

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: March 13, 1997  
DAY: Thursday  
TIME: 2:00 PM  
PLACE: Council Chamber

<u>Approx. Time*</u>		<u>Presenter</u>
2:00 PM	<b>CALL TO ORDER AND ROLL CALL</b>	
(5 min.)	1. <b>INTRODUCTIONS</b>	
(5 min.)	2. <b>CITIZEN COMMUNICATIONS</b>	
(5 min.)	3. <b>EXECUTIVE OFFICER COMMUNICATIONS</b>	
(30 min.)	4. <b>REVIEW OF LEGISLATIVE ISSUES</b>	Higbee
	5. <b>CONSENT AGENDA</b>	
2:45 PM (5 min.)	5.1 Consideration of Minutes for the March 6, 1997 Metro Council Regular Meeting and the February 26, 1997 Metro Council Work Session.	
	6. <b>ORDINANCES - FIRST READING</b>	
2:50 PM (5 min.)	6.1 <b>Ordinance No. 97-680</b> , For the Purpose of Granting a Metro Franchise to American Compost and Recycling Inc. to Operate a Commercial Food Waste Processing Facility and Yard Debris Composting Facility.	REM
2:55 PM (5 min.)	6.2 <b>Ordinance No. 97-681</b> , For the Purpose of Amending Metro Code 5.02, Reducing Disposal Fees Charged at Regional Solid Waste Facilities and Making Certain Form and Style Changes.	REM

7. **CONTRACT REVIEW BOARD**
- 3:00 PM  
(5 min.) 7.1 **Resolution No. 97-2465**, For the Purpose of Amending the Contract Between Metro and Gardiner and Clancy, LLC (Contract No. 904803) for Financial Advisory Services. McCaig
8. **EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e). DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS**
- 3:05 PM  
(5 min.) 8.1 **Resolution No. 97-2466**, For the Purpose of Authorizing the Executive Officer to Purchase Property Necessary to the Construction of the Peninsula Crossing Trail. McCaig
- 3:10 PM  
(10 min.) 9. **COUNCILOR COMMUNICATION**

**ADJOURN**

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*Agenda Item Number 5.1*

**Consideration of the February 26, 1997 Council Work Session and March 6, 1997 Regular Council Meeting Minutes**

**Metro Council Meeting  
Thursday March 13, 1997  
Council Chamber**

# MINUTES OF THE METRO COUNCIL MEETING

March 6, 1997

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer), Don Morissette, Susan McLain, Ruth McFarland, Patricia McCaig, Ed Washington

Councilors Absent: Lisa Naito (excused)

Presiding Officer Jon Kvistad called the meeting to order at 2:04 p.m.

## 1. INTRODUCTIONS

None.

## 2. CITIZEN COMMUNICATION

None.

## 3. EXECUTIVE OFFICER COMMUNICATIONS

None.

## 4. CONSENT AGENDA

41 Consideration of the Minutes of February 20, 1997 and February 27, 1997 Metro Council Regular Meeting Minutes.

**Motion:** Councilor McFarland moved the adoption of the minutes of February 20, 1997 and February 27, 1997 Metro Council Regular Meeting.

**Seconded:** Councilor Morissette seconded the motion.

**Discussion:** None.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present.

## 5. ORDINANCES - SECOND READING

5.1 **Ordinance No. 96-655D.** For the Purpose of Designating Urban Reserve Areas for the Portland Metropolitan Area Urban Growth Boundary; Amending RUGGO Ordinance No. 95-625A and Metro Code 3.01; and Declaring an Emergency.

**Motion:** **Councilor McLain** moved to substitute the E version for Ordinance No. 96-655D, and to adopt the findings submitted in support of this ordinance.

**Seconded:** **Councilor Washington** seconded the motion.

**Discussion:** **Councilor McLain** reviewed the two technical amendments that had been made for consistency sake. Those amendments dealt with the first tier map and with the school district language that was added at the previous Council meeting. She read the specific sections and issues to the Council, "1. Ordinance section incorporating the First Tier Map. The UGB procedures in Exhibit A were amended to generalize the reference to the First Tier map, eliminating the reference to this ordinance. The First Tier map attached as part of Exhibit A is now explicitly referenced in Section 5 of the ordinance. 2. Amendments to 3.01.012(e), the "urban reserve plan" added references to "school districts" in addition to the general term "service districts." For consistency, "school districts" is added to 3.01.005(c)4 and 3.01.015(d)." (A copy of these amendments were placed into the Permanent Record from Councilor McLain to Larry Shaw). These had both been qualified as technical amendments by both of the staff. She noted that she would be putting into the record a memo to herself from Larry Shaw with some of the questions on the Urban Growth Boundary procedures that dealt with these issues and she made these part of the record so that they stood as the Council's spirit and intent of those technical amendments.

**Presiding Officer Kvistad** asked Mr. Cooper if these amendments qualified as technical therefore the Council could cast the final vote on this ordinance today?

**Mr. Dan Cooper**, Legal Counsel, responded that the motion in front of the Council to substitute the E version made the ordinance words conform to the Council record. These amendments were not a substantive revision and he believed that if the ordinance was amended the Council could still vote final passage of it today.

**Councilor McLain** also brought to the Council's attention that out in front of the Council and at each Councilor's desk they should have a copy of that first tier urban reserve map as amended at the Council's previous meeting.

**Presiding Officer Kvistad** called for any further comments on the substitutions language.

**Vote to Amend:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present.

**Presiding Officer Kvistad** announced that the Council was now dealing with the E version of the ordinance.

**Councilor McLain** read her prepared remarks. "The Metro Council has been working on this for over four years. Today's vote is another important day in a sequence of decisions that provide protection and improvements to the regional goal of livability and full service communities. As the text of the Future Vision Statement says, "The relevant question is not when carrying capacity will be exceeded but how we will collectively restore, maintain, and enhance the qualities of the region central to sustaining our health, the quality of the natural environment and

the ability of future generations to the action to meet the needs and their time!" So carrying capacity or the exact right number for urban reserves or other parts of our concept is not a time issue, a simple number, or a simple answer, but an ongoing, dynamic process of refining how we grow and trying to do better with the use of our resources.

To that end we now have in place since 1991, when I came on the Council:

- Future Vision Document
- Regional Growth Goals and Objectives (RUGGOs)

that put forward goals to guide efforts to maintain and enhance the ecological integrity, economic viability, social equity, and overall quality of life in the region.

Transportation, water supply and water quality, protection of resource lands, air quality, a diverse and full range of housing with a balance of jobs are all called out. The 2040 concept for a more compact urban form fleshed out what the goals mean to the citizens and local jurisdictions: Partners that helped create both vehicles of positive change.

The final document of the Functional Plan that helps set out targets for completing 2040 inside of the Urban Growth Boundary and fully developed the pact with the three counties and 24 cities to truly improve the way we use land, air, water, and other resources. The Metro Code and Urban Reserve package that require Urban Reserve planning and coordination in areas of density, resource plans, schools, parks and other livability issue complete a mighty effort by this council, staff, the Executive Officer as well as local partners to truly defy the odds of not sprawling like other metropolitan areas. Thus, there are 230,623 acres of Rural Reserves and 18,000 acres of Urban Reserves for a 43-year planning period.

This council, through the Functional Plan, will with their responsibility to monitor and help local jurisdictions reach the goal for compliance. We will be able to focus on achieving full service communities.

Remember that Urban Reserves are just part of the 2040 Growth Concept. Rural Reserves, Town Centers, Main Streets, Regional Centers, and Open Spaces are important and necessary for completion of the vision. We continue to support our partners in their community and neighborhood efforts to retain sense of place and livability.

I believe this council has done their best to be fair and thoroughly analyze the Urban Reserve Study Areas and are forwarding a consistent package for this 43-year planning period to the year 2040. This area, unlike many regions of this country and the world have accepted the knowledge of the interconnected resources and responsibilities. We continue to define, in this process, a better today and tomorrow.

As a 6th-generation Oregonian, I am proud of the thousands of people and groups who continue to strive in this state to work with Metro and others to provide for a better world for our children and grandchildren.

I am proud to put forward today this package of Urban Reserves and Metro Code and ask for your positive vote."

**Presiding Officer Kvistad** said that it had been moved and seconded and on the table before the Council was the E version. He asked Mr. Cooper if there needed to be an additional second on the ordinance.

**Mr. Cooper** responded that it had been moved and seconded previously, therefore, it was now in front of the Council on that first main motion.

**Presiding Officer Kvistad** opened a public hearing on this Ordinance No. 96-655E.

**Mr. Brian Bellairs, 16590 SW High Hill Lane, Aloha, OR 97007** asked the Council to consider a small piece of land about 15 acres for inclusion in the urban reserve. This area was a very small portion of the Site 49, which was until recently included by the Council as part of area 49. He asked the Council to move to reconsider this land because any and all arguments that were used to eliminate the northern portion of Site 49 did not apply to this land. There were some very compelling reasons to include the land he put before the Council: First, this land was adjacent to the current UGB and had all of the services at the property lines. He noted the 15 acre piece of land on the map and spoke to the services that were already at the property line. This land was currently urbanized. There were three homes on the land, it was not farm land, it had never been farm land. He was asking that the Council simply allow intensification of the current urbanization that was already in place. In addition with the dense development in the area adjacent there was every reason to believe that there would be bus service in the future. Also, the owners of the property proposed for inclusion had written to the Council to ask them to include this land. There was no opposition to inclusion of this small piece of land, located far away from the site proposed for inclusion in Site 49.

Mayor Drake was in favor of extending services to this area. He felt that by tying into city services it would help eliminate a problem with run off water that plagued the area. He had written a letter in support of including this area in the urban reserve. Mr. Bellairs then showed a video of what happened when an Urban Growth Boundary was arbitrarily set half way up the hill as had been done. The video showed the stream of water about 2 feet wide flowing down High Hill Lane and across his property right down into Murrayhill. The water continued down through Murrayhill into a ravine. This had created an extremely litigious situation between the county and the city of Beaverton and between home owners. He said let us assume that he was proposing a new URSA of 15 acres. This land was largely level and easily developable, served easily by bus and currently urbanized. He proposed a new URSA. There was no opposition to its inclusion. It was close to the plethora of jobs being created in Washington County and Sunset Corridor. It was a means to remedy a drainage problem. The Mayor of Beaverton had stated publicly that he would like the land included and had plenty of water in the reservoir to service it. It would have received a very high KCM score among the highest studied. Those 15 acres could have been included without any controversy what so ever. Instead this land was considered along with the more controversial piece that was the northern portion of area 49. None of the arguments that may have supported the removal of area 49 applied to the land he proposed. Therefore, he asked respectfully that the Council move to reconsider it.

**Mr. Stan Hymel, 9355 SE Hide-a-way Ct., Gresham, OR 97080** asked for exclusion of the property on map 2 in the lower right hand corner. All of the property owners in this area, the people who were effected by this decision, did not want to be included in the urban reserves. Their land was sitting in the national wetlands inventory. Most of this land was flooded during high water years, it was very wet, not suitable for development. There was approximately 22

acres in this area, as a result of the flooding problem, there was very little land which would be able to be developed. He had heard reports from the Council that the reason for including this land was to protect it. The only reason this area needed protection was from urbanization. It did not need any more development on it. The best way to protect this area was to exclude it from the Urban Growth Boundary. The only reason to include this area in the urban reserves was to allow this land to be developed at some future date. Currently this land couldn't be developed because of the current restrictions. The property owners respectfully asked the Council to pull them out of the urban reserves area. He did not think that it would have much impact if any at all. All of the property owners in question felt that this was not in their best interest nor the best interest of Metro and the urban reserves being included.

**Presiding Officer Kvistad** closed the public hearing at 2:23 p.m.

**Presiding Officer Kvistad** called for any motions for additions, deletions and corrections. No motions came forward.

**Councilor Morissette** said that he did not vote for the package previously but planned to support the ordinance today. He had some concerns about the words 'without public subsidy for affordable housing'. He believed, as he had stated before, that we all share in the responsibilities of affordable housing throughout the region. But in talking to his fellow Councilors he believed that the Council could fix his concerns as the Council moved forward with this particular item as well as deal with some of the problems he might have about density requirements.

**Councilor Washington** said this had been a long process even though he had few urban reserves in his district. He has tried to be supportive of his fellow councilors any where he could as well as the region. He still had some very strong concerns about whether we expanded the Urban Growth Boundary as some time or another. He had always made his position on that very clear. He would be working with everyone on this issue. Also the issue of affordable housing was one that was very important to him, affordable housing not just for low income but for everyone in the region. It was not just low income that was impacted by housing. He thanked both Mr. Kelly Ross and Ms. Tasha Harmon for getting together. They hammered out some language. They, at least, did what the Council asked them to do. It might not be perfect. he applauded Councilor Morissette's support, he knew that Councilor Morissette had some concerns about affordable housing. The Council would continue to work on affordable housing issues. This was not the end but just the beginning. He also thanked the entire Council for all their hard work and a special thanks to Councilor McLain for bearing the burden, as Chair of Growth Management. She had worked like a trooper.

**Councilor McCaig** thanked the Growth Management staff for a job well done. She had struggled with how to handle today's vote. She recognize that she had made most of her points as the Council had preceded through the process. She could simply vote no and get on with life. However, this was not her nature. There was something gnawing at her about this. Obvious she was disappointed about the number of acres in the urban reserve, that there were 18,000 acres instead of 14,300 acres. She was disappointed that there were over 3,000 acres of farm land that was destined for development. But the difference between 14,000 and 18,000 acres was not that earth shattering, the world would not come to an end. She could go on with her life.

Additionally, there was something else that had bothered her about this. She had actually struggled with how to articulate it. She believed that the Council had been entrusted by the



public with making a set of extraordinarily complex decisions. Everyone on this Council understood and knew that these decisions would have an impact on this region in future generations and they all took that very seriously. She thought their job was to take these complex decision and make them understandable, logical, embracable by everyone if Metro was going to be successful. She believed that what had been done instead in this one instance was to confound and confuse. She believed that the Council had made the process more complicated, polarized, less clear and ultimately less credible by the process followed. She believed that the Council had not resolved controversies and the real public policy debates confronting the Council but had submerged them. She believed that the Council had never engaged in a real discussion with each other or the public on some of the significant policy issues confronting the region. The Council had used the process to provide cover for decisions that were never debated by the Council publicly. The Council had temporarily afforded struggling through some tough decisions and the result had been that the Council had contributed greatly to reducing their credibility.

She used an example of Site 41, commonly known as the Wilsonville site. This site had over 285 acres of farm land, not surrounded by exception lands. The State had listed concerns, the local governments had concerns, the two property owners that gave testimony on it and the Mayor of Wilsonville had personally requested that it be removed. Because of the nature of this process there was no public debate on the Council record regarding why they had included these 285 acres of prime farm land. Maybe they should be included, she didn't know. Then there was Site 54 and 55, St. Mary's property. St. Mary's, regardless of the outcome, was a symbol for many people in this region. As a symbol it deserved a debate among the Council. There was less than two minutes of comments on the record about this property. This property was at the heart of the debate in this region. It was prime farm land next to transportation in an area with unbelievable housing needs. She would have liked to have the opportunity to grapple with those choices and in doing so educated herself and the public about the alternatives and the opportunities the Council had. The Council had fumbled in her estimation and indicated a vulnerability, a susceptibility to pressure. The Council had not adequately explained themselves nor crystallized the debate as she believed the Council should have done. As a public body by the nature of the decisions that the Council had been charged with making, the Council was creating an extraordinary opportunity for a few to have tremendous wealth as a result of these decisions. The Council's burden was greater as a result of that responsibility and the extraordinary power the Council held. We live in an unbelievable region, there was not a Council member who didn't believe this was a wonderful time and opportunity. Unemployment was less than 5%, the economy was healthy and there was an unprecedented level of cooperation around the region among the jurisdictions. She believed that the Council had an opportunity to do much better with the decisions and choices that the Council had ahead of them. As the Council moved through their next set of decisions she genuinely hoped the process could be improved. That the work product would be the result of a process that people universally believe was open, fair and predictable regardless of whether they agree with the outcome. She hoped that the Council would have contributed to the public debate by illustrating the tough decisions, grappling with them in a public debate so that people understand the outcomes.

