	5.558

SERVICE CAPTIAL			FY 99	FY 00	FY 01	FY 02	FY 03	TOTAL
Bus Purchase & LRT Captial		Funding Source						
I-MAX Light Rail Project	Tri-Met	§ 5309		46.000	42.700	83.200	91.500	263.400
I-MAX Light Rail Project	Tri-Met	CMAQ		6.000	4.000			10.000
I-MAX Light Rail Project	Tri-Met	STP			2.000	6.000	6.000	14.000
I-MAX Subtotal				52.000	48.700	89.200	97.500	287.400
Westside Light Rail Project	Tri-Met	§ 5309		14.062				14.062
New Start LRT Subtotal				66.062	48.700	89.200	97.500	301.462
Fixed Guideway Modernization	Tri-Met	§ 5309		3.149	3.356	3.860	4.318	14.683
South Corridor Alternatives Analysis	Metro	STP	1.500					1.500
Standard Buses (TEA-21 High Priority)	Tri-Met	§ 5309	1.750	1.750				3.500
Bus Purchases/PDX	Tri-Met	STP	10.586					10.586
Bus Purchases/PDX	Tri-Met	CMAQ	3.500				4.500	8.000
TOTAL			17.336	70.961	52.056	93.060	106.318	339.731
METRO AUTHORIZED GRAND TOTAL			24.350	99.406	97.783	140.362	139.540	484.941

Maintenance and Powell Garage Rehabilitation. The second largest transit allocation grouping is bus maintenance and, to a lesser extent, rail maintenance activity (\$132.7 million). Of this total, \$83.7 million is derived from lumping all the region's Section 5307 (former Section 9) formula funding into Bus Preventative Maintenance. This streamlines federal grant processing procedures by reducing the grant to a single "vanilla" line item. Before FTA permitted this as an eligible activity, the Section 5307 funds were often split into dozens of different projects. The consolidation has enabled reduction of Tri-Met's staffing for the grant program from the equivalent of two full-time positions to just over one-half of a Full-Time Equivalent position.

Another large component of the bus maintenance activity is anticipated appropriation of \$16.5 million for rehabilitation and expansion of the Powell Garage Maintenance Facility. The increased bus program pursued by the region has overwhelmed the existing maintenance facility. Funding for this project was listed as Tri-Met's highest priority for federal discretionary appropriations. If federal funding is not forthcoming, Tri-Met will complete the expansion using general funds.

Finally, Tri-Met has requested regional programming in the MTIP of \$24 million of general funds for a variety of maintenance activity (Metro is not responsible for and has no authority to require programming of Tri-Met's general fund expenditures). The purpose of this programming is so that if any of Tri-Met's regional partners request trading of federal funds for less restricted general funds, the action can be accommodated with a minimum of MTIP amendment activity simply by "swapping" funds within these previously programmed projects.

Transit Choices for Livability and Other Transit Enhancement. A variety of fund sources are allocated to improve service, and especially the amenities associated with bus transit. The biggest chunk is about \$5.3 million of CMAQ funds allocated by the region to begin rapid bus service along the Barbur Corridor between downtown Portland and SW Washington County and within the McLoughlin Corridor between downtown and Oregon City.

Also along the lines of enhancing service, the region has assured continuation of TDM program funding at the higher level of \$700,000 per year. The TDM program has focused increasingly on supporting efforts with Regional Centers identified in regional transportation and land use policies. To supplement these efforts, the region has also allocated \$2.0 million for support of public/private TMAs (Transportation Management Associations) in these locations and \$2.0 for capital support of TMAs and/or other Regional Center-based, non-traditional transit service delivery projects.

Conclusion

The funds identified in Exhibit A are a mixture of funds authorized for programming by prior resolution actions and funds requested by ODOT and Tri-Met for first time

programming. All the funds appear for the first time scheduled by year, phase of work and fund type.

Some changes still occur, especially the ODOT programming which has not yet received final Headquarters staff approval of statewide financial constraint and equity issues. The Oregon Transportation Commission may also request revisions. Any changes will be processed administratively according to existing Metro MTIP Management Guidelines that provide for monthly notification to TPAC and quarterly notification to JPACT/Metro Council of significant revisions.

Priorities 2000 Project Selection Schedule

- | | |
|------------------|--|
| 22-May-98 | Public notification to kick-off process |
| 23-Jun-98 | Public hearing on draft criteria |
| 16-Oct-98 | Deadline for local governments to submit projects |
| Oct – Feb | Technical ranking of projects |
| 8-Feb-99 | Public comment period begins |
| 23-Feb-99 | Public workshop with ODOT (in Portland): Comment on technical and administrative factors |
| 27-Feb-99 | Open house (in Hillsboro) – distribute information to public |
| 17-Mar-99 | Public workshop with ODOT (in Oregon City) – Comment on technical and administrative factors |
| 22-Mar-99 | Public comment period ends |
| 26-Mar-99 | TPAC: review/approve 150% cut list |
| 6-Apr-99 | JPACT/Transportation Planning Committee public hearing on 150% cut list
5:30 p.m., Council Chamber, Metro Regional Center,
600 NE Grand, Portland |
| 8-Apr-99 | JPACT/Metro Council Review/Approve 150% cut list |
| 20-Apr-99 | Transportation Planning Committee review |
| 30-Apr-99 | TPAC Approval of Program Recommendation |
| 4-May-99 | JPACT/Transportation Planning Committee public hearing on program
recommendation – 5:30 p.m., Council Chamber, Metro Regional Center, 600 NE
Grand, Portland |
| 13-May-99 | JPACT consideration of program approval |
| 27-May-99 | Metro Council consideration of program approval |

ATTACHMENT 2

MULTNOMAH COUNTY
WILLAMETTE RIVER BRIDGES CAPITAL PROGRAM

(WILL BE PROVIDED AT THE MEETING)

Resolution No. 99-2831, For the Purpose of Amending the Membership of the TPAC Transportation Demand Management Subcommittee.

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE) RESOLUTION NO. 99-2831
MEMBERSHIP OF THE TPAC TRANSPOR-)
TATION DEMAND MANAGEMENT) Introduced by
SUBCOMMITTEE) Jon Kvistad, Chair
JPACT

WHEREAS, The TPAC Transportation Demand Management
(TDM) Subcommittee was established in May 1992; and

WHEREAS, The current membership of the TDM Subcommit-
tee differs from the TDM Subcommittee representation that
was recommended in May 1992; and

WHEREAS, The TDM Subcommittee makes recommendations to
TPAC on funding issues and TDM policy; now, therefore,

BE IT RESOLVED,

That the Metro Council and JPACT adopt the following
recommendations:

1. That the Department of Land Use and Conservation
(DLCD) be removed from the TDM Subcommittee.
2. That the Port of Portland and Wilsonville/SMART be
added to the TDM Subcommittee.
3. That a Transportation Management Association
(TMA) representative be added to the TDM Subcommittee and
serve a two-year term on the committee.

4. That vacant positions for a citizen representative, bicycle/pedestrian advocate representative and business representative be filled by TPAC.

ADOPTED by the Metro Council this _____ day of _____, 1999.

Rod Monroe, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

BB:lmk
99-2831.res.doc
8-18-99

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2831 FOR THE PURPOSE OF AMENDING THE MEMBERSHIP OF THE TPAC TRANSPORTATION DEMAND MANAGEMENT SUBCOMMITTEE

Date: August 16, 1999 Presented by: Andrew Cotugno

PROPOSED ACTION

Resolution No. 99-2831 amends the membership of TPAC's Transportation Demand Management (TDM) Subcommittee to respond to changes in the membership of the TDM Subcommittee since its establishment by Resolution No. 92-1610.

FACTUAL BACKGROUND AND ANALYSIS

On May 28, 1992, MSD (now Metro) Resolution No. 92-1610 established the TPAC Transportation Demand Management (TDM) Subcommittee. With the TDM Subcommittee beginning its eighth year, its current membership differs from the TDM Subcommittee representation that was recommended in Resolution No. 92-1610. Since the TDM subcommittee makes recommendations to TPAC on funding issues and TDM policy, including Transportation Management Association selection, TDM subcommittee membership and voting privileges need to be revisited.

The 1992 resolution recommended that the subcommittee include the following representatives: Metro; ODOT; Tri-Met; Clackamas, Multnomah and Washington Counties; City of Portland, Oregon Department of Energy; DLCD and DEQ. Resolution No. 92-1610 also recommended that one citizen member, one bicycle/pedestrian advocacy member, one representative from the other cities (currently the City of Gresham), one business representative and a representative from the Clark County Strategic Planning Group should also participate. The current TDM Subcommittee matches Resolution No. 92-1610 with the following exceptions:

- DLCD is not represented on the subcommittee and DLCD is not a TPAC member.
- The Port of Portland has been a consistent participant on the subcommittee but is not included in the 1992 resolution list of participants.
- SMART/Wilsonville, the Westside Transportation Alliance TMA, and the Tualatin TMA have regularly participated on

the subcommittee over the past year but are not included in the 1992 resolution list of participants.

Also, the current TDM Subcommittee lacks a citizen member, a bicycle/pedestrian advocate and a business representative. According to the 1992 resolution, selection of the committee is the responsibility of the participating jurisdiction or agency and appointments shall be made by TPAC. Therefore, staff recommends that a citizen member, bicycle/pedestrian advocate and business representative be appointed to the committee. These representatives could be current TPAC citizen members and would have a two-year term on the committee.

In accordance with Resolution No. 92-1610, changes to the TDM Subcommittee membership must be approved by resolution. The TDM Subcommittee discussed membership issues at its June and July meetings. The following recommended changes in TDM Subcommittee membership are forwarded for TPAC consideration:

1. Remove DLCD from subcommittee membership.
2. Add the Port of Portland as a subcommittee member.
3. Add Wilsonville/SMART as a subcommittee member.
4. Add a Transportation Management Association as a subcommittee representative with a two-year term on the committee.

Resolution No. 99-2834A, For the Purpose of Granting Time Extensions for the Cities of Milwaukee and Gladstone for Compliance with Title 3 of the Urban Growth Management Functional Plan.

Metro Council Meeting
Thursday, September 30, 1999
Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING TIME) RESOLUTION NO 99-2834A
EXTENSIONS FOR THE CITIES OF)
MILWAUKIE AND GLADSTONE FOR) Introduced by Executive Officer Mike
COMPLIANCE WITH TITLE 3 OF THE URBAN) Burton
GROWTH MANAGEMENT FUNCTIONAL
PLAN

WHEREAS, the Metro Council adopted the Urban Growth Management Functional Plan for early implementation of the 2040 Growth Concept on November 21, 1996, by Ordinance No. 96-647C; and

WHEREAS, the Metro Council amended Ordinance Nos. 96-647C and 97-715B to amend Title 3 of the Urban Growth Management Functional Plan and amend the Regional Framework Plan, Appendix A and adopted the Title 3 Model Ordinance and Water Quality and Flood Management Maps on June 18, 1998; and

WHEREAS, the Urban Growth Management Functional Plan requires that all jurisdictions in the region make comprehensive plan and implementing ordinance changes needed to come into compliance with Title 3 of the Functional Plan by December 18, 1999; and

WHEREAS, the Urban Growth Management Functional Plan in Metro Code Section 3.07.820.C provides that Metro Council may grant extensions to timelines under the Functional Plan "if the city or county has demonstrated substantial progress or proof of good cause for failing to complete the requirements on time;" and

WHEREAS, the cities of Milwaukie and Gladstone have requested time extensions to complete Title 3 compliance work based on evidence showing "substantial progress or proof of good cause" for failing to meet the December 18, 1999 deadline for compliance with Title 3 of

the Functional Plan and have submitted detailed timelines showing when the work will be completed, now therefore,

BE IT RESOLVED:

1. That the cities of Milwaukie and Gladstone shall receive time extensions for compliance with Title 3 of the Functional Plan as shown in Exhibit A.

2. That any further requests for time extensions or requests for Functional Plan exceptions made by the above named jurisdictions shall be determined as delineated in Metro Code 3.07.820, Sections B and C.

ADOPTED by the Metro Council this ____ day of _____ 1999.

Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

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EXHIBIT A

Title 3 Functional Plan time extensions have been requested by the Cities of Milwaukie and Gladstone.

City of Milwaukie

July 2000

Milwaukie currently has erosion control measures and some buffer protections for water quality resource areas in place but needs to address floodplain requirements and adjust the current buffer requirements to be consistent with Title 3. The delay in completing the compliance work is due to staff turnover. The City did look at Title 3 requirements as part of their overall examination of compliance with the Functional Plan. A consulting firm has been hired to undertake this work for the City.

City of Gladstone

December 2000

The City of Gladstone is currently focusing its efforts to come into compliance with titles 1, 2, 6 and 8 of the Functional Plan for December 1999. The City has limited staff resources and anticipates beginning its Title 3 compliance work in 2000 with completion anticipated by December 2000.

STAFF REPORT

*CONSIDERATION OF RESOLUTION NO. 99-2834A
GRANTING TIME EXTENSIONS FOR THE CITIES OF
MILWAUKIE AND GLADSTONE FOR COMPLIANCE WITH
TITLE 3 OF THE URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN*

Date: September 22, 1999

**Presented by: Mary Weber
Prepared by: Brenda Bernards**

PROPOSED ACTION

Adoption of Resolution No. 99-2834A granting timeline extensions to the Functional Plan compliance deadline for the Title 3: Water Quality, Flood Management and Fish and Wildlife Conservation (Title 3) to the cities of Milwaukie and Gladstone.

BACKGROUND AND ANALYSIS

Metro Code 3.07.820.C (Title 8 of the Functional Plan) provides that Metro Council may grant time extensions to Functional Plan requirements if a jurisdiction can demonstrate "substantial progress or proof of good cause for failing to complete the requirements on time."

On June 18, 1999 the cities and counties reported on their progress for compliance with the requirements of Title 3 of the Functional Plan. Throughout the region, the local jurisdictions have made considerable progress in dealing with flood management, erosion and sediment control and protection of the water quality resource areas. Each jurisdiction has elements of the requirements in place and is working towards amending current standards to be consistent with Title 3. Twenty jurisdictions anticipate compliance with the requirements of Title 3 on or before December 18, 1999. The Cities of Milwaukie and Gladstone have requested a time extension to the December 18, 1999 deadline to implement the requirements of Title 3 of the Functional Plan. The cities' requests for time extensions are attached to this report.

As the jurisdictions in Metro work towards meeting the December 18, 1999 deadline, it may be necessary for a number of the smaller cities to request a time extension as well. *Title 3 Compliance Status – September 20, 1999*, which is attached to this report, provides a summary of the compliance status for each of the jurisdictions.

Compliance Progress

Although these jurisdictions have requested time extensions to complete the requirements of Title 3, both Milwaukie and Gladstone have some of the requirements of this Title currently in place. The following summarizes the progress of the cities and

both have met the Metro Code criterion for "substantial progress or proof of good cause for failing to complete" Functional Plan compliance (Metro Code 3.07.820.C).

City of Milwaukie

Extension Request: July 2000

Milwaukie currently has erosion control measures and some buffer protections for water quality resource areas in place but needs to address floodplain requirements and adjust the current buffer requirements to be consistent Title 3. The delay in completing the compliance work is due to staff turnover. The City did look at Title 3 requirements as part of their overall examination of compliance with the Functional Plan. A consulting firm has been hired to undertake this work for the City.

City of Gladstone

Extension Request: December 2000

The City of Gladstone is currently focusing its efforts to come into compliance with titles 1, 2, 6 and 8 of the Functional Plan by December 1999. The City has limited staff resources but with a grant from DLCD, Gladstone has hired a planning consultant to complete its compliance work. The City anticipates beginning work for compliance with Title 3 in early 2000 with completion in December 2000 allowing for sufficient time to conduct a public process with the Planning Commission and the community. The majority of the land affected by Title 3 in Gladstone is in public ownership along the Clackamas and Willamette Rivers.

BUDGET IMPACT

Adoption of this resolution has no budget impact.

EXECUTIVE OFFICER'S RECOMMENDATION

The Functional Plan implementation time extension requests for the requirements of Title 3 from Milwaukie and Gladstone are recommended for approval. Any further requests for time extensions or requests for Functional Plan exceptions made by these jurisdictions would be determined as delineated in Metro Code 3.07.820, Sections B and C.

I:\gm\community_development\projects\COMPLIANCE\ExtensionRequests\title 3 extension report.milwaukie gladstone.doc

Title 3 Compliance Status – September 20, 1999

Jurisdiction	Status	Pending Council /Committee Action	Metro Contact <i>Jurisdiction Contact</i>
Beaverton	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • has requested an extension to July 2000 • Requested an exception for the Murray Scholls Town Center and downtown 	Growth Management Committee (GMC) has requested additional data	Brenda Bernards <i>Veronica Smith</i>
Clackamas County	<ul style="list-style-type: none"> • Updating code as needed • Anticipates compliance by Dec. 1999 		Ray Valone <i>Greg Frits</i>
Cornelius	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance, • Anticipates compliance by Dec. 1999 		Barbara Linssen <i>Tracey Lee</i>
Durham	<ul style="list-style-type: none"> • Greenway zone along Tualatin River implements much of Title 3, timing for adopting remaining requirements is uncertain 		Barbara Linssen <i>Roel Lundquist or K.J. Won</i>
Fairview	<ul style="list-style-type: none"> • Anticipates compliance by Nov. 1999 		Brenda Bernards <i>John Anderson</i>
Forest Grove	<ul style="list-style-type: none"> • Anticipates compliance by Jan. 2000 		Ray Valone <i>Tim O'Brian</i>
Gladstone	<ul style="list-style-type: none"> • Has requested a extension to Dec. 2000 	extension recommended by GMC, to Council for approval	Barbara Linssen <i>Jonathan Block</i>
Gresham	<ul style="list-style-type: none"> • Currently drafting Title 3 code changes, working with an advisory committee • Anticipates compliance by Oct. 2000 	extension recommended by GMC, to Council for approval	Marian Hull <i>Jonathan Harker</i>
Happy Valley	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Brenda Bernards <i>Jim Crumley</i>
Hillsboro	<ul style="list-style-type: none"> • Anticipates completing mapping requirements in Dec. 1999 and code requirements in Oct. 2000 	Growth Management Committee (GMC) has requested additional data	Ray Valone <i>Pat Ribela</i>
Johnson City	<ul style="list-style-type: none"> • Seeking exception to all Functional Plan requirements 		Barbara Linssen <i>No staff</i>
King City	<ul style="list-style-type: none"> • Has not begun work, but will follow Washington County/Tigard lead 		Marian Hull <i>Jane Turner</i>
Lake Oswego	<ul style="list-style-type: none"> • Largely complete, needs to adopt balanced cut and fill • Anticipates compliance by Dec. 1999 		Ray Valone <i>Jane Heisler</i>
Maywood Park	<ul style="list-style-type: none"> • No Title 3 areas inside city boundary 		Barbara Linssen <i>No staff</i>
Milwaukie	<ul style="list-style-type: none"> • Anticipates compliance by July 2000 	extension recommended by GMC, to Council for approval	Brenda Bernards <i>Alice Rouyer</i>
Multnomah County	<ul style="list-style-type: none"> • Working to coordinate efforts with cities • Has an extension for all compliance work to March 2000 	approved extension to March 2000	Barbara Linssen <i>Tricia Sears</i>

Title 3 Compliance Status – September 20, 1999			
Jurisdiction	Status	Pending Council /Committee Action	Metro Contact Jurisdiction Contact
Oregon City	<ul style="list-style-type: none"> • Anticipates compliance by Oct. 1999 • City Commission held first reading • second reading October 6, 1999 		Brenda Bernards Nancy Kraushaar
Portland	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Barbara Linssen Mary Abrams
Rivergrove	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Marian Hull Mike Collmeyer
Sherwood	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • Anticipates compliance by Dec. 1999 		Marian Hull Greg Turner
Tigard	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • Anticipates compliance by Dec. 1999 		Brenda Bernards Duane Roberts
Troutdale	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Ray Valone Sheryl Sanderson
Tualatin	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • have requested an extension to Oct. 2000 	received Sept. 14 not yet considered by GMC	Marian Hull Jim Jacks
Washington County	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • has requested an extension to Oct. 2000 	Growth Management Committee (GMC) has requested additional data	Brenda Bernards Hal Bergsma
West Linn	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Marian Hull Kristi Meyer
Wilsonville	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Ray Valone Stephan Lashbrook
Wood Village	<ul style="list-style-type: none"> • In compliance July 1999 • Used model code for affected features 		Brenda Bernards Carole Connell

Note: The City of Gresham, Washington County and the cities of Washington County currently require balanced cut and fill and some erosion control measures.



Metro Growth Mgmt.
JUN 18 1999

June 15, 1999

Mike Burton, Executive Officer
Metro
600 NE Grand Avenue
Portland, Oregon 97232-2736

Re: Report on Title 3 and Request for a Time Extension to July 1, 2000

Dear Mr. Burton:

This letter provides Metro with a report on existing plans and policies and a request for a time extension on the City of Milwaukie's work towards complying with Title 3 of the Metro Urban Growth Management Functional Plan (the Functional Plan). The City of Milwaukie places a high priority on water quality, flood management and fish and wildlife conservation as described in the Functional Plan, and our decision makers are anxious to begin this work.

Report and Evaluation of Existing Plans and Policies

The following report and enclosures are submitted as required in Section 3.07.820.G of the Functional Plan. Milwaukie currently recognizes the beneficial uses, functions and values of natural resources through three regulatory measures:

1. Milwaukie Zoning Code (sections 320 and 322); Natural Resource Overlay and Willamette Greenway, and Natural Resource Overlay Map;
2. Erosion Control Program as implemented by our Public Works department; and
3. Flood Zone building standards.