**Presiding Officer Kvistad** said this completed, for some of the Council what was, their fifth year of work on this item. The Council started with maps that had general arrows in or out of blobs on a map. The Council had come down from 100,000 acres of an urban reserve that the Council thought they might have to have to 18,000 acres which by anyone's measure was a triumph for this government, for this process and for the citizens of the region. He was very proud of all of the members of the staff, the members of the Council present and former, that

made this a reality regardless of the friction that came with political discussions and debates. He indicated that the one thing that the region needed to deal with as a community and really understand, this decision closed the Portland suburban frontier. The Council from this point forward was making a commitment to no longer sprawl at the edge but to begin to look at the way in which we currently live and hopefully develop better urban form and a better environment both for ourselves and our children and for those people yet to come. It was the Presiding Officer's hope that as we look at urban form. This was the Council's charge, not necessarily soil type or parcel by parcel, but the Council must look at the overall urban form of this region. The Council's charge was to look at how you build better urban form, better places for our children, and better places for us to live. That was where he felt that the Council was going as a Council and as the Council moved ahead that was both the challenge and the promise. It was his hope that we could move beyond what had become the political correctness of growth to the realities and the possibilities for a better and stronger region. He thought that the Council had that opportunity and he thought that this Council was willing to step up and make the hard decisions that were necessary to be made, to be able to do that. Again, he thanked personally and publicly all of the members of Metro's Growth Management staff, without them over the last five years this would not be possible. He thought that they were some of the finest staff and some of the finest people he had ever had opportunity to work with. He was very proud to be a part of this government and to know each and every one of them. To the citizens that had been involved in this process, that had come to the meetings, absolutely stunning, their devotion to this process. He noted Mr. Bollam in particular, he did not think he had seen a citizen who had taken the time and the energy to be there with the Council every step of the way for five years. Mr. Bollam was to be commended as a citizen and as a partner for this government and this Council. The Presiding Officer thanked Mr. Bollam for his participation and attention. He closed by thanking the Executive and the citizens of this region for allowing the Council the opportunity. He felt that what was before the region was an outstanding product, if not universally loved, it was a good solid process.

**Councilor McLain** closed by saying that she was proud to have in front of the Council a package of Urban Reserves that saved and protected the amount of land, there was only 70 acres of class one EFU soil, in Washington County out of 120.140 acres of EFU land the Council was protecting 118,957 acres, In Clackamas County where there were 23,370 acres, the Council was protecting 23,043 acres. In Multnomah County where there were 90.034 acres of EFU land, the Council was protecting 88,642 acres. She also wanted the Council and the public to remember that across the nation in areas of Denver, Baltimore and San Antonio, those folks were adding hundreds of thousands of acres of urban reserves and urbanization on a yearly basis. Metro was controlling it and keeping it to 18,000 just for urban reserves for a 43 year planning period. This was a success! She wanted them to also know that this was not the end. It was only the stage that the Council was in to get to an urban reserve designation. She would not say that there wouldn't be more refinement to urban reserves because the Metro Code made sure that the process was in place so that the Council could reflect and react to the times. But again this community of 24 cities and three counties and this Metro government had agreed to do it differently. We would concentrate on our Functional Plan, build better inside of the Urban Growth Boundary, and we would have the opportunity to better use the air, water, and land outside of the Urban Growth Boundary if Metro went to those urban reserves in the next 43 years. She thanked everyone, especially John Fregonese and Mark Turpel. They were amazing and special people that she considered not just good staff but good friends.

**Presiding Officer Kvistad** added one final thanks to the Legal staff, Mr. Shaw and Mr. Cooper. He then called for the final vote on Ordinance No. 96-655E, requiring a majority of five to pass.

**Vote:** The vote was 5 aye/ 1 nay/ 0 abstain. The motion passed with Councilor McCaig voting nay.

**Councilor Washington** noted that Mr. Bollam had not only been at every meeting but he had every minute of it on video tape. He had a permanent record. This was outstanding.

**Councilor McFarland** also pointed out Aleta Woodruff's devotion to these meetings.

**Councilor McLain** added, and Peggy Lynch.

5.2 **Ordinance No. 97-665C, For the Purpose of Coordinating Comprehensive Plans by Establishing an Urban Service Boundary.**

**Motion to Amend:** **Councilor Morissette** moved a technical amendment making the Ordinance conform to the map, and making the ordinance a version C.

**Seconded:** **Councilor Washington** seconded the motion.

**Vote to Amend:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present. The motion was amended, the version before the Council was now C.

**Presiding Officer Kvistad** opened a public hearing on the Ordinance No 96-665C. No one came forward. The public hearing closed.

**Presiding Officer Kvistad** said that this had been a very interesting process for everyone involved. He thanked the local jurisdictions involved, the local partners for not objecting and sending letters of support. This completed a twelve year saga for many of the people in these contested areas which he was pleased that the Council could resolved for them today.

**Vote the Main Motion:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present.

## 6. RESOLUTIONS

6.1 **Resolution No. 96-2426, For the Purpose of Adopting Policies for Coordination of City and County Comprehensive Plans.**

**Motion:** **Councilor Morissette** moved approval of Resolution No. 96-2426.

**Seconded:** **Councilor McFarland** seconded the motion.

**Discussion:** **Mr. Cooper** said that this resolution was a companion to the ordinance that had just been adopted. What it did was to commit the Council and state that the Council

would participate in adopting policies coordinating the city and county comprehensive plans in this particular Raleigh Hills Town Center area which was part of the urban service boundary area that had just been resolved.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

## 7. COUNCILOR COMMUNICATIONS

**Councilor McFarland** said that she had the privilege and honor of being at the official opening of Metro's large building out at Expo with its many square feet of free floor space without any columns in it. It was a magnificent building which spoke for itself. She encouraged those who hadn't seen it to do so. It was their privilege to have represented the Council and she understood that the \$3.4 million that it cost for completion had already increased in value to \$18 to \$20 million.

**Councilor Washington** said he was pleased to be there with Councilor McFarland at the Expo ribbon cutting. He noted she was a former professor and a good one.

**Presiding Officer Kvistad** encouraged those who had not been out there yet, that it was a truly spectacular building and a great resource for the region. The Smithsonian exhibition would be there on April 3rd for one month. It would be free to the public and gave them the opportunity to see the newest regional building. He thanked Intel for the \$2.5 million contribution, Hoffman Construction for completing the construction ahead of time and under budget as well as Councilor Washington for all of his work as Chair of Regional Facilities. Councilor McFarland, Mr. Burton and staff for directing that to completion, and to MERC as well as all of the members of the Council. It was a tremendous asset to the region.


**Councilor McFarland** shared with the Council that the 7,000 pound patient at the Zoo was to be operated on. She noted the special equipment to get her on and off the gurney when she had bones in her toes removed and the special efforts Allied Power and Hoffman Construction Company had made assisting the Zoo.

**Councilor Washington** noted the Presiding Officer's father, Mr. Kvistad's improvement in health.

## 8. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 2:55 p.m.

Prepared by,

  
Chris Billington  
Clerk of the Council



METRO

030697-40

Date: March 3, 1997  
To: Presiding Officer Kvistad, Metro Council  
From: <sup>LSJ</sup>Larry Shaw, Office of General Counsel  
Subject: Technical Amendments

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Two technical amendments have been brought to our attention and included in the attached "E" version of the urban reserve ordinance. After review of these amendments, the Office of General Counsel has determined that these amendments are not material changes requiring further consideration of this ordinance.

1. Ordinance section incorporating the First Tier Map. The UGB procedures in Exhibit A were amended to generalize the reference to the First Tier map, eliminating the reference to this ordinance. The First Tier map attached as part of Exhibit A is now explicitly referenced in Section 5 of the ordinance.
2. Amendments to 3.01.012(e), the "urban reserve plan" added references to "school districts" in addition to the general term "service districts." For consistency, "school districts" is added to 3.01.005(c)(4) and 3.01.015(d).

jep

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## COUNCIL WORK SESSION

February 26, 1997

Rm. 370A

Members Present: Jon Kvistad (Presiding Officer), Patricia McCaig, Lisa Naito, Susan McLain, Ed Washington, Don Morissette, Ruth McFarland

**Presiding Officer Kvistad** called the meeting to order at 3:30 p.m.

**Presiding Officer Kvistad** announced that this Council's Work Session was a preliminary overview, more on general topics concerning the 1997-98 Council Budget. He indicated that Councilor McCaig said she didn't want to get into much of the budget line item detail and he agreed on some of that. He wanted to deal with more of the bigger picture, where the Council was, get some ideas of where the Council might want to go. He noted a couple of areas where the Council was going to have to make some adjustments in the Council budget and talked about that. Before the Council was a list of topics but before the Council got to the list of topics he wanted to try to start by dealing with where the Council was on the Council's current budget year to date. In the current budget year to date the Council and Council Office was actually in pretty good shape. After 7 months the Council had 56% of budget remaining so that puts the Council in pretty fairly good shape. The Council transferred \$6,000 for the expenses relating to functional plan and a lot of the documentation's reproduction. He noted several areas within the budget where the line item was over or very close to what were projected expenditures for the year. He added that Chris Billington had done a very good job of cutting back office supplies in the office supply budget. It had almost been cut back too far to where the Council Office was going to have to go in search of a couple more dollars for pencils. He said there was about 3% of the budget left in office supplies. There was about 27-28% of the software budget left and that didn't include the software was going to be needed for the archiving system which was one of the things he wanted to talk about. Subscriptions, included the Daily Journal, National Journals, the Oregon blue book, leadership directories had been purchased for the Council and were the beginnings of the Council Resource/ Library creating an overage in this line items of the budget due to a fairly small budget in that line item. He said that some money had been moved around to cover these expenditures. He asked Councilors for specific recommendations on publications such as planning journals that would help them do their job better or publications that they thought they were interested in the Council Office acquiring on behalf of the Council for the Library. On the telephone line item the Presiding Officer noted an over expenditure, there was about 7% of the budget left in this line item. In the postage line item the Council Office had 25% left and this did not include this month's expenses in this area. He said that this concerned him.

**Councilor McFarland** asked about the over extending on phones. Why?

**Presiding Officer Kvistad** said that the Council Officer was not over extended but had expended more than plan at month seven.

**Councilor McFarland** said that the Council Office had 7% left.

**Presiding Officer Kvistad** responded, right.

**Councilor McFarland** asked why we had spent so much on phones.

**Presiding Officer Kvistad** indicated that he was unsure and asked Ms. Billington to give her assessment of the situation.

**Ms. Billington** responded said that she had looked at this, there was more long distance faxing and long distance phone calls being made on Council business. The standard monthly phone bill was not part of this line item.

**Councilor McFarland** said that her real question was why the Council had so grossly missed their estimates and what changes needed to be made.

**Analyst John Houser** responded that the budget as he recalled the budget for telephone expenses this year was the same as last year.

**Councilor McFarland** responded, exactly.

**Analyst Houser** said based on expenditures from last year and he didn't believe the Council went over on their phone line item.

**Councilor McFarland** responded that the Council Office probably learned how to use the fax machine.

**Presiding Officer Kvistad** indicated that he thought that with the legislature in session there were different phone expenses than the Council usually had in a year when there wasn't things going on. There were also several trips to Washington DC and to different places, the executive and Councilor Washington were going back to DC at the end of the week again to lobby for ISTEAF funds, there had been a lot of those kinds of expenses both long distance faxing and calls. He suggested that all staff and Councilors watch their itemized long distance billing each month keeping an eye on it and make sure that the charges were correct.

**Ms. Billington** noted that there had been some errors on the bills.

**Councilor McFarland** suggested that there be an appropriate amount budgeted for next year utilizing what was spent in this year as a projection for next year.

**Presiding Officer Kvistad** responded that although the Council Office may be short on that line item he believed that the Materials and Services budget could still handle it. He reiterated that he was just giving the Council an overview of where they were so that everybody knew. He believed that these types of expenses at this level had never occurred before. Office supplies, in that line item, Ms. Billington had been pretty solid about making sure there were no expenditures made for more than \$25 without their prior approval. She had been watching office supply expenditures trying to cut back on that line item, recycling when appropriate. People had been purchasing supplies such as computer peripherals, like a drawer that would pull out from under the desk to put a keyboard on and some of the other things without asking approval so Chris created a preapproval policy.

The big capital outlay for the year that was yet to come and probably was going to slop over a little bit in the next year was the archiving program. He said that most Councilors were aware that the Council was the agent of record for the government. The Council had the responsibility for archiving all of Metro's records and all of the Council records. They were currently in big boxes in the Council room in the basement. It was the Council's legal responsibility to retain those records, find out what we had and get them archived before we started losing records. Some records had already been misplaced where they were probably put in different file cabinets. The Council Office right now was rebuilding the entire record from day one to present. It was the Council's responsibility to develop a record management system, get the record scanned on to the computer. It was necessary to purchase some scanning equipment and some archiving software and possibly another computer. He added that the Office was going to try and get by with the

computer that the Council Office currently had that would run the archiving software. This work station was planned for where the interns were currently working. If the current computer could be utilized then that would save the Council a couple thousand rather than buy a new computer. There was a need to start getting this set up and begin archiving. The goal was to have on CD ROM all of the Metro archives so that everybody in the agency would have access to it and we can put them on the computer.

**Councilor Morissette** asked if the discussion today was about the difference between last year's budget and this year's budget or philosophically whether we wanted to start with the proposed budget?

**Presiding Officer Kvistad** said he was not going to try to get too much into the budget. There were a couple of points here that would affect the proposed budget as the Council reviewed the council budget. There were one or two items that were going to have to change in the budget that he had presented in November because he had to put a budget package forward with a guesstimate of what was needed.

**Councilor Morissette** added, which was what this review was?

**Presiding Officer Kvistad** continued, which was what the budget before the Council was but it didn't anticipate some of the expenditures that had occurred with the real heavy lifting of the last two months.

**Councilor Morissette** affirmed that he understood.

**Presiding Officer Kvistad** added that those expenditures included postage, expenses of people coming in and demands for documents, especially, copying and those kind of things. It had just gone way beyond anything the Council had anticipated. He wanted to try to in this general discussion figure out what the Council needed and what the Council as a group wanted to have and then revamp the proposal. He indicated that he would work with Councilor McCaig on a proposal that worked for presentation when they got to the Council budget itself in terms of line item by line item.

**Councilor Morissette** said, okay.

**Presiding Officer Kvistad** said that this was his goal. He suggested that they agree on general concepts then he could come back in a week or two and bring back some proposals that the Council could look at to see whether or not they worked.

**Councilor Morissette** acknowledged that he understood.

**Councilor Washington** asked about the archiving. Who was responsible for the archiving, was this being done on behalf of this agency, was it a Council responsibility or an agency responsibility?

**Presiding Officer Kvistad** said that the Council had the responsibility for all of the ordinances and resolutions, the business of the Council, the governance portion of the agency. The Council didn't archive all the management records, but the Council Office had to archive all of the government activities of the agency. He noted that the Metro Council was the government of Metro so it was necessary for us to maintain these records. This was something that he had just found as he became the Presiding Officer at the beginning of last year. He went immediately to look at starting to deal with the documents and records of the agency and found there to be some deficiencies he wanted fixed.



**Councilor Washington** asked who on the Council, who here, was going to do that project for us? Whose responsibility was that?

**Presiding Officer Kvistad** responded that he was responsible to put a project in place to fix this.

**Councilor Washington** asked if someone else would be doing the project?

**Presiding Officer Kvistad** indicated that it would be ongoing and the continued responsibility of the presiding officer in the future who would be running the Council obviously. This was a function of the Council Office that had never done. There had never been staff to do this and it had always been put off but was one of the critical things the Council Office had that the Council Office was responsible for.

**Councilor Washington** said he was not really questioning the fact that it was not our responsibility, what he was really trying to get to, since it was our responsibility and we hadn't done it, it sounded to him like there was a whole lot of work to be done.

**Presiding Officer Kvistad** responded, exactly.

**Councilor Washington** said what he was trying to get at was who was going to do the project, was it Lindsay, or Jon, or Don, or who was going to do the project. He said that it sounded like that there was a lot of work.

**Presiding Officer Kvistad** continued that this was part of this proposal for the Council to talk about when the Council considered the potential staff portion of the budget, and filling staff positions, what were the staff needs. That was why it was really critical now, the Council had never in the entire time since the charter passed really had a comprehensive overview of the council function and what the Council's needs were. The Council Office had tried to make do, tried to cut back and tried to do certain things to keep our budget fairly stable or to try to decrease it. What he had found out was that there were some jobs to be done that the Council was not prepared to do in terms of staff. The Council Office staff was right now almost at maximum capacity for the work load. This was going to be over and above that but we had a position currently in the budget that hadn't yet been filled that could go towards this purpose.

**Councilor Washington** said he was not being disagreeable, but said that the staff was at their maximum capacity today. They were not reaching it, they were there.

**Councilor Naito** added that some staff were beyond the call of duty, working over time, whatever, extra hours.

**Presiding Officer Kvistad** said that this was one of the reasons for this debate today and why he had wanted to at least have the discussion. It was never easy to do that in light of tight budgets but the Council had to figure out what our requirements were and try to adjust them accordingly. He wanted to do the work that was necessary within the current budget, within the current staff level and by using this extra unfilled position to fill in some of the gaps both in terms of extra analytical help but also maybe to head up the archiving project. He added that he had been pretty diligent about asking the Council to roll over dollars that we could use for capital outlay and so the Council had enough now. There was about \$21,000 in our capital outlay for equipment for the rest of the year and the projected cost of the archival equipment was about \$20-25,000, this was an average, the actual range was about \$18-35,000 including software and the rest of it, just to put in place the hardware for archiving of the records. There were state requirements on how to archive government documents and the Council Office had not met those state requirements. The Council Office had archived in terms of physically, they were in files but they weren't microfiched, nor in

electronic form or in the form that the state required and that the Council should require of ourselves.

**Councilor McFarland** said, just to put this in perspective, it hadn't been very long ago that the Council staff, most of whom had left, there had been a turnover, it was considered irrational and very demanding of the Council to want those minutes from the meetings earlier than 6 months after the meeting happened. She thought the Council remembered this and so while the Council still had much to, we had come a long way.