These existing programs provide the assurance that natural resources will be protected in the interim as we develop our local regulations in compliance with Title 3. As we indicated in our Functional Plan Compliance Report dated August 19, 1998, the Metro Water Quality Resource and Flood Management Area map (Title 3 map) and the Milwaukie Natural Resource Overlay Map are very similar. The existing Natural Resource Overlay Map covers more land area than the Title 3 map since it identifies entire parcels. The Natural Resource Overlay zone in our Zoning Code provides for a public hearing process and professional assessment of impact and mitigation for development on any property with the Natural Resources designation. The Willamette Greenway section in the Zoning Code provides for buffers and a public hearing process. In accordance with Metro Code 3.07.820.G., I am enclosing excerpts from our Compliance Report from last August which provide a more detailed evaluation of our existing regulations. I am also enclosing a copy of our Natural Resource Overlay Map.

COMMUNITY DEVELOPMENT DEPARTMENT
Planning • Public Works • Facilities
6101 SE Johnson Creek Blvd., Milwaukie, Oregon 97263
PHONE: (503) 786-7600 • FAX: (503) 774-8236

Request for Time Extension

Title 8 of the Functional Plan (Metro Code 3.07.810.B.) specifically requires that "cities and counties are required to amend their comprehensive plans and implementing ordinances to comply with sections 3.07.310-.340 of Title 3 within 18 months [December 18, 1999] ..."

Although we are strongly committed to implementing Title 3 as soon as possible, we anticipate that we will not be able to meet the December 18, 1999, deadline set in the Functional Plan for adoption of implementation measures to comply with Title 3. The City therefore requests approximately a 170 day time extension from the Metro Council until July 1, 2000, to complete its implementation of Title 3 regulatory measures.

The primary reason we are asking for this extension is a series of recent staff transitions. The city was without a permanent Planning Director from February through May 1999. Susan Heiser, our Planning Director who carried out the Functional Plan Compliance process, resigned in February 1999. Martha Bennett, our new Assistant City Manager, initiated a national search for the best qualified Planning Director. Our new Planning Director, Alice Rouyer, began work on June 1, 1999. The City now has the appropriate personnel in place to carry out both day-to-day and long-range planning functions of a medium sized city, including implementation of Title 3. We will begin our work on Title 3 immediately. Due to the recent staff transitions, the complexity of the new standards, and the need to adequately involve the public and property owners (including avoiding public hearings during the month of December) the requested extension provides a more realistic timeframe to complete the adoption of new plan and policy language.

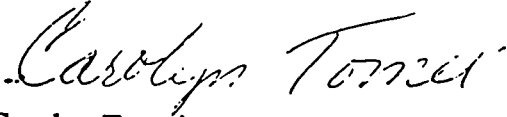
As you can see from the preliminary schedule below, we anticipate getting to public hearings at the Planning Commission and City Council in May and June 2000. The following list provides the steps we anticipate in completing the Title 3 work:

Task	Approximate Timing
Establish Project Management Team (PMT)	July 1999
Prepare a detailed memorandum on applicable regulations and regulatory approaches	July 1999
Meeting #1 with PMT	August 1999
Prepare materials for Work session #1	August 1999
Joint CC/PC/Public Work Session #1	September 1999
Draft revisions to applicable Code sections:	October 1999
Meeting #2 with PMT including legal counsel	November 1999
Prepare for Public open house	November 1999
Hold Open House for general public	Early December 1999
Meeting #3 with PMT	January 2000
Revise draft code language	January 2000
Prepare materials for work session #2	January 2000
CC/PC/ Public Work Session #2	February 2000
BM 56 Notice	April 2000
Public Outreach to affected property owners	April 2000
Prepare final draft report including final code amendments	March 2000-April 2000
Planning Commission Public Hearing/Action	May 2000

Mike Burton
Title 3 Report
Page 3

The City appreciates the work that your staff has provided during the Functional Plan implementation process, we look forward to their continued assistance. If you or your staff has any questions, please call the City's Planning Director, Alice Rouyer, at (503) 786-7654.

Sincerely,



Carolyn Tomei
Mayor, City of Milwaukie

Enc.

cc: Dan Bartlett, City Manager
Martha Bennett, Assistant City Manager
Alice Rouyer, Planning Director
Jim Coleman, Ramis Crew et al.
Brenda Bernards, Metro Growth Management

Excerpt from the Milwaukie Functional Plan Compliance Report, August 19, 1998

Title 3

Timing: Amendments must be made by December 1999, Status of Compliance due to Metro in June 1999. City plans to make amendments by February 2000.

3A/4B Adopt Water Quality Map and Vegetated Buffer Standards

1. Amend Zoning Map to include Title 3 Water Quality Resource Area maps, replace Natural Resource map in Comprehensive Plan with Title 3 map (or reference to map). Obtain Title 3 map layer from Metro.
2. Amend Natural Resource, Section 322 to include Title 3 Buffer Table and other standards.
3. Adopt the Metro Model Ordinance provisions into the Zoning Ordinance where applicable (Natural Resource Overlay, Conditional Uses and Variances) and into the Subdivision Ordinance where applicable.
4. Initiate a Stormwater Design Manual to address Erosion Control, Water Quality, and other design standards to assure adequate construction standards and Best Management Practices can be enforced.

4A/B. Performance Measures



5. Remove riverfront area from Title 3 Map per Metro criteria (within Town Centers or Regional Centers) and providing downtown destination.
6. Adopt Model Ordinance Language to address flood protection issues.
7. Review current City construction standards.

4D. Establish Implementation Tools

8. Requires city to allow transfer of development rights from areas indicated by map.
9. Recommended - Review subdivisions and partitions designated by Water Quality Resource Areas map for possible conditions.

NATURAL RESOURCE DESIGNATION MASTER MAP



- 100 YR FLOOD PLAIN
- CREEKS AND RIVERS
- - - WATER COURSES
- CITY OF MILWAUKEE BOUNDARY
-  NR DESIGNATION
-  NR DESIGNATION AND NR APPLICATION ON FILE SEE MASTER FILE LIST BELOW

1	I.R. 90 01
2	I.R. 91 01
3	I.R. 91 01
4	I.R. 91 01
5	I.R. 91 01
6	I.R. 91 01
7	I.R. 91 01
8	NR 91 01
9	I.R. 91 01
10	I.R. 91 01
11	I.R. 91 01
12	I.R. 91 01
13	I.R. 91 01
14	NR 91 01
15	I.R. 91 01
16	I.R. 91 01
17	NR 91 01
18	I.R. 91 01
* Denotes Jurisdiction Wetlands	
19	I.R. 91 01
20	I.R. 91 01
21	I.R. 91 01
22	I.R. 91 01
23	I.R. 91 01

MAP DATE : 09/14/98

Department Of
Community
Development



City of GLADSTONE

July 13, 1999

RECEIVED

JUL 16 1999

Mike Burton
Executive Officer
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

EXECUTIVE OFFICER

City Hall
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5223
FAX: 650-8938
E-Mail: glad@spiritone.com

Municipal Court
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5224

Police Department
535 Portland Avenue
Gladstone, OR 97027
(503) 656-4253

Fire Department
535 Portland Avenue
Gladstone, OR 97027
(503) 656-4253

Public Library
135 E. Dartmouth
Gladstone, OR 97027
(503) 656-2411
FAX: 655-2438
E-Mail: glref@lincc.lib.or.us

Senior Center
1050 Portland Avenue
Gladstone, OR 97027
(503) 655-7701
FAX: 650-4840

City Shop
18595 Portland Avenue
Gladstone, OR 97027
(503) 656-7957
FAX: 722-9078

RE: Functional Plan Compliance Update and Request for Time Extension for Title 3

Dear Mr. Burton;

The City of Gladstone is well underway with its work program for meeting the requirements of the Metro Urban Growth Management Functional Plan (the Functional Plan). Through a Transportation and Growth Management Smart Development Code Assistance grant, the city has engaged in a productive discussion between staff, the public and the Planning Commission. This process has resulted in a package of draft code amendments directed at complying with the Functional Plan and promoting the principles of Smart Development. Your staff has been an integral part of the grant request process and the Project Team. The Planning Commission reviewed this draft amendment package on June 15, 1999 and provided direction to staff about proceeding with specific amendments. We anticipate completion of our Functional Plan compliance work by December 31, 1999 with the exception of Title 3 compliance.

2040 Growth Concept Map Amendment

During the city's review of the 2040 Design Types on Metro's Growth Concept map, it became clear that the designation of inner and outer neighborhoods in Gladstone is not right. The majority of Gladstone has been designated outer neighborhood while a limited area in the northeast portion of the city has been designated inner neighborhood. In reality, the residential areas in Gladstone that are characterized by smaller lot sizes and accessibility to jobs and neighborhood businesses are located in the southern section of the city. This area is generally bounded by McLoughlin Blvd. on the west, the Clackamas River on the south, Oatfield Road on the east and Abernethy Lane, Jersey Street and Heather Way on the north.

Mike Burton - Metro
Functional Plan Compliance Update and Request for Time Extension for Title 3
July 13, 1999
Page Two

Likewise, residential neighborhoods characterized by lower densities and located farther away from the city's commercial core and industrial lands are located north of Abernethy Lane, Jersey Street and Heather Way.

It is my understanding Metro has a process available for consideration of revisions to the 2040 Growth Concept map. Therefore, the city requests Metro amend the 2040 Growth Concept Map, specifically that the designation of inner and outer neighborhoods be "flipped" in Gladstone as described above.

Title 3 Time Extension

The city has spent the last 6 months focusing on compliance with the other applicable Titles in the Functional Plan. The city will focus its planning resources on the adoption of the proposed implementation measures for Titles 1, 2, 6 and 8 over the next 6 months. As one of the smaller cities in the Metro region, Gladstone does not have staff resources to complete the Title 3 amendments within the time frame required by Section 3.07.810B (December 18, 1999). As a city with very little developable land, Gladstone's implementation of Title 3 will not affect many properties. The City will begin work on Title 3 in the year 2000. The City plans to have the evaluation required by Metro Code 3.07.820G, complete by June 2000 and implementing measures adopted by December 18, 2000. Therefore, Gladstone requests a one-year extension to the Title 3 deadlines.

If you require additional information, please contact Jonathan Block, Community Services Director, at 557-2768.

Thank you for your assistance in this matter.

CITY OF GLADSTONE



Wade Byers, Mayor

c: Barbara Linssen, Associate Regional Planner, Metro

Agenda Item Number 8.8

**Resolution No. 99-2838, For the Purpose of Providing Mailed Notice to Property Owners Affected by
Title 3 of the Urban Growth Management Functional Plan.**

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF PROVIDING) RESOLUTION NO 99-2838
MAILED NOTICE TO PROPERTY)
OWNERS AFFECTED BY TITLE 3 OF) Introduced by Executive Officer Mike Burton
THE URBAN GROWTH MANAGEMENT)
FUNCTIONAL PLAN)

WHEREAS, on June 18, 1998, the Metro Council adopted Ordinance 98-730C, Metro's Floodplain and Stream Protection Plan through amendments to Title 3 of the Urban Growth Management Functional Plan; and

WHEREAS, Ordinance 98-730C amended Metro Code 3.07.820(F) to require Metro to mail notice to property owners affected by Title 3 Flood Management and Water Quality performance standards; and

WHEREAS, the notice to property owners is required prior to the first hearing by local governments on comprehensive plan and zoning code amendments proposed for compliance with Title 3; and

WHEREAS, Metro staff will coordinate with local government staff to identify owners of property in the Flood Management and Water Quality Areas who will receive the required notice; and

WHEREAS, some local governments anticipate adopting comprehensive plan and zoning code amendments by December, 1999, while others have requested extensions from the Metro Council to complete their compliance with Title 3; and

WHEREAS, those local governments moving toward December, 1999 compliance with Title 3 are beginning their local hearings; and

WHEREAS, Metro staff offered, at the local government's request, to add a notice meeting the requirements of Ballot Measure 56 on Metro's Title 3 notice thereby accomplishing two required notices in one mailing. The form and content of the Ballot Measure 56 will be supplied by the local governments; now, therefore,

BE IT RESOLVED:

1. That Metro staff shall coordinate with local governments in mailing the Title 3 notice to property owners in the Title 3 Flood Management and Water Quality Areas.
2. That upon request by the local governments, Metro staff may include a notice to comply with Ballot Measure 56 in the same mailing.

ADOPTED by the Metro Council this _____ day of _____ 1999.

Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

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Ordinance 98-730A
 Amendment packet
 May 28, 1998

AMENDMENT AREAS:

Amendments considered at the May 5 meeting, redrafted at committee request.

- Naito 3a--clarifies optional non-application of performance standards
- Naito 7a--Debris definition

Wetlands related.

- Morissette 3 (Model Ordinance). Carried over from May 5 meeting.
- Morissette 4 (Model Ordinance). Carried over from May 5 meeting.
- Naito--Discussion Draft 1B

(items for legal counsel to put on the record during discussion of Naito discussion draft 1B--Oregon Freshwater Wetland Assessment Methodology-sect. 7.C; modifications-sect. 7.B; public hearings on maps prior to adoption, "periodic review"-sect. 3.C; Title 3 wetlands definition; the record relative to items taken off the map-sect. 3D.)

Notice and Compliance

- Morissette-McLain (amendment to cover ordinance)
- Naito (amendment to cover ordinance)
- Naito #8

Other

McLain-Mixed use areas, Model Ordinance Table, Model Ordinance Alternatives
 Analysis
 Other possible amendments

MORISSETTE-MCLAIN AMENDMENT TO ORDINANCE 98-730Local Hearing and Property Owner Notice

Section 4. To provide effective notice to affected property owners of the first city or county hearing on the ordinance to implement Title 3, the following effective dates, local hearing and property owner notice requirements are added to Title 8.

Section 1 of Title 8 of the Urban Growth Management Functional Plan at Metro Code Section 3.07.810 is hereby amended to read:

"A. All cities and counties within the Metro boundary are hereby required to amend their comprehensive plans and implementing ordinances to comply with the provisions of this functional plan within twenty-four months of the effective date of this ordinance. Metro recommends the adoption of the policies that affect land consumption as soon as possible."

"B. Notwithstanding subsection A of this section, cities and counties are required to amend their comprehensive plans and implementing ordinances to comply with Sections 1-4 of Title 3 within 18 months after the Metro Council has adopted the Model Ordinance and Water Quality and Flood Management Areas Map."

Section 2A of Title 8 at Metro Code Section 3.07.820 is hereby amended to add:

"A. On or before six months prior to the 24 month deadline established in Section 1A, cities and counties shall transmit to Metro the following:

1. An evaluation of their local plans, including public facility capacities and the amendments necessary to comply with this functional plan;
2. Copies of all applicable comprehensive plans and implementing ordinances and public facility plans, as proposed to be amended;
3. Findings that explain how the amended city and county comprehensive plans will achieve the standards required in titles 1 through 6 of this functional plan.

In developing the evaluation, plan and ordinance amendments and findings, cities and counties shall address the Metro 2040 Growth Concept, and explain how the proposed amendments implement the Growth Concept."

Section 2 of Title 8 at Metro Code Section 3.07.820 is hereby amended to add a new subsection as follows:

"F. On or before six months prior to the 18 month deadline established in Section 1B, cities and counties shall schedule their first hearing on the ordinance to implement Section 1-4 of Title 3, or a hearing on implementation of Title 3, if no code amendments are proposed to comply with Title 3, and transmit notice of that hearing and a copy of the proposed ordinance to Metro at least 30 days prior to the hearing.

1. Metro shall prepare and mail a notice of the city or county hearing to each affected property owner.
2. The Metro notice shall include the date, time, location and the title and number of any local ordinance; an explanation of the general requirements of Title 3, and an explanation of the implementation in the local ordinance, if no code amendments are proposed to comply with Title 3.
3. Metro shall review any amendments to Title 3 proposed by cities and counties based on the testimony of property owners.

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GROWTH MANAGEMENT COMMITTEE

Tuesday, May 5, 1998

Page 9

Motion to Amend #7:

Councilor Morissette moved Councilor Morissette Amendment No. 6.

Councilor Morissette said Councilor Morissette Amendment No. 6 concerns flexibility. He said the City of Hillsboro has said it supports this amendment.

There was no committee discussion.

Vote on Motion to Amend #7:

Councilor Morissette voted aye. Councilors McCaig and Naito voted nay. The vote was 2/1 opposed and the motion failed.

Chair Naito said there are no proposed amendments to Exhibit B. She moved to amendments to Exhibit C, the Model Ordinance.

Councilor McCaig said Councilor Naito Amendment No. 4, to replace the staff version of the Model Ordinance with the MPAC version, should have included a table of contents and appendix, which were inadvertently omitted from the amendment packet.

Motion to Amend #8:

Councilor McCaig moved Councilor Naito Amendment No. 4, with the inclusion of the table of contents and appendix.

Chair Naito said her amendment includes the housekeeping portion regarding the table of contents and appendix, but the purpose of the amendment is to move the amended MPAC April 22, 1998, Model Ordinance.

Councilor Morissette asked for a brief description of the amendment.

Mr. Helm said Exhibit C is the Model Ordinance to implement Title 3. He said the staff version of the Model Ordinance was included in the committee's last agenda packet, and also in the packet that was first read in Council. He said both MPAC and WRPAC subsequently reviewed the Model Ordinance and made comments. He said the MPAC version in Councilor Naito Amendment No. 4 incorporates the comments of the advisory committees and sets a baseline Model Ordinance from which the Council can work. He said the MPAC version of the Model Ordinance needs to be amended into Ordinance No. 98-730.

Vote on Motion to Amend #8:

Councilors Morissette, McCaig and Naito voted aye. The vote was 3/0 in favor and the motion passed unanimously.

Councilor Morissette said Councilor McLain has an amendment which he supports. He asked if Councilor McLain could present her amendment before the committee moves on the amendments to Exhibit C.

Councilor McLain said Councilor Morissette and others have stated an interest in public notification of Title 3. She said she has drafted an amendment which would address Councilor Morissette's concerns and, in her opinion, do nothing more than restate Title 8 in the Functional Plan as it relates to Title 3. She said at the committee's request, she would bring her amendment to the next committee meeting. Councilor McLain read her amendment:

The Metro Council shall consider any requests for exceptions to the Water Quality and Flood Management Area Map in Title 3 after local jurisdictions give public notice of changes to implement Title 3 performance standards.

She said her amendment restates Title 8, which applies to all Functional Plan elements: local jurisdictions, as well as local citizens if they have been through the public hearing process at the local jurisdictional level, may bring issues to the Metro Council to reconsider. She said her amendment also indicates that the Council wants local jurisdictions to give public notice as they start to implement Title 3.

GROWTH MANAGEMENT COMMITTEE

Tuesday, May 5, 1998

Page 10

Chair Naito said the Executive Officer also has some proposed amendments for how Metro can help local jurisdictions with notification. She said that with the committee's agreement, she would like Councilor McLain and the Executive Officer to write up their respective amendments and bring them to the next committee meeting.

Councilor McLain said she would be happy to do so. She said she has read Executive Officer Burton's draft amendments, and nothing in her amendment would be counteractive to his work.

Councilor Morissette said he and Mr. Helm have debated the difference between legal requirements and people's expectations. He said he agrees with Mr. Rodger's testimony that increased public involvement yields a better product. He said he wants to create an atmosphere that allows a positive review, because he believes that the public is unaware of what the Council is doing to their properties.

Chair Naito said she will schedule Councilor McLain's amendment for the next committee meeting. She asked Councilor McLain to formally write up the amendment and distribute it for comment.

Councilor Morissette presented Councilor Morissette Amendment No. 1 to Exhibit C. He said the word "optional" removes the Council's responsibility for what he believes is clearly a takings. He said the reason given for Section 5 of the Model Ordinance is that it provides local jurisdictions with an example of what to do. He said the Council should not encourage local jurisdictions to do the wrong thing by having an inappropriate example in the ordinance.

Motion to Amend #9: Councilor Morissette moved Councilor Morissette Amendment No. 1 to Exhibit C.

Chair Naito asked legal counsel why Section 5 should be included in Exhibit C.

Mr. Helm said it is a policy decision for the committee and Council to include these types of provisions. He said this provision implements a section of Title 3 itself that encourages local jurisdictions to require or seek dedications or conservation easements. He said within the language suggested for the Model Ordinance are further options that allow ownership to stay with the original owner in various capacities. He said from a legal perspective, he does not believe that this section gets the Council or the local jurisdictions in trouble with a takings problem.

Chair Naito asked staff for its position on why Section 5 should be included.

Ms. Wilkerson said the purpose of Section 5 is to show local jurisdictions how they could implement that particular part of the title. She said if the Council does not actually propose language, it will not be considered. She said Section 5 gives local jurisdictions one option, and they can decide whether to insert the language in their codes or not.

Councilor McLain said Section 5 gives flexibility, as both WRPAC and MPAC recognized. She said she agrees with Ms. Wilkerson that this is an opportunity to demonstrate some different types of good examples. She said she hopes the committee will vote to keep the language.

Vote on Motion to Amend #9: Councilor Morissette voted aye. Councilors McCaig and Naito voted nay. The vote was 2/1 opposed and the motion failed.

Motion to Amend #10: Councilor Morissette moved Councilor Morissette Amendment No. 2 to Exhibit C.

Councilor Morissette presented the amendment. He said his proposed amendment allows people to continue to use their properties.

Chair Naito asked for committee discussion. There was none.