**Presiding Officer Kvistad** thanked Councilor McFarland and said that was one of the reasons that if the Council didn't talk about it now, to try and fix it when the Council actually got to the line item by line item part of the budget, it was going to be tough because we were going to have to decide on what the needs were. He thought that the first critical aspect was now that the Council Office had got it set up. One aspect of this was the internship program was to bring in interns to help the Council Office with some of these projects and they had been tremendous so far about getting involved and helping the staff to do some of the work and to carry some of the weight. It was his hope that the Council Office could actually tie in some of our interns to help with some of the archiving portions of the program. First was to actually get the files downstairs in shape. Everyone in the office had worked pretty hard to try to do that, so that was the first goal and we were getting there. The next step now was to get the equipment in place so that we could actually scan these records in, get them in electronic form and get them into hard copy meeting the state requirements for electronic archiving of data. That was the big hurdle now and the big project that the Council Office was responsible for. He was planning to utilize the money that he had been trying to put away each year in the hardware, everyone now had computers in the office so everybody could get e-mail now, all the councilors have their own PCs available. The Council never had that before. The Council Office was also needing to upgrade the Council's software since most of the Council had the new software on-line but we also had the ability for putting Netscape and internet access too. This was something that the Council needed to be talking to, once the Council got through the next week or so. He felt that things had been so harried that he didn't want to bring up some of this inside stuff or put anything on the computers until we were ready. He thought that this was the next step, to decide on the hardware that met the requirements and then he would come back to the Council and let them know what that hardware and software was.

In this next year's budget he cut about \$11,000 out of the equipment capital outlay budget thinking that we could utilize it and shift it because we had a \$32,000 increase due to PERS expenses. He thought we could still get by with some of that and keep that capital down but that was going to leave us a little short next year. He would try to give the Council an update on that over the next couple of weeks and get the final numbers down for the archiving processes. He felt that the Council needed to get moving on this and so the end of the process would be that all the electronic things would be in place. All the minutes that were taken on the diskettes now for about the last year we had actually been archiving all the diskettes and all the electronic media that we had had for the year and a half or the year we had been going through so we would be able to put these directly onto a CD ROM. When the Council Office had archived everything, everyone would be able to go back and access a 1982 ordinance or resolution with the documents that had to do with it right from your PC. The Councilors would have all of the Metro law available to them at their fingertips. That was the goal and it would all be fulfilling state archiving law. This was the big project first. He noted that there had been a transfer to the M&S budget for the printing and the postage. He asked if there were some questions concerning this issue. He then wanted to cover some additional items and have a general discussion. Any questions on this part?

**Councilor McFarland** asked what had been put in the M and S budget?

**Presiding Officer Kvistad** responded that the Council had transferred \$6,000 back into our budget to cover the cost, allowing the legal staff to prepare the record for appeal for the documents that we had to have on the Functional Plan. It was anticipated that we're going to have, if not the same level, more printing, postage kinds of expenses. The Council never really had been through one of these rushes before, the Council was finally implementing the Council's decisions that were impacting people. He thought that the framework plan elements over the rest of this year was going to be pretty heavy because all of the specifics of the framework plan and all of those elements were going to be controversial and he thought this was going to require on the Council's part a lot of outreach as well as a lot of request and responses to documents. The Council Office had been getting a tremendous number of requests for documents, for agendas, for packets, it was just been unbelievable. The printer and copier were starting to bite the dust so last year we ordered a new printer and the beginning of next year's budget we would have a new copier in the Council office that we budgeted for the last 2 years. That would help with some of the paperwork flow that have created bottlenecks. He didn't want to have to go outside to an outside agent like Kinko's that we could do here on short runs to get people what they needed but it was going to be tough and the request for maps which we didn't even deal with in this budget was pretty outrageous, people wanting to know their parcels. He thought that was going to get a little easier and a little lighter once we got done with the next week or so, at least that portion of it and hopefully it would cool down until we got into the potential fee stuff.

**Ms. Billington** thought that the Council would probably have one more major printing expenditure and that would be for the Urban Reserves when it went to LUBA. The Council Office had tried to keep up with at least cataloging all of the records that were received. She thought that the Council could plan for that and it would probably be within the next couple of weeks. She didn't think it would be the \$6,000 that was spent the last time but it was something we had to anticipate because legal was already letting her know they would need a duplicate copy of the URSA records.

**Presiding Officer Kvistad** asked if there were any questions as to where the Council was? He noted a list of items before the Council. He suggested starting through these items and having a general discussion which was what the whole purpose was today. The first thing was getting into mailing lists and postage. This was where he needed some direction from the Council. The Council had talked for years about community outreach and the fact that there wasn't any or very little. It had always been a point of real contention as to whether or not to put the money in the Council budget or elsewhere to deal with postage and printing for individual Councilor expenses. He was going to try to put in a general context what the Council thought the needs were which meant he needed some feedback as to which direction the Council wanted him to go on some of this. There were 2 parts to this, first was mailing lists and having lists available of constituents, who they were and where they were so that Councilors could reach them if they so choose and the second was postage expenses or expenses for general outreach and community outreach. The Council had talked about this issue for the last couple of years. The Council had talked about utilizing the councilor expense account budget and making additions to those in order to allow for more citizen contact so that a Councilor could at least send out some general mail. It had been his goal to put another increase in that line item but in this environment, putting a line item increase that looked like the Council was moving councilor expense accounts up was just not something that he thought he wanted to do. The Council had a situation, where within the Urban Growth Boundary there was about 80,000 total households if you broke every family down to the address, not voters, but households in each district. Figuring about 35-40 cents a piece, that would require anywhere between \$25-32,000 per councilor just for the Councilor to do one mailing, either in a year or a 4 year cycle. If it was broken into a 4 year cycle that kind of money would allow the Councilor to do one mailing using about \$8,000 a year, but he didn't know if the Council had those kind of resources, if Metro was cutting back on tipping fees, to do those kinds of increases. He added that up to now the Council had spent about \$10,000 in postage so far this year. That was

where the Council was in terms of budget. We were expecting and anticipating before June, at least another \$5-7,000.

**Councilor Naito** noted the 2040 mailing list, she knew there were people on there who wanted to get the mailings. She suggested that the Council may want to cull those people out and continue to mail to them but she thought there were people on there who maybe came to something and maybe we should be putting some of that money into people who didn't know about Metro but were interested in staying on the mailing list.

**Ms. Billington** explained that was why the Council Office occasionally did a mailing not bulk. Those that were returned to the Office as incorrect addresses could then be taken off the list.

**Councilor Naito** said she didn't know how good that list was and it sounded like the Council Office was keeping it up to date. In her opinion, on the mailings to the district, she supported that and she thought it should be listed not as a discretionary item but an amount that would be available for that purpose only which would be mailing to constituents rather than in a discretionary budget.

**Presiding Officer Kvistad** acknowledged that was what he was looking at too and he felt that the Councilor expense accounts should be for expenses, for travel, for publications, for those things. If the Council was going to put in line items for community outreach, which he thought it should. All of the Councilors had gotten hit with the fact that everybody was saying "we didn't hear about it, why didn't the Council send me something, why didn't you mail me something." The Council just hadn't had the ability to do that.

**Councilor McLain** said she would like to see an agency wide mailing list, what we've ended up having was a purging problem. The Council had solid waste lists, 2040 lists, people who wanted to know specifically about urban reserves, a wide variety. The Council Office needed a master list that could be picked out, as the Council needed the different mailings. She thought if we worked as a Council Office to work with the executive on that issue that there might be some overlapping duplication that we could cut out and there could be an efficiency here. The other element that she wanted to talk about on the mailing was the fact that there was some efficiency that we could work out through having mailings that both Mike Burton and a councilor of a particular district, or the council, if it was going to all districts, where postage expenses could be shared, where it didn't always have to be "the councilor" or "the council" but it could be an agency mailing? She would like to look into that a little bit more.

**Presiding Officer Kvistad** thought that probably would be a real good merging of the two, to work with Mike and if something went out into an individual district that Metro was sending, or region wide, it made a lot of sense for Council, despite the bumps he had had with Mike over certain policy stuff, it would be probably helpful if the Council had some way to overlap those mailings to allow some outreaches from the executive as well as where the Council was. He added that, while we were the Council, we had gotten into a lot of this council versus executive stuff. He would really like to have this be a Metro project.

**Councilor McLain** was thinking one step further. There are times where for, solid waste for example, there was a department mailing that was going out for a specific purpose, whether it be transportation or anything, and there were some opportunities there that the department could say well this was an opportunity for the executive or for the Council to put something in that piece that was being mailed. There needed to be a better coordination factor of what needed to be mailed out to their jurisdiction and to the individual households.

**Presiding Officer Kvistad** affirmed her idea.

**Councilor McLain** said for example in transportation, Metro was dealing with a light rail funding issue and the department was doing a survey, she was not talking about a Councilor piece that was going to be a political piece, she was talking about a Councilor piece that would be an extension of wanting to hear from, wanting to know about. She asked for the Councilors opinions on this. If there was any way for that kind of thing to be overlapped. There were some that probably couldn't be.

**Presiding Officer Kvistad** thought on some of the bigger mailings when growth management or transportation did department wide mailing, if the Council had the opportunity for the executive or the councilors versionized, to be able to put in a flyer or insert into an existing mailing that was already going out at Metro expense. He knew about having been in that business for awhile, he wanted to try to keep their costs as low as possible. You know by versionizing if you could do it, by a minimum of cost increase, that might be something that the Council could look into. The Council would have to work with departments and with Mike to see about what was the size of these mailings and what were the areas where there might be some tie ins.

**Councilor McCaig** felt like the Council was backing into it, the dilemma continued to be, did we want to increase the Council budget generally. The Council had had this discussion about the postage and mailing costs and the difficulty was either we increased it \$8,000, that was one mailing and the Council all knew that was a drop in the bucket and could not accomplish much with that. It was like the dark hole in Charles Manson's mind, it just kept getting blacker and blacker. The dilemma the Council was talking about was if the Council started putting money in this account when would it reach a level at which we honestly thought the Council was penetrating and actually getting some results from that. She thought the solution to that was the marriage of the postage and mailing and printing budgets that she had seen in transportation and growth management for the Council to be more involved in what's going out and having more ownership over some of the different pieces. Those were huge mailings that they did. There was no reason not to break them up by district and have personal message, all sorts of things. But she was really worried that if the Council started, that it was difficult to achieve what we all wanted to do which was more have contact with constituents.

**Presiding Officer Kvistad** said this was the one thing that the Council had not done. The Council had talked about it, around it, but that was where he thought we were coming down to. The only reason he had these numbers was he wanted to give the Council a context for what it would cost the Council if we wanted to go direct. The Council had to be able to do something because they were all getting beat up with "why didn't you tell me?".

**Councilor McCaig** thought that she was not in an unusual position on this one, a minority position, but she thought the charter as it was constructed, didn't intend for the Council to be a full time political paid Council and that the Council needs as a result of that were significantly different, that this originally was more of a school board kind of opportunity as it was originally envisioned, that people would run, it didn't have salary attached, when they did attach a salary it was for one-third the salary of a district court judge, or two-thirds the salary of a district court judge and then it went to full time. They intended the Council to not be a full time government or necessarily a political launching pad for further outreach and that was why the budget had always been weighted in the executive for printing and materials. That was why it was been educational, that was why all the money had been over in that category. The question was broader, whether the Council was going to move from the restrictions kind of imposed on the Council now by the charter and what the Council believed to be the needs which were different and whether the Council wanted to see that shift occur and, if the Council wanted to see that shift occur. That was the discussion that would change the Council budget which was back to whether the Council wanted to have assistants, to have an opportunity to do their own newsletters, that was a different kind of government than what existed right now.

**Presiding Officer Kvistad** said he didn't want to get into the assistants issue right now.

**Councilor McCaig** said she was not using that as a negative, she was using it as a distinction between other full time governments.

**Presiding Officer Kvistad** said yes, but it was used and that was a problem before.

**Councilor McCaig** continued, there were other things that the Council could build into a government if Metro was going to have a full time or a more active policy making board. So she would think the Council would start with, do we want our overall Council budget to be more next year than it was this year. She knew the Council had a position that hadn't been filled for a year which was an opportunity for the Council to do some different kind of things if the Council wanted to fill that position without seeing a significant change in the budget. That was a good point. The Council was going to be looking at the people from the zoo, going to be dealing with other local governments that had significant cuts and as we talked about the Council as a government, did we want to be the only ones out there who were seeing a significant change in our own operating budget. She thought it was worth having a discussion about whether that was a good thing to do.

**Presiding Officer Kvistad** indicated that was why the Council was here.

**Councilor Naito** had a different perspective on this based on her reading of the charter in a sense that even though the Council was considered to be part time, and she agreed that this was not a full time job, it could become that way, this could be a 60 hour a week job and that was fine, she was trying to keep it part time, and having come from another branch of government which was also a part time policy making one, she also did think that the Council had responsibilities with respect to the work that they were doing and input from the community as to the direction they wanted the Council to go. She thought, without the adequate budget to communicate with the constituents to say, what was their opinion on this that the Council was doing, to help guide the Council's decisions as the Council was making them, not that the Council would just automatically do what the majority of the people wanted. She thought people were very interested in the issues that Metro was working on and needed to be informed and not always singularly, just transportation, but they were interested in how it all worked together, the transportation, the planning and everything. That was something that a Council person could put out, whereas transportation might just be putting out their thing on one specific project. She had a little different take on it and she did feel strongly that she did not want to see the Council increase the agency overall in terms of Metro and go up. She did think that looking at restructuring within the agency as to what the Council felt was important was something the Council should look at. She didn't want to increase Metro's budget and if that was what it took, then the Council had to learn to live with the existing amount of dollars that they had and so be it. If there could be some restructuring of the agency she was definitely willing to look at that and thought we had kind of a duty to step up because there was a real need out there and with all due respect to the executive it was a different way of looking at it. I felt that the school board, and this was an editorial comment, but she thought the Council was probably looking at a more active coming with some of the people that were running because of the perception that Portland had a strong superintendent in Portland public schools but the board hadn't been particularly strong, some members had been, and she thought there was a real need now for stronger board to step up and say our schools were getting destroyed. Likewise she saw here at Metro, not to say that Metro shouldn't have a strong executive, she thought Metro should, but she did think the policy made sense, the Metro elected regional representation, their mind on how they thought about things. The Council was reflecting those views so she felt that it was better toward communication, one mailing every four years was probably not enough considering the functional plan this year which was big stuff, the urban growth decisions, and the light rail was a big issue in her district.

**Councilor McFarland** thought that she wanted to go back to what Councilor McCaig said. She said if she was paraphrasing it right, what Councilor McCaig was saying was our philosophical direction needed to dictate how we set our budget to do what we philosophically wanted to set out to do. One thing that had happened, perhaps this year or last year, and she went back far enough when the Council was definitely school boardish, and staff driven, what had happened this year with our constituencies was that they finally had figured out that what the Council did mattered and mattered a lot. Prior to about the last 6 months or a year, they honestly didn't, they didn't know we existed nor how we operated or anything else. She thought the Council needed to think in terms of a way to communicate with constituents directly. In the Council's own words which other officials had agreed with her on, if we wouldn't believe everything in the paper that we read about those officials, they wouldn't believe everything in the paper they read about the Council. She believed that philosophically the Council had not communicated adequately. She did not believe that one mailing would do it. Number one, they get that kind of a mailing, chances were the majority of them would throw it away anyway, even if the Council send them 3 redundant copies. She thought the question was did we indeed want to take on the responsibility of doing our own kind of contact, did we want to do it through departments that Councilor McCaig described, and have a section, a paragraph, whatever, or how did we want to do it and how much more expensive would it be if we mailed out enough to have a real impact, one mailing wouldn't do it and maybe even one a year wouldn't do it.

**Presiding Officer Kvistad** added that he wanted to keep the Council's focus on here was, regardless of what we did we couldn't do it in one fell swoop and be out there and up to speed but what we had done was be penny wise and pound foolish. The Council had talked about getting a staff member to head each committee, suddenly this became council assistants. It was never intended to be that last year, so all of a sudden the Council said, what was that? And then, every time the Council talked about our budgets, we were looking at, we were not looking at the function. Whether the Council liked it or not they were the premier regional government in the United States. The had constituencies of 200,000, the Council certainly was not school board people. The responsibility the Council had here, not only for solid waste and other things, for land use alone was huge, it affected every jurisdiction and the Council needed to have some outreach. She knew most people around here were giving speeches and were in their community all the time. In looking at his calendar for last year, he had given 400 presentations or speeches since he was elected. And it still didn't scratch the surface. Even when the Councilor was out there. Now the Council needed to have something to supplement their needs and maybe this wasn't it. He thought we needed some of this. He suggested starting by getting what the needs were and then the Council could get down to a couple of things that could be done to enhance.

**Councilor McLain** suggested, that out of respect to Councilor McCaig's issue, the Council start with a philosophical direction. The philosophic direction that she had wanted to take for 2 1/2 years had been she wanted to be able to do her job well. That was the bottom line. That was all there was to her philosophic direction. She wanted to be able to do her job well. And she thought that as it reflected to the budget, that she was always looking for economy in scale, she was looking for economy in the budget generally speaking, looking for ways the Council could reorganize and get a better connection and better communication. But the bottom line was she had mail she needed to answer, she had people, she could only do so many coffee klatches and she could only do so many breakfasts and lunches and dinners and midnight whatever with the length of the meetings and things that went on in these communities. But she had to be able to function by dealing with responding to constituency needs and constituency questions and that's what she wanted. She didn't care where the Council got the money from, if it had to come from reorganizing just the Council budget, or if it had to come from reorganizing some of the ways that the Council connected with other parts of the agency in the review of that budget, that was fine. But she wanted to be able to get the mail back to the folks that wrote her and call back to the people that called her. And she was here until 8 o'clock last night and still had a pile this tall on the desk and it was not because the clerks weren't working hard, it was just the fact that there was

just too much for the Council to work on. She would like to see the ability for this Council to send out more items. She was not wedded to a newsletter, but she wanted more contact with them other than just what they read in isolated articles.

**Councilor Morissette** asked the Presiding Officer if he had an idea as to an amount? He didn't know how much longer the Council was going to have this discussion.

**Presiding Officer Kvistad** responded, 45 minutes.

**Councilor McLain** asked about the video item that was on the list. She said that the Presiding Officer had asked what the Council's needs were.

**Presiding Officer Kvistad** responded, we'll get to some of those.

**Councilor McLain** asked if they were doing specifics? She meant as far as the coverage by the cable companies, she thought that was a part of this all, and she would like to see the Council work on that too besides postage.

**Presiding Officer Kvistad** said yes, it was not just postage and printing, what it was the Council trying to distill all of the things that he had heard over the last two actually four years that some of the Councilors had talked about, the last two in particular, who know now what kind of avalanches came to all of the Councilors on simply this part of the process let alone what would happen at the point where there may or may not be an urban growth boundary expansion. This was nothing to where that decision would be, the thing was that the work of the Council was the work of the Council and the Council had got to do something because we had people that were screaming because they couldn't get the most basic of information. A lot of the stuff that the public had been hearing was wrong and we needed to do this so there was a couple of different options here, the newsletter, or personal outreach, or whatever the Council wanted to call it, that was just a potential. He didn't have any line items or numbers attached to these, it was just which areas did the Council think were important, then he would take those and try to distill them into developing a program and bring it back for the whole Council to review.

**Councilor Washington** said one thing that could be done was to ask Lisa Godwin if she could identify what pieces went out, for the last year, in this agency by department, how many pieces, and get that back to us for our next meeting so that we could see what kind of opportunities there were for the Council to dovetail. The Council had got to know what they were. And secondly, he was not interested in debating the charter or the intent of the charter but he thought the only thing part time about this job was the pay for most of the Councilors. That was not a slam, it was just a fact of life. He thought everybody here put in major time, lots of meetings and the Council understood that when they took the job. So that was not really an issue. Secondly, the Council must address the issue of the Council staff. They Council must have a staff that they were not killing. The Council could kill themselves, they seemed to delight in it, but he was not certain that they delighted in it and they were not going to say anything about it. So he thought that the Council needed to address the issue of taking care of the staff. The Council needed to do what they were supposed to do here and quit coming around every year with the newsletter idea, \$8,000 to send out 20,000 pieces. Okay, that was it for 4 years. He suggested that the Council see what they could dovetail with what was already going out, perhaps the Council could get that under some kind of control where we could be part of it and then do whatever we wanted. His primary concern was that we were going to continue the Council must be able to not kill the staff. He had said it more than once, he would keep saying it because they wouldn't.

**Councilor Naito** added, just to tie in with that, she thought both issues were really important, the outreach and also the staff. She didn't know the position that the Council hadn't filled and what exactly that would do, but in terms of analyst type of help, Michael was trying to do, he had the



growth management stuff which was a full time job plus it was actually probably enough work for 2 people, to really give us the kind of analysis that the needed on this and plus he was doing regional facilities which the Council now had a lot of work looking at how the transition went as well as other things in Government Affairs. She thought one person should do the framework plan and there was going to be enough for probably two people on the growth issue alone which was one of the most important things the Council had under the charter. She did not think the Council could let that part slide in terms of making sure the Council had the information. The Council needed it to be brought together in a certain way, he was doing a fabulous job, but it was just a ton of work.

**Presiding Officer Kvistad** added that in 1992, 93, and 94 the Council had 4 analysts to do this for a workload that was half of what it was today. This government wasn't what it was when the Councilors ran. In 1992 when he got on the ballot it was a 50 cent per day per diem one night a week. Then they passed the charter which he didn't vote for in November and suddenly it was a "half-time job with a part time salary", well that was fine. It was not that any more. It was a full time job with a part time salary. The Council signed up for that gig, that was great. It was a great place to be and he enjoyed it but the Council needed to reevaluate where they were. The staff issue was the next thing up and that may be the place to go now. The Council did have a couple of other outreach potential. The Metro Matters programs a monthly event, put on with Lisa Godwin and the rest of her staff. He thought that there was a series of 12 and they ran about \$1,000 a program. It dealt with Metro issues in general. He thought they were a pretty tremendous outreach tool. Most of the Councilors were invited at one point or another to be on the panel discussion so it was open and Mr. Burton was involved, the Council was involved, staff was involved. One of the things that he thought the Council might want to look at and discuss was whether or not to bring back Metro Matters and fund that. While the Council was talking about funding the program and while it would be in the Council budget, he was including Mr. Burton in this issue as well. It was not just the seven Councilors and Ms. Dow, it included all of the elected officials. He suggested taking a look at the program, whether or not to resuscitate it and bring it back in because at least it reached a cable audience and a lot of the land use issues had been dealt with on the program. The Council actually had the chance for half an hour to put up the maps, talk about what the Council was doing and have that kind of an interaction. Some of the series actually had call in, he asked if anybody participated in those? For those that did, did they like them?

**Councilor Washington** expressed his surprise of how many people watched cable TV and they watched the Council meetings quite regularly. He hears from them a lot concerning what the Council was doing, saying or didn't say. So he thought that that was an good outreach. If Metro put that back in it was going to reach a lot of people, it was going to give every Councilor the opportunity to have his or her views heard so he thought it was a good program. He asked what it cost Metro last year?

**Presiding Officer Kvistad** responded \$1,000 a show.

**Councilor Washington** asked how many shows were done?

**Ms. Lisa Godwin, Media Coordinator,** responded, 8-9.

**Councilor Washington** suggested that the Council consider this, if the Council wanted to do 8 shows like that, that was really giving everybody more opportunity to be heard. If the Council did one mailing for 20,000 people, that was \$8,000, 8 shows cost \$8,000 and everyone got the opportunity to get on and talk about issues that were truly important to their particular committee.

**Presiding Officer Kvistad** suggested that Metro needed a balance, a mix of media.

**Councilor Naito** added that she hadn't been that much of a fan but she thought it was something that should be on the table, something we should take a look at in terms of who really watched them, people were so busy in their daily lives, they would more likely read something than turning on the TV at a given time to watch a given show. She suggested putting it on the table and study it more. She may be totally wrong on this if there were a lot of people that watched this.

**Ms. Alexis Dow, Auditor** said that she was on Metro Matters twice and she had to say her feeling was like Councilor Naito's. But she got so much feedback, she was surprised that people who channel surfed, when they saw a familiar face and heard them talk and they stayed on and looked at it. Several times people mentioned the program to her, but then they actually talked to her about matters that were being covered. She concluded that she was totally amazed at the number of people who watched.

**Presiding Officer Kvistad** said if it was done from an agency perspective he thought it had some potential in terms of value there. He was trying to get 2-3 things for each Councilor or on their issues or for their committees as the committee chairs, to have at least come physical outreach in terms of mailing potential, to have more of a presence on the cable access, more outreach to the media, just talking a little bit more and being more active. He didn't know how much more active the Council could get, he didn't seem to have much more time in his day, and he did not want this to be perceived that he was looking for some extra publicity because of something he may or may not do later. He wanted to be up front, he felt that the Council had a real need here to do this and he found that everywhere he went. He went to as many city council meetings as he could, at least once a month, to be at his city council meetings. It was unbelievable how many people had said they had heard this, why didn't the Council send them something or why didn't the public hear more from Councilors. Why didn't they get something, why didn't they know what was going on. He didn't think with the decisions that the Council was making that the Council could afford to do that. He thought it was really letting their constituents down and was doing a real disservice on a lot of the issues. So this was at least on the table. He suggested that the Council think about what was important, he would develop a set of proposals, these were talking points. If the Councilors had some specifics that they thought about afterwards, bring them the next week and he would try to put together a list of different packages of things so the Council had some options to choose from in terms of maybe going for a couple of these different things.

**Councilor Washington** addressed Ms. Dow, the Auditor. He was on one of those shows with her. It was amazing how many people called in and said they sure enjoyed seeing Alexis on the show, really. He added that the Council Office currently have a mailing list of 14,147 on the council list and that was amazingly pitiful.

**Presiding Officer Kvistad** said he would sit down with Jeff Stone, include Lisa Godwin if she had time over the next couple of days. He wanted to try to get something in place so that as the Council got moving towards the council budget that they had something he could present to Councilor McCaig as talking points for budget discussions and that everybody had talked about. If the Council didn't get a consensus on some items then they would not go that way, if there was some consensus on some things that they thought were important, then the Council would try to include them. He would then ask Mr. Houser to find the resources out there to do some of these basics pretty easy without increasing the Metro budget. It would be an increase in Council line item but it would not be an overall increase in the Metro budgets.

He then reviewed staff concerns and needs. It was his intention over the next 2-3 weeks to finish a job description for the open staff position and what that would be was a third half time analyst and half time information service specialist, specifically in the area of archiving. The intent would be once the archiving was done to transition that person in to full time analyst. The Council and Office just couldn't keep going this way, in terms of the work load we put on the Council Office. The analysts went from 4 people to 2, over a period of 2 years. The Council had put themselves at

risk of not being able to get the work done. And it wasn't that the analysts weren't doing great work because they were, but he thought the analysts needed some more help so that was going to be what he was going to put together and put it on the table for everybody for general discussion. The Council had had the debate over whether or not to hire, he had tried not to do it to save the council budgets and hopefully have that as a savings at the end of the year but he didn't think we could afford to do that any more especially looking at the framework plan elements that were coming. So that was his intention, was there any feedback?

**Councilor McCaig** said yes, in terms of a difference in perception. She would say it was a little differently which was the Council still had 4 positions, there always had been 4 positions. What the Council decided to do 2 years ago and last year, 1) converted one position from an analyst to an assistant to the presiding officer and hire a manager of the office. In addition the Council had had a vacant position for over a year which everybody had agreed could be funded so she had a little different perspective that the Council had gone from 4 to 2, the Council still had those 4 positions, they were still the same 4 positions the Council was just using them differently as a result of the review that they did 2 years ago. The Council decided to go for an office manager and split that position away from the assistant to the presiding officer so the Council had one empty position that had been empty for a year, it was a \$50,000 a year job, it was a great job. Hire it. That didn't change the budget, it was a good thing. We should have done it a while ago.

**Presiding Officer Kvistad** thought that that was the direction the Council was going to go and noted that back 4 ago the Council had 10 people and the Office was now down to 8, actually 7, this would bring the Office up to 8. He thought it was time to get there based on their discussions of late last year where they were going to try to save some additional dollars and see whether the Council could get by with 2 analyst and the Council couldn't.

**Councilor McFarland** added that Michael and John were so good that it had been difficult for the Council to find anyone to fit into the routine.

**Presiding Officer Kvistad** said that he had received a letter from Human Resources. When they had done an overview of the council office staff because of a request by one of our staff members, they found that the Council Office had a disparity they had asked the Council to address in the council budget. It probably meant an additional \$6-7000 increase in the staff line item. That was on the high end, that was if the Council assumed an 8% increase in the cost of living and salary adjustments at year end. He didn't anticipate it to be that much. There had been an averaging of about 4% in terms of cost of living increases and yearly adjustments.

**Councilor McFarland** asked if the Council had been aware of this before or had there been any kind of a conscious thought process that allowed this to happen?

**Presiding Officer Kvistad** said this was something that Human Resources found in dealing with a situation that they were having. They were going through the Council based on a request by a member of the council staff looking at salaries and levels and they found a disparity. They had made this assessment and brought this to his attention. This was not something that he had brought up but Human Resources had made a recommendation to him and thought that in order to make sure that the Council Office did not have a disparity that the Council might want to address it in our budget. So he thought that would be part of what he'd bring forward in the next week or two, he would figure out exactly what that would be, figuring a modest increase instead of 8% do the standard 4%-5% that he had actually been giving the staff in terms of adjustments. He would bring this forward within the next several weeks and adjust the staff budget based on this.

The next one was kind of more fun. The Council had been having fun with MPAC and fun with the ancillary committees and he thought that over the next couple of months it might behoove the Council to have a debate and a discussion amongst themselves and then probably some outreach

to develop a better relationship with MPAC and with the ancillary committees that were out there. He thought that after tonight's meeting and once the Council finished with some of the specific discussions that were coming with this land use stuff that it might be a good time to sit down and reevaluate where the Council was, how they work together, what MPAC's role was vis a vis the Council and how to develop more positive relationships there. He thought personally that the Council got along fairly well with most of the members of MPAC but there had been a real disconnect over the last couple of months that the Council had to fix. He thought the Council needed to get that dealt with sooner than later. So between that and some of the ancillary committees, the many other committees that the Council were all on at the beginning of the year that they signed up for, everything from the intergovernmental committee with Vancouver that Councilor Washington sat on, south north JPACT, MPAC, MCCI friends of the Zoo, etc., he thought the Council needed to evaluate whether or not and which ones of those were most important for the Council and the rest of them see if the Council could spin them off.

**Councilor Naito** said she was on some committees and she had asked staff to be sure and let her know when some of these meetings were. Some of them, she wondered if there was a meeting and she didn't know when or where they were meeting so maybe people didn't realize that the Council was actually part of their group so maybe the Council should either find out if they still needed them or the Council still wanted to be involved or get off the committee. It didn't make sense to be on a committee if one didn't know when they met.

**Presiding Officer Kvistad** suggested the Council reevaluate the committees that they were on and the things that they were required to be on because it was getting to the point where it was impossible to do all of the ancillary committees.

**Councilor McLain** said there was a list on Intergovernmental Council last year, a list of all the committees with recommendations of all of the committees that existed and whether they were chartered, whether they were advisory, whether they were whimsical and whether it was necessary for the Council to continue serving under law and whether they had the option of getting off. Michael had the report and it was ready for action.

**Presiding Officer Kvistad** asked Michael to get that and the Council could get moving because it was about time to do that. There were just too many. The Council was getting calls from people who said what was this and why was the Council doing it. Some of them were very important and the Council needed to be involved but some of them just had outlived their usefulness in terms of Council participation and they had their own agendas.

Next thing was scheduled Council Work Sessions on policy development. The Council was finding as they got to the framework plan elements over the next couple of months, going through the first year, that they were going to need to have some time where as a group of 7 they sat down and talked about where they were philosophically on policy directions, on some of these issues, and maybe deal with some of these before they went into committee process and before they went to an advisory committee because they were getting to the point now where things were spinning around, they were hitting the Councilors in the forehead that they had never seen before. They saw that on Thursday where something the Council had never seen before was suddenly there and he thought there was some major policy points that needed to be addressed. So depending on what the Council saw in terms of the schedule, he would like to try for at least every quarter, so every 3 months, every 2 1/2 -3 months to set some time up for the Council, to be able to go to the tower room and get a list of 2-3 topics to go over so that they actually had some idea of a direction they wanted to go on some of these functional plan elements as well as solid waste or any of the other greenspaces that were up coming. Did that sound like something people would object to?

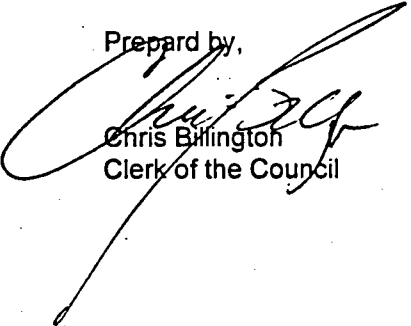
Discussion followed and agreement that it would be best to keep the work sessions on the Council meeting days.

**Councilor Morissette** asked the Presiding Officer if he was going to make a proposal on the council budget, to come forward with some kind of proposal to deal with the issues he had heard from the group today and the goal was to keep the Council total budget and the whole government of Metro, in its current form of one form or another.

**Presiding Officer Kvistad** said that was correct and added to look for savings in the agency to allow the Council to do this. He then asked if anybody have any specifics, anything the Council hadn't talked about that people wanted to bring forward? Okay, he would around over the next week or so once the Council had voted on the urban reserves, do a walk through and try to get ideas as to what people needed. If they had got some specifics, write them down and bring them into the office and put them on the desk and he would try to form them out and figure out what the cost would be and then share with Councilors what other Councilors needs and wishes were. The ones that looked like they were supported by almost everyone would move forward and the others would just drop off the list.

Meeting adjourned at 4:45 p.m.