Mr. Houck said the problem with the amendment is that changing the language "5,000 feet" to "the minimum area necessary," removes all limits on development.

Extra

Title 3

**Don Morissette
Metro Councilor**

4

Memo

To: Metro Councilors
From: Don [signature]
CC: Clerk of the Council
Date: 05/07/98
Re: Oregonian article dated

Attached is an article I thought you might have seen, but if by chance you have not it is very interesting. As I have stated frequently, the more land inside the UGB we protect, the more we will have to expand the boundary to comply with State requirements for a 20-year supply of land. Many of the urban reserves are in areas with slopes and sensitive lands that could require protection and decrease the amount of buildable land.

Most of our suburban communities have already installed separated sewer systems. New commercial and residential projects that I am familiar with are required to connect and pay for storm and sanitary sewers.

I agree Portland has a problem with combined sewers that need to be fixed. Perhaps more of the growth and development will have move to our suburban partners' communities and the density planned near the Willamette and Columbia rivers be reduced.

I also believe that we need to require the same standards for farms inside the Metro boundary. I am convinced that only about 5% of the sediment erosion is caused by planned and permitted projects. The remainder of the sediment comes from farming both inside and outside the urban growth boundary. If we really want to help with the erosion inside the urban growth boundary, we need to include farming in the Title 3 definition of "development".

May 7, 1998 Don Morissette

I want this statement noted in the record:

I have studied, discussed, reviewed and thought about Title 3 for a long time. I have real life experience protecting streams, corridors and wetlands. I have employed experts to evaluate, delineate and design protection plans for sensitive lands. I have also experienced the impact of a government condemning my property and taking it without my agreement. I know first hand the impact of setbacks from water and flood corridors, and from trees, sidewalks, property lines and roads.

I believe it is a personal and moral responsibility to give people a 'heads up' when changes are coming that will affect them.

My experience and personal code require me to make every effort I can to tell people in advance what I believe will happen if Title 3 passes the Metro Council with the current proscriptive language. I have been assured that lots of public input and support has been demonstrated through open houses. My own experience with many open houses is that activists always attend. Until individuals understand the impact to them personally they pay little attention. Let's tell the property owners directly what Title 3 requires and let it stand the test of light instead of keeping average citizens in the dark. Tell the people being affected.

I have two ideas that I believe would allow property owners adequate notification.

1. Modify the Title 3 language to allow flexibility to give property owners current use of their property.
2. Send out Title 3 to local communities with the requirement that they notice all affected property owners. Then set up forums to allow participation and to make modification recommendations to the Metro Council prior to an implementation period beginning.

Please think about this. If it was your property and a significant change was being made wouldn't you want a chance to participate before it became a regulation? I have heard all the arguments that citizens will get plenty of chance to participate at the local level. The problem is that Title 3 regulations are so proscriptive, including doubling and tripling existing setbacks and limiting existing uses including:

gardening, adding a new room, replacing lawns, types of plants allowed (only native vegetation), swing sets, decks and so forth

that local notification will not enable citizens to make changes to what Metro has already decided.

We are making another big mistake by not reaching out to citizens who will be affected by our decisions and votes.



METRO

Date: April 24, 1998
To: Mike Burton, Executive Officer
From: Elaine Wilkerson, Director *MT for*
 Growth Management Services Department

Re: *Response to Councilor Morissette's Request for List of Citizens Affected by Title 3*

Councilor Don Morissette requested an address list of all landowners potentially affected by Title 3 in the Metro region at the Growth Management Committee meeting on April 21, 1998. As you know, MPAC has recommended that notifications not be sent out by Metro at this time. In addition, the Growth Management Committee has not yet discussed the MPAC recommendation, nor has the full Metro Council asked for notification to date. I have asked staff to list the work steps and estimate costs and I am providing the following information to clarify the scope and cost of the request.

Map Assumptions

We want to highlight the level of accuracy of the Title 3 maps, particularly if used to identify specific property owners affected by Title 3. As noted on the maps, our tax lot map accuracy is plus or minus 10 feet. Given this, we propose to increase the mapped widths by 20 feet on all sides of areas which lie within either: 1) a water quality resource area, or 2) a flood management area. We estimate that about 45,000 properties lie within these areas and this estimate is used as the basis for costs. The final figure could vary by plus or minus 10,000. If the flood management area were dropped from the selection area, the above figure would be decreased.

The three-county tax lot selection process is computer memory-intensive and could run for up to 24 hours. The GIS system computer hardware and software must remain in working order throughout the processing. If a system failure occurs, the work must be re-started.

Staff Tasks

Step 1. Existing Title 3 data is comprised of four components:

- FEMA 100-year Floodplain
- 1996 Flood Inundation Area
- Stream Corridors
- Wetland Areas

These four layers must be merged into one data set in order to search the tax lot database.

Estimated Staff Time: 3 hours

Step 2. A macro computer program is written and tested to automate the following tasks for each county's tax lot data:

Memorandum
April 24, 1998
Page 2

1. search for tax lots which overlap the Title 3 protected areas;
2. extract ownership (name, address) information for each tax lot selected;
3. weed out publicly owned properties, rights-of-way, invalid or incomplete data records;
4. export the GIS ownership information to a database file format; and
5. translate database file into dBase, Excel or other spreadsheet format.

Estimated Staff Time: 8 hours

Step 3. The resulting data will contain some duplicates and unrecognizable addresses. Additional data cleaning work will have to be done, manually examining some of the files. After cleaning, most duplicates will be eliminated and all addresses will be deliverable through our comparison with US Postal Service recognized deliverable addresses. This work element is difficult to estimate as the number of unrecognized addresses is not easily projected and could be much more or much less than that estimated. Should the number of unrecognized addresses be very large, we would contact Councilor Morissette to see how he may wish to proceed.

Estimated Staff Time: 24 hours

Step 4. Transfer spreadsheet data to an in-house PC for loading into spreadsheet.

Estimated Staff Time: 1 hour

Step 5. Print or electronically transfer spreadsheet.

Estimated Staff Time: 1-3 hours

Total Staff Time: 37- 40 hours

Estimated Costs: 11 hours @ \$ 51.50/hour + 26 - 29 hours @ \$27.77 = \$1,288.50 – 1,381.83

Actual incurred costs will be documented and billing will be made based on actual costs. Total time from authorization to the list is estimated to be 7 working days. Susan Payne and Sherrie Blackledge may be contacted should there be questions about the methodology.

I might also note that should a mailing be sent out by a private party, it would be very important for us to know whether the mailer refers recipients to Metro and the timing of the mailing. A hotline or other method of handling large numbers of calls coming in a short period of time would reduce frustration of those contacting Metro. The staff time and costs for this activity are not included in the above estimates.

Please let me know how you would like to proceed. Thank you.

c: Susan Payne
Sherrie Blackledge

EW/RF/srb
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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2838 FOR THE PURPOSE OF PROVIDING MAILED NOTICE TO PROPERTY OWNERS AFFECTED BY TITLE 3 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Date: August 30, 1999

Presented by: Mary Weber
Ken Helm

Proposed Action

Adopt Resolution No. 99-2838 to clarify the administration of Metro Code Section 3.07.820F and the Agency's role in providing notice to property owners affected by local proposals to implement Title 3 requirements.

Background and Analysis

Metro has received a number of calls from local jurisdictions regarding reimbursement for Title 3 public notice. Metro Code is very specific about Metro preparing and posting notice to property owners that may be subject to Title 3 of the Urban Growth Management Functional Plan. Metro Code Section 3.07.820F states:

On or before six months prior to the 18-month deadline established in Section 3.07.810. (1) Metro shall prepare and mail a notice of the city or county hearing to each affected property owner. (2) The Metro notice shall include the date, time, location and the title and number of any local ordinance; an explanation of the general requirements of Title 3, and an explanation of the implementation in the local ordinance, if no code amendments are proposed to comply with Title 3.

This requirement represents the first instance in which the Metro Council has acted to provide notice directly to property owners of regional regulations.

Local governments are focused on meeting the legal requirements outlined in Ballot Measure 56 including who receives notice and specific language in the notice. This focus is resulting in a resistance from jurisdictions to having Metro prepare and mail notice on local Title 3 implementation proposals. Several local governments have requested that Metro reimburse them for the notice they intend to send. However, Metro is not obligated by Ballot Measure 56 to reimburse local governments for sending the notice because Title 3 was adopted prior to Ballot Measure 56. As an accommodation, staff have offered to provide space on the back of Metro's notice where the local governments can place their Ballot Measure 56 notice of the first local hearing on proposed measures to implement Title 3. This would result in one mailing providing two required notices, thereby saving the local governments the cost of providing a separate Ballot Measure 56 notice.

Another issue arising from inquiries about Metro's Code provision relates to how jurisdictions define affected property owners. The Cities of Portland and Beaverton want to notice all property owners within their city limits on the basis of Title 3 erosion control requirements. Beaverton currently complies with the erosion control requirements in Title 3. The remaining Title 3 elements affect relatively few properties. The Data Resource Center estimates the number of property owners in the Metro designated Title 3 Floodplain and Water Quality Resource Areas for Beaverton at 266 versus a citywide count of 23,916 property owners. The postage cost at \$.36 apiece would be \$95 versus \$8,600. For Portland there are 808 property owners in the Floodplain and Water Quality Resource Areas, but 193,004 property owners citywide. This results in \$290 versus \$69,400 for postage. Metro's budget is only \$21,000 for postage and material cost associated with noticing the estimated 35,000 to 40,000 property owners affected by Title 3.

The legislative history on this section of Metro Code is outlined as follows. Councilor Morissette proposed this amendment with the intent to ensure that the affected property owners in the Title 3 Flood Management and Water Quality areas around streams and wetlands would be notified. Councilor Morissette voiced his concern in April 1998, and asked Metro staff to prepare an address list of all landowners potentially affected by Title 3 Floodplain and Water Quality Resource Areas. Councilor Morissette wanted to provide these property owners with notice of Metro's hearings on Title 3, specifically the elements that established stream corridor buffers. In a statement dated May 7, 1998, Councilor Morissette talks about the impact of setbacks from water and flood corridors and the need to require local governments notice affected property owners. A May 28, 1998 amendment, sponsored by Councilors Morissette and McLain, added a new section "F" to Title 8 that was eventually adopted. This outlines Metro's role in preparing and mailing notice to affected property owners. No legislative history was found that would suggest that Metro Council intended that Metro's notice requirements apply jurisdiction-wide to issues of erosion control. The pertinent meeting minutes and materials are attached as Exhibit A.

In summary, Resolution No. 99-2838 clarifies Metro Council's intent in Code section 3.097.820F to notify only the property owners directly affected by flood management and water quality regulations. In addition, the resolution clarifies that the Metro notice may include the local Ballot Measure 56 notice. This approach will limit potential confusion for the recipients. Staff may also reimburse local governments for the postage and/or printing of the Title 3 notice to property owners if the jurisdiction prepares and mails the notice.