Prepared by,



Chris Billington  
Clerk of the Council

*Agenda Item Number 6.1*

**Ordinance No. 97-680, For the Purpose of Granting a Metro Franchise to American Compost and Recycling Inc. to Operate a Commercial Food Waste Processing Facility and Yard Debris Composting Facility.**

***First Reading***

**Metro Council Meeting  
Thursday, March 13, 1997  
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A	)	ORDINANCE NO. 97-680
FRANCHISE TO AMERICAN COMPOST	)	
AND RECYCLING INC. FOR OPERATING	)	Introduced by Mike Burton,
A COMMERCIAL FOOD WASTE PROCESSING	)	Executive Officer
FACILITY AND A YARD DEBRIS COMPOSTING	)	
FACILITY	)	

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

WHEREAS, American Compost and Recycling has applied for a non-exclusive franchise to own and operate a solid waste processing and recovery facility and a yard debris composting facility in Portland Oregon; and

WHEREAS, American Compost and Recycling has submitted a franchise application in compliance with Metro Code Section 5.01.060; and

WHEREAS, The American Compost and Recycling facility will provide recycling of waste delivered by affiliated companies, other commercial haulers, contractors and businesses; and

WHEREAS issuance of a franchise to American Compost and Recycling is consistent with the policies set forth in the Regional Solid Waste Management Plan adopted November 1995 for recovering source-separated food wastes from businesses and recycling yard debris; and

WHEREAS, Metro Code Section 5.01.110 provides for the ability of Metro Council to grant variances pursuant to criteria contained therein; and

WHEREAS, American Compost and Recycling has requested a variance from Metro rate setting requirements as detailed in the Staff Report to this ordinance; and

WHEREAS, American Compost and Recycling has requested a variance from Metro Code Section 5.01.120(I) to allow it to retain ownership of its affiliated hauling companies and allow non-affiliated companies to use the facility as detailed in the staff report to this ordinance; and

WHEREAS, based on the information submitted by the franchise applicant, specified in the Staff Report or otherwise submitted, the Council has determined that it is appropriate to grant the variances requested; and

WHEREAS, American Compost and Recycling will provide a surety bond in the amount of \$100,000 as determined by Metro staff to be appropriate; and

WHEREAS, the Executive Officer recommends that the Council grant the attached franchise to American Compost and Recycling; and

WHEREAS, the Council finds that it is necessary for the welfare of the Metro area that this ordinance take effect immediately, because the franchise site consists of an existing yard debris composting operation and a proposed commercial food waste processing facility which will recover additional materials from the solid wastestream, and potential nuisance impacts such as odor, dust and vectors are a cause of public concern, and the franchisee needs a signed franchise to begin operation of the commercial food waste processing facility and to proceed with the Metro Commercial Food Waste Recovery Pilot Project; now therefore,

**THE METRO COUNCIL ORDAINS AS FOLLOWS:**

1. The Council authorizes the Executive Officer to enter into the attached franchise agreement within ten days of the effective date of this ordinance.
2. American Compost and Recycling is granted a variance from rate setting under Metro Code Section 5.01.110.



3. American Compost and Recycling is granted a variance from Metro Code Section 5.01.120(l) to allow it to retain ownership of its hauling companies and allow non-affiliated companies to use the facility.
4. An emergency having been declared for the reasons stated above, this ordinance shall take effect immediately, pursuant to Sections 37(2) and 39(1) of the 1992 Metro Charter.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

BM:clk  
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**EXHIBIT A**

**SOLID WASTE FRANCHISE**

**issued by**

**METRO**

**600 NE Grand Avenue**

**Portland, Oregon 97232-2736**

**(503) 797-1700**

FRANCHISE NUMBER: \_\_\_\_\_

DATE ISSUED: \_\_\_\_\_

AMENDMENT DATE: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_

ISSUED TO: \_\_\_\_\_ AMERICAN COMPOST AND RECYCLING, INC.

NAME OF FACILITY: \_\_\_\_\_ AMERICAN COMPOST AND RECYCLING, INC.

ADDRESS: \_\_\_\_\_ 9707 N. COLUMBIA BOULEVARD

CITY, STATE, ZIP: \_\_\_\_\_ PORTLAND, OREGON 97203

LEGAL DESCRIPTION: \_\_\_\_\_ (see attached application)

NAME OF OPERATOR: \_\_\_\_\_ DON I. CHAPPELL

PERSON IN CHARGE: \_\_\_\_\_ DON I. CHAPPELL

ADDRESS: \_\_\_\_\_ P.O. BOX 83960

CITY, STATE, ZIP: \_\_\_\_\_ PORTLAND, OR 97203

TELEPHONE NUMBER: \_\_\_\_\_ (503) 286-0886

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# FRANCHISE AGREEMENT

This Franchise is issued by Metro, a municipal corporation organized under ORS chapter 268 and the 1992 Metro Charter, referred to herein as "Metro," to American Compost and Recycling Inc., referred to herein as "Franchisee."

In recognition of the promises made by Franchisee as specified herein, Metro issues this Franchise, subject to the following terms and conditions:

## 1. DEFINITIONS

The definitions in Metro Code Section 5.01.010 shall apply to this Franchise, as well as the following definitions. Defined terms are capitalized when used.

**"Affiliated Hauling Companies"** means hauling companies owned, either in whole or in part, or legally affiliated with, the Franchisee.

**"Authorized Waste"** or **"Authorized Wastes"** means those wastes defined as such in Section 5.2 of this Franchise.

**"Battery"** means a portable container of cells for supplying electricity. This term includes, but is not limited to, lead-acid car batteries, as well as dry cell batteries such as nickel cadmium, alkaline, and carbon zinc.

**"Business"** means a commercial enterprise or establishment licensed to do business in the state of Oregon.

**"Compost"** means the stabilized end product of the biological degradation of organic matter under aerobic conditions to a stable humus-like material that is used or distributed for use as a soil amendment, artificial top soil, growing medium amendment or other similar uses.

**"Composting"** means the controlled biological decomposition of organic materials through microbial activity which occurs in the presence of free oxygen, to produce compost. Composting does not include the stockpiling of organic material.

**"Conditionally Exempt Generator Waste"** has the meaning specified in 40 C.F.R. § 261.

**"DEQ"** means the Oregon Department of Environmental Quality, which includes the Oregon Environmental Quality Commission.

**"Disposal Site"** has the meaning specified in ORS 459.005.

**"Facility"** means the site where one or more activities that the Franchisee is authorized to conduct occur.

**"Friable Asbestos"** means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite, but only to the extent that such materials, when dry and subjected to hand-pressure, can be crumbled, pulverized or reduced to powder.

**"General Purpose Landfill"** means any land disposal facility that is required by law, regulation, or permit, to utilize a liner and leachate collection system equivalent to or more stringent than that required for municipal solid waste landfills under Subtitle D of the Resource Conservation and Recovery Act and is authorized by law to accept more than incidental quantities of Putrescible Waste.

**"Hazardous Waste"** has the meaning specified in ORS 466.005.

**"Household Hazardous Waste"** has the meaning specified in Metro Code Section 5.02.015(f).

**"Industrial Solid Waste" or "Industrial Waste"** means:

- (1) Solid Waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS chapters 465 and 466 or under Subtitle C of the Federal Resource Conservation and Recovery Act. Such waste may include, but is not limited to, the following wastes or wastes resulting from the following processes:
  - (a) electric power generation;
  - (b) fertilizer/agricultural chemicals;
  - (c) food and related products and by-products;
  - (d) inorganic chemicals;
  - (e) iron and steel manufacturing;
  - (f) leather and leather products;
  - (g) nonferrous metals manufacturing/foundries;
  - (h) organic chemicals;
  - (i) plastics and resins manufacturing;
  - (j) pulp and paper industry;
  - (k) rubber and miscellaneous plastic products;
  - (l) stone, glass, clay and concrete products;
  - (m) textile manufacturing;
  - (n) transportation equipment;
  - (o) water treatment;
  - (p) timber products manufacturing;
- (2) This term does not include :
  - (a) Putrescible Waste, or office or lunch room waste from manufacturing or industrial facilities;
  - (b) Construction and Demolition Waste
  - (c) Contaminated Soils

**"Infectious Medical Waste" or "Infectious Waste"** has the meaning specified in ORS 459.386(2).

**"Metro Regional User Fee"** has the meaning specified in Metro Code Section 5.02.015(e).

**"Metro Transfer Station"** means the Metro South Station, Metro Central Station, or Forest Grove Transfer Station.

**"Prohibited Wastes"** has the meaning set forth in Section 5.3.1 of this Franchise.

**"Putrescible Waste"** means Solid Waste containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

**"Recoverable Material"** means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused or recycled for the same or other purpose(s).

**"Residential Solid Waste"** means the garbage, rubbish, trash, and other Solid Wastes generated by the normal activities of households, including but not limited to, food wastes, ashes, and bulky wastes, but does not include Construction and Demolition Waste. This definition applies to multifamily structures of any size.

**"Residue"** means Solid Waste, resulting from Solid Waste Materials Recovery, that is transported from a franchised Solid Waste Processing and Recovery Facility to a Disposal Site.

**"Sludge"** means any solid or semi-Solid Waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

**"Solid Waste Materials Recovery"** means the activity of manually or mechanically Processing Solid Wastes that separates materials for purposes of recycling or recovery.

**"Solid Waste Processing and Recovery Facility"** means a facility franchised by Metro as a Processing and/or Resource Recovery Facility and authorized to receive specific categories of Solid Waste and to conduct one or more of the following activities: (1) Source-Separated Recyclables Processing, (2) Solid Waste Material Recovery, (3) Yard Debris Reloading (4) Fiber-Based Fuel Processing, and (5) Contaminated Soils Reloading.

**"Source Separate" or "Source Separating" or "Source Separation"** means

- (1) The setting aside of recyclable materials at their point of generation by the generator; or
- (2) That the person who last uses recyclable material separates the recyclable material from Solid Waste.

**"Special Waste"** has the meaning specified in Metro Code Section 5.02.015(s).

**"Subfranchisee"** means any business co-located with Franchisee at the Facility and engaged in Processing Solid Waste.

**"Unacceptable Waste Incident Tracking Form"** means the form attached to this Franchise as Attachment 1.

**"Vegetative Commercial Food Waste"** means solid waste which has the following characteristics: 1) presegregated solid wastes which are derived from plants including but not limited to fruit or vegetable peelings or parts, grains, coffee grounds, crop residue, waxed cardboard and uncoated paper products, but does not include oil or grease; and 2) are generated by stores, offices, restaurants, schools, colleges, universities, hospitals and other non-manufacturing entities.

**"Vermi-Processing"** means the controlled method or system of altering the form, condition or content of vegetative, food and/or paper wastes, utilizing worms to consume and digest the organic fraction to produce worm-castings which are typically the final product, and may be blended with compost or soil for marketing purposes. The worm castings may require additional processing to ensure pathogen destruction.

**"Yard debris"** means vegetative and woody material generated from residential property or from commercial landscaping activities. "Yard debris" includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other similar vegetative waste, but does not include demolition debris, painted or treated wood.

## 2. TERM AND APPLICABILITY OF FRANCHISE

- 2.1 This Franchise is issued for a term of five years from the date of execution by the Executive Officer and following approval by the Metro Council.
- 2.2 Unless otherwise specified in this Franchise, the provisions and obligations of this Franchise shall apply to the Franchisee and all Subfranchisees of the Facility. Prior to any Subfranchisee commencing Processing at the Facility, Franchisee shall provide to Metro written agreements from that Subfranchisee acknowledging that the Subfranchisee is bound by and will comply with all terms of this Franchise.

### 3. LOCATION OF FACILITY

The franchised Facility is located at 9707 N. Columbia Boulevard, Portland Oregon 97203. Tax Lot 1 of lots A, B, and J, Ramsey Villa Acres; Section 36, Township 2N, Range 1W, W.M.

### 4. OPERATOR AND OWNER OF FACILITY AND PROPERTY

- 4.1 The owner of the Facility is Don I. and Janice E. Chappell. Franchisee shall submit to Metro any changes in ownership of the facility in excess of five percent of ownership, or any change in partnership, within 10 days of the change. Franchisee warrants that it has obtained the owner's consent to operate the Facility as specified in the Franchise
- 4.2 The owner of the property underlying the Facility is Don I. and Janice E. Chappell. Franchisee warrants that it has obtained the owner's consent to operate the Facility as specified in the Franchise
- 4.3 The operator of the Facility is Don I. Chappell. Franchisee may contract with another person or entity to operate the Facility only upon 90 days prior written notice to Metro and the written approval of the Executive Officer.

### 5. AUTHORIZED AND PROHIBITED ACTIVITIES AND WASTES

5.1 Subject to the following conditions, Franchisee is authorized to operate and maintain the following: 1) a Solid Waste Processing and Recovery Facility and 2) a Yard Debris Composting Facility. The Franchisee is authorized to conduct the following activities: (a) Vermi-Processing of Vegetative Commercial Food Waste, and (b) Yard Debris Composting.

5.1.1 The Franchisee shall accept only Authorized Wastes. Franchisee and Subfranchisees are prohibited from receiving, Processing or disposing of any Solid Waste not authorized in this Franchise. Neither Franchisee nor Subfranchisees shall knowingly accept loads of Solid Waste containing only incidental amounts of Recoverable Material or loads which Franchisee or Subfranchisee intend to landfill without first Processing for Recoverable Material.

5.1.2 This Franchise limits the amount and types of Authorized Waste that may be received each year at the Facility as listed in Section 5.2.1 of this Franchise. Upon written request from the Franchisee, the Executive Officer may increase the amount and add types of waste Franchisee or Subfranchisees are authorized to receive for activities authorized at the Facility. Franchisee and Subfranchisees may receive the designated amount of Solid Waste consistent with (1) applicable law, (2) the terms of this Franchise, and (3) any other applicable permits and licenses obtained from governmental or regulatory entities.

5.1.3 Franchisee may accept Authorized Waste from its own Affiliated Hauling Companies, Non-Affiliated Hauling Companies, Contractors and other Businesses, but not from the general public. Franchisee may accept Yard Debris from any source.

#### 5.2 Authorized Activities, Waste Types and Waste Quantities

5.2.1 Franchisee is authorized to conduct the following activities and receive the following categories of wastes according to the tonnage limits specified below:

5.2.1.1 Vermi-Processing of Vegetative Commercial Food Wastes of up to a total of 18,000 tons per year (50 tons per day), subject to the following conditions:

5.2.1.1.a Processing of Vegetative Commercial Food Wastes shall be limited by the conditions described in Sec 7.3. Residuals from processing these Wastes shall be transported to the Metro Central Transfer Station.

5.2.1.2 Yard Debris Composting of up to a total of 50,000 cubic yards per year, subject to the conditions described in Section 7.3.

### 5.3 Prohibited Wastes

5.3.1 Neither Franchisee nor Subfranchisees shall knowingly accept or retain any material amounts of the following types of waste, unless specifically authorized in Sections 5.3.2 or 7.3 of this Franchise

5.3.1.2 Materials contaminated with or containing Friable Asbestos;

5.3.1.3 Batteries

5.3.1.4 Residential Solid Waste;

5.3.1.5 Liquid waste;

5.3.1.6 Oil;

5.3.1.7 Sludge;

5.3.1.8 Tires;

5.3.1.9 Vehicles;

5.3.1.10 Infectious Waste;

5.3.1.11 Special Waste or any sub-stream of Special Waste unless authorized elsewhere within this Franchise;

5.3.1.12 Hazardous Waste;

5.3.1.13 Conditionally Exempt Generator Waste;

5.3.1.14 Household Hazardous Waste.

5.3.2 Prohibited Wastes received at the Facility shall be: (1) isolated from other materials at the Facility or (2) removed from the Facility. Franchisee shall transport any Prohibited Waste other than Hazardous Waste to a Disposal Site authorized to accept such waste, unless an alternate Disposal Site or method has been approved by DEQ. Non-hazardous Prohibited Wastes shall be managed pursuant to the approved facility Operations Plan submitted as part of the Franchise application process. In the event that Franchisee determines or suspects that discovered waste constitutes Hazardous Waste, Franchisee shall immediately initiate procedures to identify the waste and the generator and shall, within 48 hours of receipt of the waste, initiate procedures to remove the waste. Hazardous Waste must be removed from the Facility within 5 days after receipt unless an alternate disposal method and additional storage period has been approved by DEQ. Franchisee shall implement and conduct temporary storage and transportation procedures in accordance with DEQ rules. Franchisee shall record receipt of Prohibited Wastes on Metro's Unacceptable Waste Incident Tracking Form (Attachment 1).



## 6. MINIMUM REPORTING REQUIREMENTS

6.1 Franchisee shall collect and transmit to Metro, according to the timetable in Section 6.5, accurate records of the following information

### 6.1.A Commercial Food Waste Vermi-Processing Operation:

- 6.1.A.1 Tons of incoming Vegetative Commercial Food Waste received each month
- 6.1.A.2 Tons of yard debris used for Vermi-Processing each month
- 6.1.A.3 Tons of worm castings produced each month
- 6.1.A.4 Tons of waste and Residue sent for disposal each month
- 6.1.A.5 The fee Franchisee charged or paid the hauler for incoming loads.
- 6.1.A.6 Receipt of any materials encompassed by Section 5.3.2 of this Franchise, utilizing Metro's Unacceptable Waste Incident Tracking Form.

### 6.1.B Yard Debris Composting Operation

6.1.B.1 Amount of feedstock received and quantity of product produced at the facility to include:

- a) Tons of incoming yard debris received each month
- b) Tons of compost produced each month
- c) Tons of residual waste sent for disposal each month

6.2 Records of any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.

6.3 Records of any public nuisance complaints (e.g., noise, dust, vibrations, litter) received by the operator, including:

- (a) The nature of the complaint;
- (b) The date the complaint was received;
- (c) The name, address, and telephone number of the person or persons making the complaint; and
- (d) Any actions taken by the operator in response to the complaint.

6.4 For every odor complaint received, the Franchisee shall record the date, time, and nature of any action taken in response to an odor complaint, and record such information within one business day after receiving the complaint. Records of such information shall be made available to Metro and local governments upon request.

6.5 Records required under Section 6 shall be reported to Metro no later than fifteen (15) days following the end of each quarter. A cover letter shall accompany the data which certifies the accuracy of the data and is signed by an authorized representative of Franchisee.

6.6 The Franchisee shall participate in an annual review with Metro of the Facility's performance. The review will include:

- 6.6.1 The Facility's performance in accomplishing waste reduction goals consistent with the adopted Regional Solid Waste Management Plan. This review shall include, without limitation, whether the Facility's operation is consistent with both local government and

private sector efforts to expand source separation recycling programs for commercial and industrial generators;

- 6.6.2 Receipt or release of Hazardous Waste or Infectious Waste at the Facility; nuisance complaints as recorded in the log required under Section 7.4.1.2; changes to site equipment, hours of operation and/or staffing; and other significant changes in the Facility's operations that occurred during the previous year; and
- 6.6.3 Any modifications under Section 18 of this Franchise.

Within one year after the Facility begins operations, and each year thereafter, Metro will contact Franchisee to schedule the annual review meeting. Metro will provide at least three business weeks advance notice of this meeting. At least one business week prior to this meeting, Franchisee shall submit to the Franchise Administrator a summary, in letter format, addressing the above-listed topics.

- 6.7 Franchisee shall provide the Metro Regional Environmental Management Department copies of all correspondence, exhibits or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this Franchise, within two business days of providing such information to DEQ. In addition, Franchisee shall send to Metro, upon receipt, copies of any notice of non-compliance, citation, or enforcement order received from any local, state or federal entity with jurisdiction over the Facility.
- 6.8 Authorized representatives of Metro shall be permitted to inspect information from which all required reports are derived during normal working hours or at other reasonable times with 24-hour notice. Metro's right to inspect shall include the right to review, at an office of Franchisee or Subfranchisee located in the Portland metropolitan area, records, receipts, books, maps, plans, and other like materials of the Franchisee that are directly related to the Facility's operation.
- 6.9 Where fees and charges are levied and collected on the basis of tons of waste received, either a mechanical or automatic scale approved by the National Bureau of Standards and the State of Oregon may be used for weighing waste.
- 6.10 Where a fee or charge is levied and collected on an accounts receivable basis, pre-numbered tickets shall be used in numerical sequence. The numbers of the tickets shall be accounted for daily and any voided or canceled tickets shall be retained for three years. The Executive Officer may approve use of an equivalent accounting method.
- 6.11 Any periodic modification by Metro of the reporting forms themselves shall not constitute any modification of the terms of Section 6 of this Franchise, nor shall Metro include within the reporting forms a request for data not otherwise encompassed within Section 6.

## 7. OPERATIONAL REQUIREMENTS

### 7.1 General Requirements

- 7.1.1 The Franchisee and Subfranchisees shall provide an operating staff which is qualified to perform the functions required by this Franchise and to otherwise ensure compliance with the conditions of this Franchise.
- 7.1.2 A copy of this Franchise shall be displayed on the Facility's premises, and in a location where it can be readily referenced by Facility personnel. Additionally, signs shall be erected at a location visible to all users of the Facility before unloading at the Facility, and in conformity with any local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:

- 7.1.2.1 Name of the Facility;
- 7.1.2.2 Address of the Facility;
- 7.1.2.3 Emergency telephone number for the Facility;
- 7.1.2.4 Operational hours during which the Facility shall be open for the receipt of authorized waste;
- 7.1.2.5 Rates and fees
- 7.1.2.6 Metro's name and telephone number; and
- 7.1.2.7 A list of all Authorized Wastes under this Franchise.

## 7.2 General Operating and Service Requirements

- 7.2.1 If Franchisee or any Subfranchisee contemplates or proposes to close the Facility for 120 days or more, or proposes to close the Facility permanently, Franchisee shall provide Metro with written notice, at least 90 days prior to closure, of the proposed closure schedule and procedures.
- 7.2.2 If Franchisee or any Subfranchisee contemplates or proposes a closure of the Facility for more than two business days but less than 120 days, Franchisee shall notify Metro and local government Solid Waste authorities of the closure and its expected duration at least 24 hours before the closure.
- 7.2.3 If any significant occurrence, including but not limited to equipment malfunctions, or fire, results in a violation of any conditions of this Franchise or of the Metro Code, the Franchisee shall:
  - 7.2.3.1 Immediately act to correct the unauthorized condition or operation;
  - 7.2.3.2 Immediately notify Metro; and
  - 7.2.3.3 Prepare, and submit to Metro within 10 days, a report describing the Franchise or Metro Code violation.
- 7.2.4 The Franchisee shall establish and follow procedures to give reasonable notice and justification prior to refusing service to any customer of the Facility authorized under this Franchise. Copies of notification and procedures for such action will be retained on file for three years.
- 7.2.5 Neither the Franchisee nor any Subfranchisee shall, by act or omission, unlawfully discriminate against any person. Rates and disposal classifications established by Franchisee and Subfranchisees shall be applied reasonably and in a non-discriminatory manner.

## 7.3 Operating Procedures

- 7.3.1 Receipt and Processing of all Vegetative Commercial Food Wastes shall occur inside Facility buildings. Storage of finished product may occur outside, in an orderly manner, as specified in the Facility's operating procedures.
- 7.3.2 All Vegetative Commercial Food Wastes received at the Facility must be either 1) Processed within two hours from receipt, or 2) properly disposed within four hours of receipt.
- 7.3.3 The Franchisee and Subfranchisee must operate the facility in accordance with the Operating Plan submitted in the Franchise Application process, including any amendments approved by Metro.

- 7.3.4 The Franchisee must revise the Operating Plan as necessary to keep it current and reflective of current facility conditions and procedures. The Franchisee must submit revisions of the Operations Plan to Metro for approval.
- 7.3.5 Sorting and Processing areas shall be cleaned on a regular basis, in compliance with plans and procedures required under Section 7.3.
- 7.3.6 All vehicles and devices transferring or transporting Solid Waste from the Facility shall be constructed, maintained, and operated to prevent leaking, spilling, or blowing of Solid Waste on-site or while in transit.
- 7.3.7 Franchisee shall take reasonable steps to notify and remind haulers that all loaded trucks coming to or leaving the Facility must be covered, to prevent any material from blowing off the load during transit.
- 7.3.8 All recovered materials and processing residuals at the Facility must be stored in bales, drop boxes or otherwise suitably contained. Material storage areas must be maintained in an orderly manner and kept free of litter. Stored materials shall be removed at sufficient frequency to avoid creating nuisance conditions or safety hazards.
- 7.3.9 Contaminated water and sanitary sewage generated on-site shall be disposed of in a manner complying with local, state and federal laws and regulations.
- 7.3.10 Public access to the Facility shall be controlled as necessary to prevent unauthorized entry and dumping.

**7.4 Nuisance Prevention and Response Requirements**

- 7.4.1 Franchisee shall respond to all citizen complaints on environmental issues (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If Franchisee receives a complaint, Franchisee shall:
  - 7.4.1.1 Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of unsuccessful attempts; and
  - 7.4.1.2 Log all such complaints by name, date, time and nature of complaint. Each log entry shall be retained for one year.
- 7.4.2 To control blowing or airborne debris, Franchisee shall:
  - 7.4.2.1 Keep all areas within the site and all vehicle access roads within a 1/4 mile of the site free of litter and debris;
  - 7.4.2.2 Patrol the Facility and all vehicle access roads within a 1/4 mile of the site daily;
- 7.4.3 To control odor, dust and noise, the Franchisee shall:
  - 7.4.3.1 Install dust control and odor systems whenever excessive dust and odor occur, or at the direction of Metro. Alternative dust and odor control measures may be established by the Franchisee with Metro approval.
  - 7.4.3.2 Take specific measures to control odors in order to avoid or prevent any violation of this Franchise, which measures include (but are not limited to) adherence to the contents of the odor minimization plan set forth in Section 7.4.3.3.

7.4.3.3 The Franchisee and Subfranchisee must operate the facility in accordance with the Odor Minimization Plan submitted in the Franchise Application process, including any amendments approved by Metro. This plan shall include (but not be limited to): (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.

7.4.4 With respect to vector control, the Franchisee shall manage the Facility in a manner that is not conducive to infestation of rodents or insects. If rodent or insect activity becomes apparent, Franchisee shall initiate and implement supplemental vector control measures as specified in the Facility operating procedures or as a modification to such procedures, and bear all the costs thereof.

7.4.5 The Franchisee shall operate and maintain the Facility to prevent contact of Solid Wastes with stormwater runoff and precipitation.

## 7.5 Facility Design and Construction

7.5.1 Unless otherwise directed or authorized in this Franchise Agreement, the Facility must be designed and constructed in accordance with the plans submitted in the Franchise Application, and any amendments approved in writing by Metro.

7.5.2 Upon completion of construction, notice must be submitted to Metro certifying that the construction was in accordance with the submitted plans. If there have been any significant changes in those plans, the Franchisee must submit a complete description of those changes.

## 8. ANNUAL FRANCHISE FEES

Franchisee shall pay an annual franchise fee, as established under Metro Code Section 5.03.030. The fee shall be delivered to Metro within 30 days of the effective date of this Franchise and each year thereafter. Metro reserves the right to change its franchise fees at any time, by action of the Metro Council, to reflect franchise system enforcement and oversight costs.

## 9. INSURANCE

9.1 Franchisee shall purchase and maintain the following types of insurance, insuring Franchisee, its employees, and agents, and naming all Subfranchisees as additional insureds:

9.1.1 Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and

9.1.2 Automobile bodily injury and property damage liability insurance.

9.2 Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

- 9.3 Metro, its elected officials, departments, employees, and agents shall be named as Additional Insureds. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
- 9.4 Franchisee, Subfranchisees, and contractors of Franchisee or Subfranchisees, if any, and all employers working under this Franchise, are subject employers under the Oregon Workers' Compensation Law and 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.

## 10. INDEMNIFICATION

Franchisee shall indemnify and hold METRO, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with Franchisee's performance under this Franchise, including patent infringement and any claims or disputes involving subcontractors or Subfranchisees.

## 11. SURETY BOND/CONDITIONAL LIEN

Before this Franchise shall become effective, Franchisee shall provide a surety bond or letter of credit in the amount of One Hundred Thousand Dollars (\$100,000), in a form acceptable to Metro, or at its option may provide a conditional lien on the franchised property in a form satisfactory to Metro.

## 12. COMPLIANCE WITH LAW

Franchisee and Subfranchisees shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Franchise, including all applicable Metro Code provisions whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the Facility by federal, state or local governments or agencies having jurisdiction over the Facility are part of this Franchise by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to this Franchise, as well as any existing at the time of issuance of this Franchise and not attached, and permits or conditions issued or modified during the term of this Franchise.

## 13. METRO ENFORCEMENT AUTHORITY

- 13.1 Enforcement of this Franchise shall be as specified in the Metro Code.
- 13.2 Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Franchise. Access to inspect is authorized:
- (a) During all working hours;
  - (b) At other reasonable times with 24 hours notice;
  - (c) At any time without notice when, in the opinion of the Metro Regional Environmental Management Department Director, such notice would defeat the purpose of the entry. In such instance, the Director shall provide a written statement of the purpose for the entry.

- 13.3 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, fees, or standards regarding matters within Metro's authority, and to enforce all such legal requirements against Franchisee.
- 13.4 At a minimum, Metro may exercise the following oversight rights in the course of administering this Franchise: (1) perform random on-site inspections; (2) conduct an annual franchise audit to assess compliance with operating requirements in this Franchise; (3) conduct an annual audit of Franchisee's inventory and billing records; (4) analyze monthly transaction data; (5) invoice Franchisee for any fees or penalties arising under this Franchise; (6) perform noncompliance investigations; (7) inspect and visually characterize incoming and outgoing loads for the purpose of assessing Prohibited Waste and/or Recoverable Material received and disposed; (8) maintain regular contact with the Franchisee; and (9) review and approve Franchisee's operating plan and amendments to the plan. In all instances Metro shall take reasonable steps to minimize disruptions to operations at the Facility.
- 13.5 Nothing in this Franchise shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in the Metro Code, 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 individual or group of individuals within its jurisdiction, notwithstanding any incidental impact that such ordinances may have upon the terms of this Franchise or the Franchisee's operation of the Facility.

#### 14. DISPOSAL RATES AND FEES

- 14.1 Franchisee is exempted from collecting and remitting Metro User Fees on waste received at the Facility in conformance with this Franchise.
- 14.2 Franchisee and Subfranchisees may dispose of Solid Waste and Residue generated at the Facility only at a Metro designated facility or under authority of a non-system license issued as specified in Metro Code Chapter 5.05.
- 14.3 Franchisee shall establish uniform rates to be charged for all loads accepted at the Facility. To minimize potential customer conflicts regarding the recoverability of loads, the Franchisee shall minimize the number of rate categories and shall not change the rates during an operating day. Franchisee shall establish objective criteria and standards for acceptance of loads. In accordance with Metro Code Section 5.01.110, this facility shall be exempt from Metro rate setting.

#### 15. GENERAL CONDITIONS

- 15.1 Franchisee shall be responsible for ensuring that its contractors, agents and Subfranchisees operate in complete compliance with the terms and conditions of this Franchise.
- 15.2 Neither the parent company, if any, of the Franchisee or any Subfranchisee, nor their subsidiaries nor any other Solid Waste facilities under their control shall knowingly accept Metro area Solid Waste at their non-designated facilities, if any, except as authorized by a non-system license issued by Metro.
- 15.3 The granting of this Franchise shall not vest any right or privilege in the Franchisee or Subfranchisee to receive specific quantities of Solid Waste during the term of the Franchise.
- 15.4 Neither this Franchise nor the Franchisee may be conveyed, transferred or assigned without the prior written approval of Metro.

- 15.5 To be effective, a waiver of any term or condition of this Franchise must be in writing, and signed by the Executive Officer. 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.
- 15.6 This Franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon and all pertinent provisions of the Metro Code.
- 15.7 If any provision of the Franchise shall be found invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.

## 16. NOTICES

- 16.1 All notices required to be given to the Franchisee under this Franchise shall be delivered to:

Don I. Chappell  
President  
American Compost and Recycling, Inc.  
P.O. Box 83960  
Portland, OR 97203

- 16.2 All notices required to be given to Metro under this Franchise shall be delivered to:

Metro Franchise Administrator  
Regional Environmental Management Department  
Metro  
600 N.E. Grand Avenue  
Portland, Oregon 97232-2736

- 16.3 Notices shall be in writing, effective when delivered, or if mailed, effective on the second day after mailed, postage prepaid, to the address for the party stated in this Franchise, or to such other address as a party may specify by notice to the other.

## 17. REVOCATION

Suspension, modification or revocation of this Franchise shall be as specified herein and in the Metro Code.

## 18. MODIFICATION

- 18.1 At any time during the life of this Franchise, either the Executive Officer or the Franchisee may propose amendments or modifications to this Franchise. Except as specified in the Metro Code and Section 5.1.2 of this Franchise, no amendment or modification shall be effective unless it is in writing, approved by the Metro Council, and executed by the Franchisee and the Executive Officer.
- 18.2 The Executive Officer shall review the Franchise annually, consistent with Section 6 of this Franchise, in order to determine whether the Franchise should be changed and whether a recommendation to that effect needs to be made to the Metro Council. While not exclusive, the following criteria and factors may be used by the Executive Officer in making a determination whether to conduct more than one review in a given year:
- 18.2.1 Franchisee's compliance history;
- 18.2.2 Changes in waste volume, waste composition, or operations at the Facility;



- 18.2.3 Changes in local, state, or federal laws or regulations that should be specifically incorporated into this Franchise;
- 18.2.4 A significant release into the environment from the Facility;
- 18.2.5 A significant change or changes to the approved site development plan and/or conceptual design; or
- 18.2.6 Any change in ownership that Metro finds material or significant.
  
- 18.2.7 Community requests for mitigation of impacts to adjacent property resulting from Facility operations.

AMERICAN COMPOST AND RECYCLING, INC.

METRO

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Mike Burton, Metro Executive Officer

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Date

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Date

WM:clk

S:\SHARE\METZ\ORGANICS\REGULATE\OSCFRANCHIS\AM\_OSC01 CLN



**METRO**

Regional Environmental  
Management  
600 NE Grand Ave  
Portland, OR 97232-2736  
(503) 797-1650  
Fax (503) 797-1795

# Unacceptable Waste Incident Tracking Form

Item Number: \_\_\_\_\_ Date Discovered: \_\_\_\_\_

Description of Unacceptable Waste: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Generator (if known): \_\_\_\_\_

Waste Hauler: \_\_\_\_\_

Waste was determined to be:             Hazardous             Non-Hazardous

Disposition: \_\_\_\_\_

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

cash/metro/unaccept.pm6

original = Franchise Administrator  
yellow = Franchisee  
pink = file



June 1996  
Printed on recycled paper, please recycle!