Budget Impact

Adoption of this resolution has no budget impact.

Executive Officer's Recommendation

The Executive Officer recommends adopting Resolution No. 99-2838.

Resolution No. 99-2844, For the Purpose of Granting a Time Extension for the City of Gresham for Compliance with Title 3 of the Urban Growth Management Functional Plan.

**Metro Council Meeting
Thursday, September 30, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A TIME) RESOLUTION NO 99-2844
EXTENSION FOR THE CITY OF GRESHAM)
FOR COMPLIANCE WITH TITLE 3 OF THE) Introduced by Executive Officer Mike
URBAN GROWTH MANAGEMENT) Burton
FUNCTIONAL PLAN

WHEREAS, the Metro Council adopted the Urban Growth Management Functional Plan for early implementation of the 2040 Growth Concept on November 21, 1996, by Ordinance No. 96-647C; and

WHEREAS, the Metro Council amended Ordinance Nos. 96-647C and 97-715B to amend Title 3 of the Urban Growth Management Functional Plan and amend the Regional Framework Plan, Appendix A and adopted the Title 3 Model Ordinance and Water Quality and Flood Management Maps on June 18, 1998; and

WHEREAS, the Urban Growth Management Functional Plan requires that all jurisdictions in the region make comprehensive plan and implementing ordinance changes needed to come into compliance with Title 3 of the Functional Plan by December 18, 1999; and

WHEREAS, the Urban Growth Management Functional Plan in Metro Code Section 3.07.820.C provides that Metro Council may grant extensions to timelines under the Functional Plan "if the city or county has demonstrated substantial progress or proof of good cause for failing to complete the requirements on time;" and

WHEREAS, the City of Gresham has requested a time extension to complete Title 3 compliance work based on evidence showing "substantial progress or proof of good cause" for failing to meet the December 18, 1999 deadline for compliance with Title 3 of the Functional

Plan and has submitted detailed timelines showing when the work will be completed, now therefore,

BE IT RESOLVED:

1. That the City of Gresham shall receive time extensions for compliance with Title 3 of the Functional Plan as shown in Exhibit A.

2. That any further requests for time extensions or requests for Functional Plan exceptions made by the above named jurisdictions shall be determined as delineated in Metro Code 3.07.820, Sections B and C.

ADOPTED by the Metro Council this _____ day of _____ 1999.

Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

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EXHIBIT A

Title 3 Functional Plan time extensions have been requested by the City of Gresham.

**City of Gresham
October 2000**

The City of Gresham code requires balanced cut and fill for development in the floodplains and addresses some erosion control measures. The City has requested a time extension to October 2000 to complete its compliance work for Title 3.

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STAFF REPORT

*CONSIDERATION OF RESOLUTION NO. 99-2844
GRANTING TIME EXTENSIONS FOR THE CITY OF
GRESHAM FOR COMPLIANCE WITH TITLE 3 OF THE
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN*

Date: September 22, 1999

**Presented by: Mary Weber
Prepared by: Brenda Bernards**

PROPOSED ACTION

Adoption of Resolution No. 99-2844 granting a timeline extension to the Functional Plan compliance deadline for the Title 3: Water Quality, Flood Management and Fish and Wildlife Conservation (Title 3) to the City of Gresham.

BACKGROUND AND ANALYSIS

Metro Code 3.07.820.C (Title 8 of the Functional Plan) provides that Metro Council may grant time extensions to Functional Plan requirements if a jurisdiction can demonstrate "substantial progress or proof of good cause for failing to complete the requirements on time."

On June 18, 1999 the cities and counties reported on their progress for compliance with the requirements of Title 3 of the Functional Plan. Throughout the region, the local jurisdictions have made considerable progress in dealing with flood management, erosion and sediment control and protection of the water quality resource areas. Each jurisdiction has elements of the requirements in place and is working towards amending current standards to be consistent with Title 3. Twenty jurisdictions anticipate compliance with the requirements of Title 3 on or before December 18, 1999.

The City of Gresham requested a time extension to the December 18, 1999 deadline to implement the requirements of Title 3 of the Functional Plan. The City's request for time extension is attached to this report.

Compliance Progress

Extension Request: October 2000

The City of Gresham's code requires balanced cut and fill for development in the floodplains and addresses some erosion control measures. The City has requested a time extension to October 2000 to complete its compliance work for Title 3.

Gresham has met the Metro Code criterion for "substantial progress or proof of good cause for failing to complete" Functional Plan compliance (Metro Code 3.07.820.C).

BUDGET IMPACT

Adoption of this resolution has no budget impact.

EXECUTIVE OFFICER'S RECOMMENDATION

The Functional Plan implementation time extension request for the City of Gresham is recommended for approval. Any further requests for time extensions or requests for Functional Plan exceptions made by these jurisdictions would be determined as delineated in Metro Code 3.07.820, Sections B and C.

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Title 3 Compliance Status – September 20, 1999

Jurisdiction	Status	Pending Council /Committee Action	Metro Contact <i>Jurisdiction Contact</i>
Beaverton	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • has requested an extension to July 2000 • Requested an exception for the Murray Scholls Town Center and downtown 	Growth Management Committee (GMC) has requested additional data	Brenda Bernards <i>Veronica Smith</i>
Clackamas County	<ul style="list-style-type: none"> • Updating code as needed • Anticipates compliance by Dec. 1999 		Ray Valone <i>Greg Frits</i>
Cornelius	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance, • Anticipates compliance by Dec. 1999 		Barbara Linssen <i>Tracey Lee</i>
Durham	<ul style="list-style-type: none"> • Greenway zone along Tualatin River implements much of Title 3, timing for adopting remaining requirements is uncertain 		Barbara Linssen <i>Roel Lundquist or K.J. Won</i>
Fairview	<ul style="list-style-type: none"> • Anticipates compliance by Nov. 1999 		Brenda Bernards <i>John Anderson</i>
Forest Grove	<ul style="list-style-type: none"> • Anticipates compliance by Jan. 2000 		Ray Valone <i>Tim O'Brian</i>
Gladstone	<ul style="list-style-type: none"> • Has requested a extension to Dec. 2000 	extension recommended by GMC, to Council for approval	Barbara Linssen <i>Jonathan Block</i>
Gresham	<ul style="list-style-type: none"> • Currently drafting Title 3 code changes, working with an advisory committee • Anticipates compliance by Oct. 2000 	extension recommended by GMC, to Council for approval	Marian Hull <i>Jonathan Harker</i>
Happy Valley	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Brenda Bernards <i>Jim Crumley</i>
Hillsboro	<ul style="list-style-type: none"> • Anticipates completing mapping requirements in Dec. 1999 and code requirements in Oct. 2000 	Growth Management Committee (GMC) has requested additional data	Ray Valone <i>Pat Ribela</i>
Johnson City	<ul style="list-style-type: none"> • Seeking exception to all Functional Plan requirements 		Barbara Linssen <i>No staff</i>
King City	<ul style="list-style-type: none"> • Has not begun work, but will follow Washington County/Tigard lead 		Marian Hull <i>Jane Turner</i>
Lake Oswego	<ul style="list-style-type: none"> • Largely complete, needs to adopt balanced cut and fill • Anticipates compliance by Dec. 1999 		Ray Valone <i>Jane Heisler</i>
Maywood Park	<ul style="list-style-type: none"> • No Title 3 areas inside city boundary 		Barbara Linssen <i>No staff</i>
Milwaukie	<ul style="list-style-type: none"> • Anticipates compliance by July 2000 	extension recommended by GMC, to Council for approval	Brenda Bernards <i>Alice Rouyer</i>
Multnomah County	<ul style="list-style-type: none"> • Working to coordinate efforts with cities • Has an extension for all compliance work to March 2000 	approved extension to March 2000	Barbara Linssen <i>Tricia Sears</i>

Title 3 Compliance Status – September 20, 1999

Jurisdiction	Status	Pending Council /Committee Action	Metro Contact Jurisdiction Contact
Oregon City	<ul style="list-style-type: none"> • Anticipates compliance by Oct. 1999 • City Commission held first reading • second reading October 6, 1999 		Brenda Bernards Nancy Kraushaar
Portland	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Barbara Linssen Mary Abrams
Rivergrove	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Marian Hull Mike Collmeyer
Sherwood	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • Anticipates compliance by Dec. 1999 		Marian Hull Greg Turner
Tigard	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • Anticipates compliance by Dec. 1999 		Brenda Bernards Duane Roberts
Troutdale	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Ray Valone Sheryl Sanderson
Tualatin	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • have requested an extension to Oct. 2000 	received Sept. 14 not yet considered by GMC	Marian Hull Jim Jacks
Washington County	<ul style="list-style-type: none"> • Participating in Washington County coordination effort for Title 3 compliance • has requested an extension to Oct. 2000 	Growth Management Committee (GMC) has requested additional data	Brenda Bernards Hal Bergsma
West Linn	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Marian Hull Kristi Meyer
Wilsonville	<ul style="list-style-type: none"> • Anticipates compliance by Dec. 1999 		Ray Valone Stephan Lashbrook
Wood Village	<ul style="list-style-type: none"> • In compliance July 1999 • Used model code for affected features 		Brenda Bernards Carole Connell

Note: The City of Gresham, Washington County and the cities of Washington County currently require balanced cut and fill and some erosion control measures.


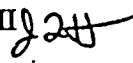


MEMORANDUM

Long Range Planning Project & Policy Development Team Community Development Department

7/12/99

To: Mike Burton, Executive Officer and Metro Council
Elaine Wilkerson, Director Growth Management Services
Marian Hull, Senior Regional Planner

From:  Richard Ross, AICP, Project & Policy Development Manager
Jonathan Harker, AICP, Community Planner III 

RE: Report on Title 3 Compliance (Title 8 -- Section 3.07.820.G)

Section 3.07.820.G requires the City of Gresham to transmit to Metro an evaluation of its plan concerning Title 3, copies of applicable documents, and findings on how it will achieve Title 3. Although the City has made considerable progress on Title 3 implementation it has not progressed as much as seems to be anticipated in Section 3.07.820.G; nor will the City meet the 18-month (December 18, 1999) compliance deadline. This report will detail the progress the City has made towards Title 3 implementation, comment on the first hearing requirement of Section 3.07.820.F, and request an extension of the deadline as provided for in Section 3.07.820.C.

SECTION 3.07.820.G.1 requires an evaluation of their local plans, including any relevant existing regulations and the amendments necessary to comply with Title 3 of this functional plan.

3.07.320. Applicability. Title 3 deals with Water Quality Resource and Flood Management Areas, erosion control and emergency provisions. The City has initiated a project to address these areas. Title 3 also includes Fish and Wildlife Habitat Conservation but does not yet require action. City staff has been involved in Metro's Goal 5 project by attending TAC meetings and CPR Workshops and will continue to do so.

3.07.330 Implementation Alternatives. The City's chosen implementation alternative is to adopt the Metro Water Quality and Flood Management maps. The maps will be used as a reference and code language implementing the Title will prevail over the map. Evaluation of the Code language will utilize the Title 3 Model Ordinance. The process for adopting the code and maps will be a Type IV legislative process that means public hearings by the Planning Commission and Council. Council will make the final decision. Standard noticing will occur including notice as required by Measure 56. The City Council, Planning Commission and Growth Management Committee have given this direction.

3.07.340.A Flood Management Performance Standards. These provisions require development in a Flood Management Area to meet standards such as balanced cut and fill, that habitable structures be at least one foot above the design flood elevation and that uncontained hazardous materials be prohibited. There are also provisions concerning planting new trees, construction of detention facilities and stream crossings. The City has had 100-year flood plain regulations for many years. In December 1998 the City adopted additional performance standards as required for Title 3. Current City code substantially complies with the Title 3 flood management performance standards and only minor amendments will be necessary to the City's Flood Plain Overlay District.

3.07.340.B Water Quality Performance Standards. These provisions generally prohibit development in Water Quality Resource areas that are the protected water feature plus a vegetated corridor. Some development is allowed if there are no practicable alternatives and mitigation occurs. Provisions are required that allow some development if the parcel is wholly or substantially in the WQRA. Current City code does not address the Water Quality Performance Standards.

3.07.340.C Erosion and Sediment Control. This section requires the City to adopt erosion control measures for all development (Citywide) during and after construction to prevent the discharge of sediments. The City has had erosion control standards for some time. The Council adopted additional measures concerning erosion and sediment control in December 1998. Current City code substantially complies with Title 3. Only minor, if any, changes will be required.

3.07.340.D Implementation Tools to protect Water Quality and Flood Management Areas. This section includes requirements and suggestions. Requirements include allowing density transfers or other means to mitigate development restrictions, provisions for existing development and criteria for Title 3 wetlands. Amendments to the Code will be necessary for these requirements. In December 1998 the City did amend its definition of wetlands to include the criteria for Title 3 wetlands. The suggestions in this section include conditions of approval to require conservation easements, open space platting or sale or donation of WQRA/FMA areas and an option of tying requirements to building permits. Language for these provisions will be drafted and considered for adoption as part of the process.

3.07.340.E Map Administration. This section requires the City to have a process to correct possible map errors, modify the WQRA and add Title 3 wetlands. It also exempts water quality and stormwater detention facilities from Title 3 wetland criteria. The City code will need to be amended to add these provisions.

3.07.350 Fish and Wildlife Habitat Conservation Area. The City is not yet required to address this section of Title 3. 3.07.350.B has a recommendation for temporary standards. However, Metro has not yet mapped the Fish and Wildlife Conservation Areas where these standards would apply. As time allows in the project the City may consider incorporating WQRAs with the City's current Natural Resource Overlay District and could consider these temporary measures at that time.

3.07.360 Metro Model Ordinance Required. As noted before, the City will utilize the Model Ordinance during its process. City staff has been in contact with Metro staff with questions about the Model Ordinance.

3.07.370 Variances. This addresses Fish and Wildlife Habitat Protection only and does not need to be addressed at this time. The City does provide for map errors and variances to the City's current Natural Resource Overlay District.

SECTION 3.07.820.G.2 requires *copies of applicable comprehensive plans, maps and implementing ordinances as proposed to be amended.*

Enclosed are a number of draft amendments to the City's Development Plan. For each of the documents enclosed there is a summarizing cover sheet. It needs to be noted that these are not proposed amendments. Rather, they are initial drafts that will need to be reviewed and refined during the remainder of the process. The drafts submitted are:

1. Draft Water Quality Resource Area (WQRA) Overlay District
 2. Draft Findings for WQRA
 3. Draft Amendments to Flood Plain Overlay District (Flood Management Area – FMA)
 4. Draft Variance Provision for WQRA
 5. Draft Map Procedures for WQRA and FMA
 6. Draft Definitions for WQRA and FMA
 7. Draft Findings and Text for Native Plant List
8. Also included is an adopted plan amendment (CPA 98-5301) partially implementing Title 3 concerning wetlands, flood management and erosion control. I have also included a copy of the City's current Flood Plain Overlay District and erosion control standards and erosion control handbook.
9. Also included is a Draft Parcel based map of the WQRA and FMA areas based on the adopted Metro maps. Again it needs to be noted that this is a draft and does not include any changes or map error corrections that may be proposed. Section 3.07.820.3 does provide that *Cities ... may request areas to be added or deleted from the Metro Water Quality and Flood Management Area Map based on a finding that the area identified on the map is not a Water Quality and Flood Management Area ... as defined in this functional Plan. Areas may also be deleted from the map if the city ... can prove that its deletion and the cumulative impact of all deletions in its jurisdiction will have minimal impact of the water quality of the stream and on flood effects. Findings shall be supported by evidence, including the results of field investigations.*
10. To date the City has been alerted to one potential correction. There are two log ponds that are shown as wetlands on the Metro WQRA/FMA maps. These are located on parcels 1S3E04DD 2700, 2800 and 2900. The City has received a copy of a letter from the Corps of Engineers that states that "the ponds are not 'waters of the U.S. as defined in 33 CFR 328, and are not subject to the regulatory authority of the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act'." Enclosed is a copy of that letter.

SECTION 3.07.820.G.3 requires *Findings that explain how the amended city ... comprehensive plans, maps and implementing ordinances will achieve the standards required in Title 3 of this functional plan. In developing the evaluation, plan and ordinance amendments and findings, cities ... shall address the Metro 2040 Growth Concept, and explain how the proposed amendments implement the Growth Concept.*

Each of the enclosed draft amendments includes cover sheets that briefly describe how they relate to Title 3. Also for the WQRA draft, the FMA draft, the variance draft and the map procedures draft there is a commentary column next to the draft language column. The commentary column explains how the language relates to Title 3 and the Model Ordinance. Together these provide an initial explanation of how the draft amendments will work to implement Title 3. As has already been mentioned these drafts are initial drafts that will be reviewed and refined during the remainder of the project. They are not proposed amendments. Therefore it is not possible at this time to provide findings on specific language that the City will ultimately propose and adopt. Similarly, the draft map at this time represents the affected parcels as provided by the Metro maps. It does not reflect the changes that may occur during the process public input leads to warranted changes.

The enclosed adopted plan amendment (CPA 98-5301) partially implements Title 3 concerning wetlands, flood management and erosion control. Included in the enclosure is a memorandum describing how the plan amendments implement Title 3.

As described in the 1995 amendments to the Regional Urban Growth Goals and Objectives (RUGGOs) the Metro 2040 Growth Concept *states the preferred form of regional growth and development ... for the long term growth management of the region including a general approach to where and how much the UGB should be ultimately expanded, what ranges of density are estimated to accommodate projected growth within the boundary, and which areas should be protected as open space.* Objective 12.1.1 of the RUGGOs is to *manage watersheds to protect, restore and ensure to the maximum extent possible the integrity of streams, wetlands and floodplains, and their multiple biological, physical and social values.* Implementation of Title 3 helps to meet this objective.

11. Enclosed is a copy of the Project Goals adopted by the Growth Management Committee. The goals clearly recognize the importance of the lands and of implementing Title 3.

The GMC was a citizen advisory committee appointed by the City Council to advise the Council and Planning Commission on proposed plan amendments to implement the Metro 2040 functional plan and regional framework plan. Its membership consisted of six at-large citizens, one professional from the development industry and one member each from Planning Commission and the Transportation, Parks, and Housing citizen advisory committees.

The GMC held monthly public meetings and began considering Title 3 in fall, 1998. They adopted the enclosed goals after reviewing Title 3, hearing a presentation from Metro staff on Title 3 and reviewing Metro's publication *Protecting Our Region's Rivers, Floodplains and Wetlands*. The adopted Goals were an important step in framing the Title 3 implementation as a local water quality

SECTION 3.07.820.F requires *on or before six months prior to the 18 month deadline [December 18, 1999], cities ... shall schedule their first hearing on the ordinance to implement ... Title 3 and transmit notice of that hearing and copy of the proposed ordinance to Metro at least 30 days prior to the hearing.*

According to the Metro Framework Field Guide (May/June 1999) Metro may amend that section to allow for more flexibility in the scheduling of a date. This section also provides that Metro shall prepare and mail a notice of the hearing to each affected property owner and that Metro shall review proposed amendments to Title 3 based on property owner testimony. The City has not scheduled a first hearing and has already been noted has not drafted a proposed ordinance or map. However, the City has sent an Early Notification Flyer to potentially affected property owners.

12. Enclosed is a copy of the early notification flyer.

This flyer was to inform potentially affected parties of the City Water Quality and Flood Management (Title 3) project. The mailing went out in mid May 1999 and was sent to about 1,250 parties. This mailing represented about 1,700 potentially affected parcels. It was sent to property owners of these parcels, neighborhood associations, the Johnson Creek and Columbia Slough Watershed Councils, the Interlachen PUD, the Columbia Corridor Association and a mailing list of interested persons.

The flyer included the flyer cover, a one-page summary, a three-page informational handout and the Metro WQRA/FMA map for that parcel whose owner was being notified. Mailings to associations

included a color City map that shows the WQRA/FMA boundaries and the potentially affected parcels. I have included the color map (potentially affected parcels are highlighted in yellow).

The mailing has resulted in numerous calls, e-mails and letters from property owners and others. It formed the starting point for the public participation process that the City will engage in to complete this project.

SECTION 3.07.820.C provides that *The Metro Council may grant an extension to time lines under this functional plan if the city ... has demonstrated substantial progress or proof of good cause for failing to complete the requirements on time.*

13. Enclosed is revised Water Quality and Flood Management Timeline.

The Timeline shows the work that has been done to date (beginning in December 1998). It also shows a revised completion date of October 5, 2000. This is the date a new ordinance would be effective. The Council public hearing would be August 15, 2000. Originally the City had planned to have an effective ordinance by January 2000. The City realizes this means that the compliance deadline of December 18, 1999 is not met. However, the City believes that it is better to extend the deadline and continue to engage the citizens in the process rather than leave out necessary steps in the project in order to keep the original deadline.