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 97-680 FOR THE PURPOSE OF GRANTING A METRO FRANCHISE TO AMERICAN COMPOST AND RECYCLING INC. TO OPERATE A COMMERCIAL FOOD WASTE PROCESSING FACILITY AND YARD DEBRIS COMPOSTING FACILITY

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Date: February 19, 1997

Presented by: Bill Metzler

#### INTRODUCTION

The purpose of this report is to provide the information necessary for the Metro Council to act on the recommendation that American Compost and Recycling Inc., be awarded a Franchise to operate a new commercial food waste processing facility (vermi-processing) and an existing yard debris composting facility located in Portland, Oregon. The Franchise Agreement is attached to Ordinance No. 97-680 as Exhibit A.

#### Overview

The franchise applicant is Don Chappell, owner of American Compost and Recycling, an existing yard debris composting operation located at 9707 N. Columbia Boulevard in Portland. Mr. Chappell is proposing a vermi-processing facility adjacent to the existing yard debris composting operation. The new vermi-processing facility will be completely enclosed. Commercial food wastes will not be composted with the yard debris. The two operations are complimentary in that some of the yard debris will be used in the vermi-processing operation.

Definitions of the two franchise site operations:

1. Vermi-processing. Vermi-processing refers to the controlled method of producing worm-castings for use as a soil amendment product. Special red worms consume and digest organic material and then excrete castings, which may be blended with compost or soil for marketing purposes.
2. Yard debris composting. Yard debris composting refers to the controlled biological decomposition of organic materials through microbial activity which occurs in the presence of free oxygen to produce compost.

American Compost and Recycling has contracted with Oregon Soil Corporation to operate the vermi-processing facility. Oregon Soil Corporation has been vermi-processing produce trim from grocery stores at a Clackamas County site since 1991. It is expected that the vermi-processing facility will eventually process up to 50 tons per day of food waste from grocery stores and restaurants located in the Portland area. The food waste will be ground and mixed with the yard debris trimmings from American Compost and fed to special worms which excrete castings which are high in plant nutrients and soil enhancing qualities. The castings will be mixed with finished yard debris compost to produce potting mixes and other soil amendment products.

Metro is currently in the process of negotiating a contract with Oregon Soil Corporation to participate in Metro's commercial food waste collection and processing pilot project. The pilot project is designed to test the feasibility of source separation, collection, transport, processing and marketing of commercially generated vegetative food waste. The information obtained from this pilot project will help Metro, local governments, food businesses, waste collectors and food waste processors determine how they can best work together to implement organic waste recovery programs that are cost-effective, environmentally sound and publicly acceptable. This franchise agreement is necessary to proceed with the pilot project.

This report is divided into three main parts: (a) a description of the facility, its operations and other relevant applicant information, including requests for variances to the franchise code; (b) staff analysis of the application and whether the facility meets the criteria as specified in Metro Code in order to be awarded a franchise; and (c) staff's recommendations and specific conditions to be contained in the franchise agreement.

**Key Findings and Recommendations Include:**

- The facility would be authorized to receive and process (vermi-process) up to 18,000 tons per year (approximately 50 tons per day) of pre-segregated vegetative commercial food waste.
- The facility would be authorized to receive and process (compost) up to 50,000 cubic yards per year of yard debris.
- In order to ensure that the facility will continue to operate in accordance with the purpose of Metro's franchise system to protect public health and safety and maintain consistency with the RSWMP, staff has recommended terms and conditions related to the vermi-processing of pre-segregated commercial food wastes.

**I. FACILITY AND APPLICANT INFORMATION**

***Location:***

9707 N. Columbia Boulevard, Portland, Oregon. Tax Lots: 1 of lots A, B, and J, Ramsey Villa Acres. Section: 36; Township: 2N; Range: 1W; W.M. Tax Account # R 68730-0010

***Zoning and Permitting:***

The site is zoned IH, Heavy Industrial/Industrial Sanctuary. Land Use Review: Conditional Use and Adjustment for a waste-related use. A Conditional Use Permit (LUR 96-00652 CU AD) was issued by the City of Portland effective October 16, 1996.

The applicant's DEQ Solid Waste Permit is pending approval of a Metro Franchise Agreement.

### ***Customers and Area Served:***

The vermi-processing facility will accept loads of pre-segregated vegetative commercial food waste from both its own affiliated hauling company and other licensed and/or franchised commercial haulers, but not from members of the general public. The facility will generally serve the Portland area.

### ***General Facility Description:***

The 4.4 acre site is located near the intersection of N. Columbia Boulevard and Burgard Road. It is accessed off of N. Columbia, a five lane minor truck street which borders the North Portland Truck District. The adjacent uses are heavy industrial uses, pipe storage and distribution and metal salvage.

The franchised operation will consist of a new, fully enclosed, commercial food waste processing facility built adjacent to the existing yard debris composting operations (see the Franchise Application Attachments). Some of the site improvements and buildings will be phased in over time.

The new vermi-processing facility construction includes:

- Vermi-processing reactor building (poly-house), appx. 28,000 square feet.
- Steel building for food waste tipping and maintenance, appx. 2,800 square feet
- Product storage shed, 9,600 square feet
- Approximately 35,800 square feet of paving for circulation and parking
- Screening pad (concrete) appx. 3,600 square feet
- Biofilter (odor control)

The site is currently used to process yard trimmings, consisting of grinding, composting and screening the finished compost product. Self-hauled and hauler-collected yard trimmings are brought to the site and product is sold to the public and soil blending companies. The site will be reorganized and upgraded to accommodate the new vermi-processing facility, which will be completely enclosed. The two operations will be kept separate.

Commercial food wastes will not be composted with the yard debris. However, the two operations are complimentary in that some of the yard debris product will be used in the vermi-processing operation.

### **Yard Debris Composting Operations**

The existing yard debris composting operation will continue relatively unchanged. Only clean, source-separated yard debris will be accepted from self-haulers and commercial haulers. American will continue to grind incoming yard debris trimmings and compost them in a pile, turning the pile when needed to maintain the desirable rate of degradation. The number of vehicles (cars, pick-ups and larger trucks) expected to deliver yard debris to the site per day may increase from the existing average of 20-30, to 30-40 with a peak of 50 per day possible.

The configuration of the compost area on the franchise site will consist of a clockwise movement of material through the site. Incoming yard debris will be staged in the southwest area of the composting yard, then moved to the northwest section of the yard, with the material being finished in the northeast section. In this way, the ground product will be close to the vermi-processing building where much of it will be used.

### Vermi-Processing Operations

**Feedstocks:** Material to be collected and brought to the vermi-processing facility will be primarily produce trim from grocery stores and produce wholesalers (source-separated pre-consumer vegetative commercial food waste). This waste material is generally not odorous upon delivery. Along with produce trim, there will be a small amount of bakery discards and unsold cut flowers, as well as incidental pieces of paper packaging. These wastes will be targeted for pre-segregation by the store employees into separate (specially marked) bins to be collected by organic waste collection haulers every one to three days. Due to imperfect segregation by employees, a small amount of inorganics (less than 1% by weight) is expected to be included with the food discards. This includes film plastic, plastic cups and lids, twistees, and possibly beverage containers.

Restaurants and other food services may be added to the collection routes at a later time, after facility ramp-up. Food wastes from these businesses will include pre-consumer kitchen scraps, and may include post-consumer plate scrapings. Collection and processing of these types of food wastes will depend on the facility operator's ability to demonstrate success in processing basic pre-consumer vegetative commercial food waste.

**Processing:** The commercial food wastes will be delivered to the facility by collection trucks. The trucks will back into the building and tip the loads of food waste into a leak-proof hopper. The material will then be conveyed gradually onto a conveyor where inorganics will be manually removed. The contaminants will be discarded in a dumpster and disposed at Metro Central Station. The food wastes will then be macerated in a hammermill, conveyed to a mixer where the wet food materials will be mixed with drier, ground yard debris. This mix will then be conveyed to a gantry, which straddles each reactor in turn, and deposits a 1" - 2" layer of the food waste mixture on the reactor surface where it is consumed by the worms.

The reactors are 10' wide by 300' long and elevated 3' above the concrete slab. The worms reside in the top layer of the material and digest the fresh mix within a 24-hour period. This prevents the fresh food waste mix from going sour and causing odors. The worms excrete castings which are mechanically removed from the bottom of the reactors. The castings are screened to separate any remaining inorganics and are then mixed with yard debris compost to form different soil amendment products. These products are then moved off-site in bulk or in bags to market.

The proposed throughput of the vermi-processing facility is 50 tons per day of pre-segregated food wastes. It is estimated that it will take about one year for the facility to ramp-up to full capacity, after which up to 15 trucks per day will bring food wastes and up to 8 trucks per day will haul off the castings/compost blends.

***Facility Activities:***

The applicant requests authorization to perform the following activities:

1. Vermi-processing of pre-segregated vegetative commercial food wastes.
2. Yard debris composting.

***Variances from the Metro Code or other specific conditions requested by the applicant:***

The applicant has requested variances for the following:

1. Metro's rate setting authority (Section 5.01.170), and
2. Metro Code restrictions on accepting waste from non-affiliated hauling companies (Section 5.01.120)

**II. ANALYSIS OF FRANCHISE APPLICATION**

Completeness and Sufficiency of Application

Applicants for franchises are required to complete the application form and provide additional information as requested. The applicant submitted a franchise application on December 13, 1996.

The applicant was very cooperative in discussing and sharing information with staff on a number of additional questions regarding plans for the facility. The discussions were important to establishing the specific conditions of the franchise agreement negotiated with the applicant.

Compliance with Code Requirements

In determining whether to recommend award of a franchise, Metro Code Section 5.01.070(b) requires the Executive Officer to formulate recommendations regarding:

- Whether the applicant is qualified;
- Whether the proposed franchise complies with the district's solid waste management plan;
- Whether the proposed franchise is needed considering the location and number of existing and planned disposal sites, transfer stations, processing facilities and resource recovery facilities and their remaining capacities, and,
- Whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

## **Applicant Qualifications**

The franchise applicant is Don Chappell, owner of American Compost and Recycling. American Compost and Recycling has been in business at this site since 1988 and has over nine years experience in composting yard debris. Oregon Soil Corporation, the vermi-processing facility operator, has been in this business since 1991, and has an established record of collecting and successfully vermi-processing food wastes and producing a marketable product. The applicant's established record of operation provides reasonable assurances that the facility will be operated and managed competently and efficiently.

## **Compliance with the Regional Solid Waste Management Plan**

In determining whether the applicant's facility is in compliance with the Regional Solid Waste Management Plan (RSWMP), staff asked the following questions:

- Is the facility and its current operations consistent with the RSWMP goals and objectives or recommended practices?
- Is the facility and its current operations in conflict with any RSWMP goals and objectives or recommended practices?

### Consistency with the RSWMP

Staff has determined that granting the franchise for the facility would not be inconsistent with, or in conflict with any provisions in the Plan. In assessing the facility for consistency with the Plan, staff determined that the operation of this facility is broadly consistent with the following RSWMP provisions:

- System-Wide Goals

**Goal 4 - Adaptability.** A flexible solid waste system exists that can respond to rapidly changing technologies, fluctuating market conditions, major natural disasters and local conditions and needs.

- Waste Reduction Goals and Objectives

**Goal 7 - Regional Waste Reduction Goal.** The regional waste reduction goal is to achieve at least a 53 percent recycling rate by the year 2005.

**Goal 8 - Opportunity to Reduce Waste.** Participation in waste prevention and recycling is convenient for all households and businesses in the urban portions of the region.

**Goal 9 - Sustainability, Objective 9.3.** Support an environment that fosters development and growth of reuse, recycling and recovery enterprises.

**Goal 10 - Integration.** Develop an integrated system of waste reduction techniques with emphasis on source-separation, not to preclude the need for other forms of recovery such as post-collection material recovery.



- **Recommended Practices: Business Waste Reduction Practice #3.**  
Collection and off-site recovery of source-separated food and non-recyclable paper.

### Conclusion

Staff believes that the terms and conditions of the franchise agreement will effectively ensure that the facility will operate with adequate provisions to safeguard human health and safety, while allowing the applicant to conduct an appropriate level of recovery, consistent with the goals, objectives and recommended practices in the RSWMP.

### **Need for Facility**

**Yard Debris Composting Facility.** The existing yard debris compost operation is the only facility of its type located in the City of Portland. The facility enables both commercial and self-haulers to recycle their source-separated yard debris locally, with a minimum of transportation, at a competitive rate. The facility also provides the public and contractors in the St. Johns/North Portland area a source of compost product.

**Vermi-Processing Facility.** This facility will create a new recycling opportunity for commercial generators of food waste that is consistent with the RSWMP. The operation will recycle approximately 18,000 tons of food waste each year and produce a valuable soil amendment product. The enclosed, controlled operation offers technological advantages over traditional composting methods regarding odor control and other potential negative impacts. These advantages allow the facility to be sited close to generators, eliminating the need for long distance hauling of food wastes to more rural sites. The facility targets only source-separated organics. This ensures a very high quality end product and decreases the chances for processing problems associated with putrescible wastes.

### **Compliance with Regulatory Requirements**

The applicant has land use approval from the City of Portland and has a DEQ Solid Waste Disposal Permit pending the issuance of a Metro Franchise.

### **Variance Requests**

1. The applicant has requested a variance from Metro's rate setting authority (Section 5.01.170).

Under the Metro franchise Code, the Council sets the rates charged by a franchisee. Metro Code Section 5.01.110 allows a variance to be granted to this policy if the intent of the requirement can be otherwise achieved and if strict compliance with the requirement: "(1) Is inappropriate because of conditions beyond the control of person(s) requesting the variance; or (2) Will be rendered extremely burdensome or highly impractical due to special physical conditions or causes; or (3) Would result in substantial curtailment or closing down of a business, plant, or operation which furthers the objectives of the district. "

Staff believes that the intent of the rate setting provision of the Code is to prevent franchisees from exercising monopoly power in the marketplace resulting from being a holder of a franchise.

Staff opinion is that the intent of the Code requirement will be achieved by competition in the marketplace. Competition will be maintained because this franchise will not be exclusive, and other franchises have been, and others are expected to be granted, that will compete with this franchise. Without freedom to set its own rates, the facility would be unable to remain competitive in the volatile marketplace of recycled materials. This would result in the facility not opening or failing to stay open. Therefore, staff recommends granting the variance to the rate setting requirement.

2. The applicant has requested a variance from Metro Code restrictions on accepting waste from non-affiliated hauling companies. (Section 5.01.120(l)) Under Section 5.01.120(l), a franchised processor cannot own hauling companies. (A franchisee who accepts waste only from affiliated haulers is exempt from this restriction.) American Compost and Recycling Inc., needs to allow non-affiliated haulers to use the facility, as explained below. Metro Code Section 5.01.110 (quoted above) allows a variance to be granted to this policy.

Staff believes that the intent of the Metro Code restriction is to prevent franchisees who also have hauling companies from being able to promote their own haulers and treating competing haulers who must use the facility unfairly.

Staff opinion is that the intent of the Code requirement will be achieved because no competing hauler will be forced to use the facility and the franchise contains provisions to ensure fair treatment of all customers using the facility. Strict compliance with this requirement would be unduly burdensome, and would result in this facility closing down. Staff, therefore, recommends granting the variance to the restriction on non-affiliated haulers using the facility.

### III. CONDITIONS OF THE FRANCHISE

The proposed franchise agreement ensures that the facility will operate in accordance with the purpose of Metro's franchise system to protect public health and safety and maintain consistency with the RSWMP.

Specific conditions unique to this particular franchise include the following:

- Receipt and processing of all Vegetative Commercial Food Wastes shall occur inside facility buildings. Storage of finished product may occur outside, in an orderly manner, as specified in the facility's operating procedures.
- All Vegetative Commercial Food Wastes received at the facility must be either 1) processed within two hours from receipt, or 2) properly disposed within four hours of receipt.
- The Franchisee and Subfranchisee must operate the facility in accordance with the Operating Plan submitted in the Franchise Application process, including any amendments approved by Metro.

- The Franchisee must revise the Operating Plan as necessary to keep it current and reflective of current facility conditions and procedures. The Franchisee must submit revisions of the Operations Plan to Metro for approval.
- To control odor, dust and noise, the Franchisee shall install dust control and odor systems whenever excessive dust and odor occur, or at the direction of Metro. Alternative dust and odor control measures may be established by the Franchisee with Metro approval.

#### **IV. BUDGET IMPACTS**

##### Yard Debris Composting Operations

There are no budget impacts. The yard debris composting facility is an existing operation and Metro does not collect User Fees on source-separated yard debris delivered to this facility.

##### Vermi-Processing Operations

The vermi-processing operations are expected to eventually process 18,000 tons of commercial food waste each year. If these wastes were not recovered for recycling, it is likely that they would be disposed at Metro Central Transfer Station.