- ✓ The City has made substantial progress towards implementing Title 3:
 - Adopted plan amendments to the City's Flood Plain Overlay District that meet the flood management performance standards of Title 3.
 - Adopted plan amendments to the City requirements for erosion and sediment control that, combined with the previously existing requirements, meet the erosion and sediment control requirements of Title 3.
 - Created a parcel-based map of Metro's Water Quality and Flood Management adopted maps.
 - Created a mailing list of potentially affected property owners.
 - Sent a mailing explaining the project to potentially affected property owners including the applicable Metro map.
 - Drafted plan amendments that, once reviewed and refined, will implement Title 3 map requirements by addressing water quality performance standards, implementation tools and map administration. The draft amendments utilize the Model Ordinance.
 - Summarized findings from Metro's technical report document.
 - Summarized findings and created Metro Native Plant list for adoption.
 - Recognized the regional significance of protecting and enhancing water quality and managing flood control and implementing Title 3 by citizen adopting these issues as project goals.
- ✓ Less staff FTE is available to work on Title 3 due in part to staff reduction and in part to a shift in Council direction that addresses issues associated with additional density and the mixed use and compact development anticipated by the Region 2040 Growth Concept:
 - Elimination of the Lead Long-Range Planner position. This is a 25% reduction in staffing, leaving 3 planners doing the majority of UGM Functional Plan and Periodic Review tasks. This reduction was part of a citywide shift of general fund money to fund additional public safety (police and fire) services.
 - Council and Planning Commission added Long-Range projects to address implementation and design issues associated with recent designations of Region 2040 concept design types of regional, town and station centers and transit corridors. The City has amended its plan map designating regional, town

and station centers and transit corridors. It has also amended its development plan adding land use districts for these design types. The new mixed-use and more compact design types lead to implementation issues of how to encourage desired development. Staff resources have been shifted to work on projects such as creating a transit oriented tax exemption for multi-family and mixed use development in the regional, town and station centers and creating a Rockwood Action Plan to deal with land use, infrastructure, housing and social issues in the town center. This coming quarter, long-range planning staff resources are shifted to multi-family and mixed use design project to lead to architectural and design standards for those developments in the centers and along corridors. Long-range planning staff will also be working this quarter on adoption of a well field protection ordinance to protect Portland's water wells in the Columbia South Shore area.

CONCLUSION

Gresham remains committed to protecting water quality and preventing flooding by implementation of Title 3. The City has made considerable progress towards implementing Title 3. The planned timeline, although not within the Functional Plan deadline, sets a reasonable expectation for completion.

In a recent Metro Framework Field Guide notes that a resource that Metro has is the staff expertise to review proposed code changes. Although the attached code amendments are drafts it would be useful to have Metro feedback on the draft language and the issues that have been raised.

If you have any questions about this report, please contact Jonathan Harker at 618-2502 or harker@ci.gresham.or.us.

093099c-01



METRO

DATE: September 30, 1999
3:40pm
TO: Council
FROM: Sandra Newstrom
RE: Phone message concerning the Time Extension for the City of Gresham
Resolution No. 99-2844

Reita Hribernick residing at 3847 SW 6th Street Gresham, OR 97030 would like to urge the council to deny the granting of the Time Extension for the City of Gresham for Compliance with Title 3. She feels the City of Gresham is against Metro and they are stalling.

Sandra Newstrom

093099c-02



arts. sports. conventions. shows.

METROPOLITAN EXPOSITION-RECREATION COMMISSION

September 22, 1999

Alexis Dow, Metro Auditor
Metro
600 NE Grand Avenue
Portland, Oregon 97232

Re: MERC Implementation of Parking Audit Recommendations---Status Report

Dear Ms. Dow:

MERC Chair Ben Middleton asked me to get back to you as soon as possible to let you know of our progress in implementing your parking audit recommendations. The MERC Commission agrees that this is an issue of great importance, and that better revenue controls are needed at our operations even though no evidence of theft was found. Accordingly, we have treated your recommendations as our highest priority, and we are pleased to report that, as of today, MERC has now implemented virtually all of the parking revenue control measures recommended in your audit. We wish to assure you, the public, and the Metro Council and Executive that all measures necessary to assure proper controls over these funds are in place.

The following is our status report on the implementation of your recommendations:

Recommendation: Designate a Convention Center employee to supervise and monitor parking operations.

Status: Implemented as of today. MERC has assigned a Convention Center employee to supervise OCC parking operations as of today. This individual will schedule staff, be the liaison with parking contractor management and on site staff, order ticket stock for dashboard display, collect daily reports on non-paying vehicles and other duties as assigned.

Recommendation: Establish proper ways to document each Convention Center parking transaction.

Status: This will be implemented by the close of business on Friday, September 24, 1999. Tickets will be issued to each paid and exempt entry, and will be matched with parking car ticket stubs, receipts, exempt vehicle logs, and treadle counts.



A METRO SERVICE

Recommendation: Make appropriate reconciliation of Convention Center parking deposits to supporting documentation.

Status: Implemented as of today. Beginning immediately, MERC Administration will do a weekly reconciliation of parking receipts to treadle readings and give a copy to OCC Director and Parking lot Supervisor. Reconciliation will include those paid ticket stubs, non-paying vehicles' ticket stubs and explanation sheet and treadle counts to cash received.

Recommendation: Assure that the Convention Center contractor documents are complete, accurate and legible.

Status: Implemented as of today. Our parking contractor has been advised as to the new procedures being required as well as the need to have documentation written legibly for accuracy of statements. Any sheets not written legibly in the future will be returned to the contractor for verification.

Recommendation: Have a MERC person read vehicle counters at appropriate times and report the reading to the Convention Center's parking supervisor

Status: Implemented as of today. Security will take a treadle count at the parking gate(s) when the parking gates open and City Center's staff arrives for duty. (OCC will provide us with a monthly schedule of parking lot shifts). Security will take a treadle count before the City Center person goes off duty and will escort them to either the security office or the MERC boardroom to verify their cash count. Security will also stay with the parking attendant while they prepare the deposit and put the money into the MERC drop safe.

Security will provide the OCC Director and MERC Administration with a weekly treadle report.

Security will secure the parking lot and gates 1 hour after parking attendant shift ends. If the gate attendants' shift ends before 6pm then the gates will remain open until the 6pm lock up time Monday through Friday. Gates may also be left open on the weekends if we are to re-open the lot for a later event. Please contact the event coordinator on duty for directions as to when to close the gates or if they should be closed at all until the evening attendant has checked out for the night.

A treadle count will be done for each parking attendant shift (this will occasionally be more than one a day, such as OCC events and then Blazer game parking). Security will need to check the City Center parking schedule. If City Center is schedule for a morning shift and an afternoon shift; security will do a beginning and ending treadle count for each shift.

If no activity is scheduled the parking lot gates will be opened by 7am and locked by 6pm. A treadle count will still be recorded on the daily report.

Recommendation: Establish an auditable way to document vehicles that are exempt from paying at the Expo Center and the Convention Center.

Status for the Expo Center: Implemented as of today. We are doing all of the following effective immediately:

- Writing down the numbers of each parking pass that goes through the gate;
- Issuing numbered tickets (prior to entry) for incidental reoccurring business vehicles entry (contractors, decorators, contract security);
- Maintaining a log with signature of turnarounds (those who chose not to enter the parking lot), media, delivery (Federal Express, United Parcel, etc), and client meetings;
- Issuing and tracking pre-issued, pre-paid, numbered, date and event specific Exhibitor passes; and,
- Logging exhibitor pass numbers for all entries.

Status for the Convention Center: Portions of the recommendation have been implemented as of today; two aspects of the recommendation will require until September 30, 1999 to fully implement due to the need to purchase appropriate ticket stock, as follows:

Implemented as of Today: OCC is doing all of the following:

- Issuing and tracking pre-issued, pre-paid, numbered, date and event specific Exhibitor passes.
- Logging Exhibitor pass numbers for all entries.

To Be Implemented by September 30, 1999 due to the need to order appropriate ticket stock: Effective 9/30/99, OCC will:

- Establish a two-ticket system for identifying paying vehicles and exempt (non-paying vehicles).
- Require exempt vehicles to display a colored, numbered ticket per day. This will be the information that will be transferred to the daily log as to date, event, ticket number, license plate number (if applicable), signature of driver, reason for coming to OCC and signed off by gate attendant.

Recommendation: Require parking contractors to make and document the lot audit and attendant surveillance required by their contracts.

Status: Implemented as of today. Arrangements have been made with the Expo contractor to conduct those ad hoc lot audits. At OCC, MERC staff will do spot lot audits and will do surprise cash audits of the parking gate operations during staffed events by Contractor.

Recommendation: Require every vehicle to either have a ticket or pass displayed on their dashboard.

Status: Implemented as of today at Expo, implementation at OCC to be complete by the close of business on Friday, September 24, 1999. At Expo now, and at OCC by the end of this week, all paying vehicles will have a numbered, colored ticket to be placed on dash for audit purposes. After each parking shift the ticket stubs will be given to MERC Administration to verify how

many cars paid to park. Signs will be placed at each gate asking patrons to display the parking stub on their dashboard.

Recommendation: Place signs at every entrance directing each patron to display their ticket or pass on their dashboard and print this statement on all tickets and passes.

Status: Implemented as of today at Expo, implementation at OCC to be complete by the close of business on Friday, September 24, 1999. Signs are or will be posted. Note that we have several thousand dollars worth of existing ticket stock—we will include the message on ticket stock as existing stock is exhausted.

Recommendation: Provide City Center parking an office within the Convention Center to count parking receipts, prepare deposits and provide a base for other supervisory duties.

Status: This has been implemented as of today, to the extent feasible in the current OCC building. Since it is not feasible to provide permanent office space in the Convention Center at this time, arrangements have been made to have the cash counted in the building. The parking contractor will count parking receipts daily either in the Security office or the MERC Administration office. Gate attendants will not count the shift receipts only the Supervisor will count cash and make the daily deposits in the MERC Administration drop safe.

Recommendation: Require City Center Parking to prepare deposits the day of an event and place them in the MERC drop safe that day.

Status: Implemented as of today. Our parking contractor will make deposits after every shift or daily depending on the event schedule. All monies will be counted by the Parking Contractor Supervisor either at the OCC Security Office or MERC Administration Office and when completed will put deposits in MERC safe to be picked up by Armored Car.

Recommendation: Establish armored car services at the Expo Center for Monday, Thursday and Saturday.

Status: Implemented as of today. A regular service route is established already, and special runs for peak days will be added. Note that we found that we were able to provide armored car service for Expo for all times it is needed without contracting for ongoing Monday, Thursday and Saturday service (which is not always necessary), thereby avoiding needless expense.

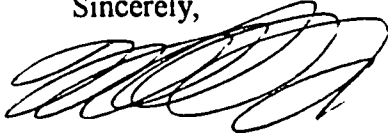
Recommendation: To enhance revenue and be more consistent with Metro policy, MERC should charge employees a market-based monthly fee to park in its leased lot.

Status: Under consideration. As noted in the MERC Chair's response to the audit, MERC will discuss the parking of MERC employees at no charge and this staff report will await any decision of the Commission before implementing the audit request.

I want to emphasize that these are the steps we are taking immediately in order to comply with your recommendations. We are also actively exploring the possibility of additional measures which might add even more security and credibility to our parking operation. As soon as we have determined if any further measures are advisable and cost effective, we will get back to you with a follow up report.

Thank you once again for the time and effort that you and your staff have put into this important project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark B. Williams', written in a cursive style.

Mark B. Williams
MERC General Manager

cc: Metro Executive
Metro Council
MERC Commission