Therefore, the gross revenues that Metro might forgo could be as much as:

- |                |             |   |         |   |           |
|----------------|-------------|---|---------|---|-----------|
| • Solid Waste: | 18,000 tons | X | \$24.12 | = | \$434,160 |
| • Excise Tax:  | 18,000 tons | X | \$4.96  | = | \$89,280  |

The \$24.12 is the sum of the Tier I and Tier II (fixed-cost) portions of the \$75 Metro Tip Fee, net of excise tax. The \$4.96 is the excise tax portion of the Metro Tip Fee.

In reality, Metro would probably not feel the full impact of the amounts above, because the Metro rate model adjusts rate components for changes in tonnage (due to any cause) from year to year. The gross impacts above could be made up by an incremental increase in the rate on the tonnage that continues to be disposed.

#### **V. STAFF RECOMMENDATIONS**

Based on the forgoing analysis it is the opinion of staff that American Compost and Recycling should be granted a non-exclusive franchise in accord with the provisions of the draft franchise attached to Ordinance No. 680.

#### **VI. EXECUTIVE OFFICER RECOMMENDATION**

The Executive Officer recommends approval of Ordinance No. 97-680

*Agenda Item Number 6.2*

**Ordinance No. 97-681, For the Purpose of Amending Metro Code 5.02, Reducing Disposal Fees Charged at Regional Solid Waste Facilities and Making Certain Form and Style Changes.**

***First Reading***

**Metro Council Meeting  
Thursday March 13, 1997  
Council Chamber**

**BEFORE THE METRO COUNCIL**

FOR THE PURPOSE OF AMENDING METRO CODE	)	ORDINANCE NO. 97-681
CHAPTER 5.02, REDUCING DISPOSAL FEES	)	
CHARGED AT REGIONAL SOLID WASTE FACILITIES	)	Introduced by Mike Burton
AND MAKING CERTAIN FORM AND STYLE	)	Executive Officer
ADJUSTMENTS	)	

WHEREAS, It is desirable to reduce disposal fees charged at Regional solid waste facilities to reflect Metro's reduced operating costs for the 1997-98 fiscal year; and

WHEREAS, It is necessary to adjust the fee components of Metro's disposal rate system to accomplish these changes; and

WHEREAS, Certain other fees and credits require adjustment as a result of the above fee changes; and

WHEREAS, It is desirable that the Executive Officer has authority to waive disposal fees under certain extraordinary conditions or circumstances; and

WHEREAS, It is appropriate to make certain form and style amendments to Metro Code Chapter 5.02 as a part of this update of disposal fees; and

WHEREAS, It is desirable that the Executive Officer has sufficient authority to determine and refuse unacceptable waste delivered to Metro Central and Metro South Transfer stations because of safety or operational restrictions; and

WHEREAS, It is appropriate to state the basis of a special waste surcharge being determined solely by Metro's actual costs for managing permitted special wastes and non-permitted special waste discovered at a Metro operated facility; and

WHEREAS, This Ordinance was submitted to the Executive Officer for consideration and forwarded to the Council for approval; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.015 is amended to read:

5.02.015 Definitions

(s) "Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below; ~~or,~~
  - (2) Waste transported in a bulk tanker; ~~or,~~
  - (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or ~~is~~ includes 25 or more gallons of free liquid per load, whichever is more restrictive.
  - (4) Containers (or drums) which once held commercial products or chemicals ~~are included unless the container is,~~ unless the containers (or drums) are empty. A container is empty when:
    - (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
    - (B) One end has been removed (for containers in excess of 25 gallons); and
    - ~~(C)~~ (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
    - ~~(D)~~ (ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or
    - ~~(E)~~ (iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.
- ~~(C) Containers which~~ Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers ~~which~~ that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method.

Plastic containers larger than five gallons that hold any regulated waste must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse; ~~or.~~

- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, laundromats or car washes; ~~or.~~
- (6) Waste from an industrial process; ~~or.~~
- (7) Waste from a pollution control process; ~~or.~~
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition; ~~or.~~
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition; ~~or.~~
- (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment). equipment); ~~or~~
- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked; ~~or.~~
- (12) Any waste that requires extraordinary management or special handling.

Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.

- (13) All loads of household hazardous waste that are 35 gallons or more in the aggregate.

~~(t) "Total fees" means the total per transaction of all tip and special fees~~

(u) "Unacceptable waste" means waste that is either:

- (1) Prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition;
- (2) A hazardous waste;
- (3) Special waste without an approved special waste permit; ~~or~~

- (4) Infectious medical waste;
- (5) Any other waste that the Executive Officer determines to be unacceptable for delivery to the Metro Central Station or Metro South Station because of safety or operational restrictions.

SECTION 2. Metro Code Section 5.02.025 is amended to read:

5.02.025 Disposal Charges at Metro South Station, Metro Central Station, and the Metro Household Hazardous Waste Facilities

(a) Total fees for disposal by credit account customers shall be ~~\$7570~~ per ton of solid waste delivered for disposal at Metro South Station or Metro Central Station.

(b) Total fees for disposal by cash account customers shall be ~~\$10095~~ per ton of solid waste delivered for disposal at Metro South Station or Metro Central Station. A cash account customer delivering a load of waste such that no portion of the waste is visible to Metro scalehouse personnel (unless the waste is only visible through a secure covering), shall receive ~~a 25 percent rebate~~ \$25 rebate per ton.

(c) The total per ton disposal fees specified in subsection (a) and (b) of this section include:

- (1) A disposal fee of ~~\$39.25~~ \$37.83 per ton;
- (2) A regional transfer charge of ~~\$7.20~~ \$7.50 per ton;
- (3) The user fees specified in section 5.02.045;
- (4) An enhancement fee of \$.50 per ton; and
- (5) DEQ fees totaling ~~\$4.05~~ \$1.17 per ton.
- (6) A rebatable service charge of \$25.00 per ton for cash customers delivering covered loads, as described in subsection (b) of this section.

(d) Notwithstanding subsection (b) of this section, cash account customers ~~using who use~~ Metro South Station or Metro Central Station, ~~and~~ who have separated and included in their loads ~~at least one half cubic yard of~~ recyclable material (as defined in ORS 459.005) shall receive ~~a \$3~~ either a \$3 lump sum credit toward their disposal charge, disposal charge for less than 100 pounds of recyclables or, alternatively, a \$6 lump sum credit toward their disposal charge for 100 pounds or more of recyclables. The credit shall be applied and deducted in addition to any rebate described in subsection (b) of this section. the rebate shall be calculated first.



(e) The minimum charge shall be \$197.00 for all credit account vehicles and shall be \$253.00 for all cash account vehicles. The minimum charged for a cash account customer that delivers a load of waste such that no portion of the waste is visible to Metro Scalehouse personnel (unless the waste is only visible through a secure covering), shall receive a rebate of \$6.00 shall be adjusted by the covered load rebate as specified in subsection (b) of this section, and may also be reduced by application of the recycling credit provided in subsection (d) of this section. ~~If both the rebate and the recycling credit are applicable,~~

(f) Total fees assessed at Metro facilities shall be rounded to the nearest whole dollar amount (a \$.50 charge shall be rounded up) for all cash account customers.

~~(g) A fee of \$5 is established to be charged at the Metro household hazardous waste facilities for each load of household hazardous waste.~~

~~(h) A fee of \$10 is established at the Metro household hazardous waste facilities for special loads~~ (g) Fees for managing loads of household hazardous waste delivered to Metro Hazardous Waste Facilities will be as follows: (1) \$5.00 for each 35 gallons of waste or any lesser portion thereof, regardless of the total gallonage of any individual load; (2) \$5.00 handling fee for empty drums, (3) \$10.00 handling fee for any drum containing less than 25 gallons of waste, and (4) \$15.00 handling fee for any drum containing 25 or more gallons of waste.

(h) The Executive Officer may waive disposal fees under extraordinary conditions or circumstances. Any such waiver will occur solely for the purpose of compensating public customers for unanticipated and unforeseeable costs incurred while using a Metro facility.

(i) The following table summarizes the disposal charges to be collected by Metro from all persons disposing of solid waste at Metro South Station and Metro Central Station:

METRO SOUTH STATION  
METRO CENTRAL STATION

Tonnage Fee Component	\$/Ton Rate	
Disposal Fee	\$39.25	<u>37.83</u>
Regional User Fee (Tier One)	\$47.50	<u>15.00</u>
Metro User Fee (Tier Two)	9.50	<u>8.00</u>
Regional Transfer Charge	7.20	<u>7.50</u>
 Total Rate		 <u>\$73.4568.33</u>
 Additional Fees		
Enhancement Fee	\$.50	
DEQ Fees	<u>1.17</u>	4.05
 Total Disposal Fee:		 <u>\$75.0070.00</u>
 Minimum Charge		
Per Charge Account Vehicle	\$49.00	<u>17.00</u>
Per Cash Account Vehicle (subject to possible covered	25.00	<u>23.00</u>

load rebate and recycling credit)

<u>Tires</u>	<u>Type of Tire</u>	<u>Per Unit</u>
	Car tires off rim	\$1.00
	Car tires on rim	\$3.00
	Truck tires off rim	\$5.00
	Truck tires on rim	\$8.00
	Any tire 21 inches or larger diameter off or on rim	\$12.00

SECTION 3. Metro Code Section 5.02.035 is amended to read:

5.02.035 Litter Control Surcharge

A surcharge of \$100 per load shall be levied against a Metro credit account customer who disposes of waste at a Metro-operated solid waste disposal facility, transfer station, recycling center or compost facility, ~~if, when entering the facility any portion of the center, or compost facility, if, when entering the facility, any portion of the customer's waste is visible to Metro scalehouse personnel. However, personnel, unless there shall be no surcharge if the waste is only visible through a secure covering. The surcharge shall be collected in the same manner as other Metro collects disposal fees are collected at the facility.~~

SECTION 4. Metro Code Section 5.02.045 is amended to read:

5.02.045 User Fees

The following user fees shall be collected and paid to Metro by the operators of solid waste disposal facilities, whether within or outside of the boundaries of Metro, for the disposal of solid waste generated, originating, collected or disposed of within Metro boundaries, in accordance with Metro Code section 5.01.150:

- (a) Regional User Fee  
For compacted or noncompacted solid waste, ~~\$17.50~~\$15.00 per ton delivered.
- (b) Metro User Fee  
~~\$9.50~~\$8.00 per ton for all solid waste delivered to Metro-owned or operated facilities.
- (c) Inert material, including but not limited to earth, sand, stone, crushed stone, crushed concrete, broken asphaltic concrete and wood chips used at ~~the St. Johns Landfill~~ disposal facilities for cover, diking, road base, or other internal use shall be exempt from the above user fees.
- (d) User fees shall not apply to wastes received at franchised processing centers that accomplish materials recovery and recycling as a primary operation.

(e) Notwithstanding the provisions of (a) and (b) above, Metro user fees may be assessed as may be appropriate for solid waste which is the subject of a non-system license under chapter 5.05 of the Metro Code.

SECTION 5. Metro Code Section 5.02.055 is amended to read:

5.02.055 Remittance to Metro of User Fees and Other Charges by Franchisees and Other Designated Facilities

(a) Franchisees and other operators of facilities designated to receive waste under Metro Code section 5.05.030 shall remit user fees and charges other than excise taxes to Metro as specified in this section.

(b) User fees shall accrue on a monthly basis, and shall be remitted to Metro by the 15th day of the month for waste disposed of in the preceding month. User fees and other charges ~~are considered to~~ will be delinquent if not received by Metro on or before the due date, either by personal delivery to the Metro Department of finance and management information Administrative Services during business hours or, if delivered by mail, by receipt in Metro's mail room on or before the due date. If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows.

SECTION 6. Metro Code Section 5.02.060 is amended to read:

5.02.060. Credit Policy at Metro Solid Waste Disposal Facilities

(a) Disposal charges, including all fees and taxes, may be paid at the time of disposal in cash, by credit card, or by guaranteed check, or may be paid under Metro's credit policy. No credit shall be granted to any person prior to approval of a credit application in a form or forms provided by Metro.

(b) ~~The executive or~~ Metro's Executive Officer shall establish and maintain appropriate credit requirements for new and existing accounts, which requirements shall be designed to diminish Metro's risk of loss due to nonpayment. Existing account holders may be required to make new application for credit or provide additional guarantees, as deemed necessary or prudent by the ~~executive or~~ Executive Officer.

(c) Account charges shall accrue on a monthly basis. ~~Statements will be mailed~~ Metro will mail statements on or about the 10th day of the month, for disposal services rendered in the prior month. A statement must be paid no later than the last business day of the month in which it is mailed, and is; the statement will be considered past due thereafter. A payment shall under no circumstances be considered received by Metro unless it is delivered personally to the Metro Department of finance and management information Administrative Services during business hours or, if delivered by mail, is received in Metro's mail room on or before the due date.

(d) A finance charge of 1.5 percent shall be assessed on all past due charges on the 15th day of the month following the month in which a statement is mailed, and on the 15th day

of each month thereafter. Finance charges will be assessed only on unpaid past due balances, and not on previously assessed finance charges. Finance charges will continue to be assessed on negotiated repayment schedules. Payments will be applied first to finance charges and then to the oldest amount past due.

(e) An account that is 15 days past due may be placed on a cash only basis, until all past due disposal and finance charges are paid. Facility access may be denied to a person whose account is past due and unpaid for 30 days. A decision to place an account on a cash only basis or deny facility access shall be at the discretion of the director of finance and information management.

(f) A credit customer that sells, terminates, or makes a substantial change in the scope of its business after its application for credit has been approved must notify Metro immediately. Failure to provide the notice required by this subsection may result in termination of credit at Metro facilities pending reapplication for credit.

(g) ~~The Department of finance and management information~~ Administrative Services may adjust accounts receivable and reverse finance charges in accordance with prudent credit practices. Adjustments over \$500 shall be reported to the eCouncil in writing on a monthly basis, and adjustments over \$10,000 shall require eCouncil approval.

(h) ~~The executive e~~ Executive Officer may end pursuit of an account receivable, consistent with prudent credit practices, when the likelihood of collecting does not justify further collection costs. Such action shall be reported to the eCouncil in writing on a monthly basis when the amount exceeds \$500, and amounts over \$10,000 shall require eCouncil approval.

SECTION 7. Metro Code Section 5.02.065 is amended to read:

5.02.065 Special Waste Surcharge and Special Waste Permit Application Fees; Conditionally Exempt Generator Waste

(a) Special Waste

(1) A special waste surcharge and a special waste permit application fee shall be collected on all special wastes disposed of at Metro facilities and on all special waste permit applications. The surcharge and fee shall be in addition to any other charge or fee established by this chapter. The purpose of the surcharge and permit application fee is to require disposers of special waste to pay the cost of services provided by ~~the Metro solid waste department~~ to manage special wastes. The surcharge and fee shall be applied to all ~~acceptable~~ special wastes, ~~CFC tanks and refrigeration units.~~

(2) The special waste surcharge shall be ~~\$4 per ton of special waste delivered~~ a per-ton charge determined by Metro's actual costs in managing special waste, which costs comprise: special handling costs, cleanup costs, and lab or testing costs The special waste surcharge shall apply to all permitted special wastes and to all nonpermitted special

wastes that Metro discovers at a Metro-operated facility that result in additional management costs not otherwise covered by, or incorporated within, any other Metro fee.

(3) The special waste permit application fee shall be \$25. This fee shall be collected at the time special waste permit applications are received for processing.

~~(4) Lab or testing costs incurred by Metro for evaluation of a particular waste may be charged to the disposer of that waste.~~

~~(5) The amount charged for residential refrigeration units and CFC containing tanks shall be \$15.~~

~~(6) The amount charged for commercial refrigeration units shall be \$20.~~

~~(7) Refrigeration units that can be certified as free of CFC chemical content shall be considered a recyclable and therefore exempt from any fee.~~

(b) Conditionally exempt generator (CEG) waste. The amount charged for acceptance of CEG waste and for household hazardous waste from non-household sources shall be the actual disposal costs of such waste calculated from the current Metro contractor price schedules, Metro and/or contractor labor costs, and all applicable excise taxes, and the cost of material utilized for managing the waste.

SECTION 8. Metro Code Section 5.02.075 is amended to read:

5.02.075 Special Exemption from Disposal Fees

(a) ~~The solid waste director~~ Executive Officer may issue a special exemption permit to a public agency, local government, or qualified non-profit entity, ~~waiving that functions to waive fees for disposal of solid waste generated within the Metro region, by.~~ Prior to issuing such a permit the making Executive Officer shall render the following findings:

- (1) Total aggregate disposal fees to be waived for the entity requesting waiver ~~does will~~ not exceed \$5,000 per Metro fiscal year;
- (2) The waiver of fees will address or remedy a hardship suffered by the applicant, or the public interest will be served by waiver of the disposal fees;
- (3) The waste in question is acceptable for disposal at a Metro facility;
- (4) The amount of the waiver is covered by budgeted funds; and
- (5) If the applicant for a special exemption permit is a nonprofit entity, such entity is qualified as specified in Code section 5.07.030(a), (b), (c), (d) and (j).

(b) ~~The solid waste director shall notify the Executive Officer~~ Director shall notify the Metro Council 14 days in advance of the date of issuance of an exemption permit under this section by filing a written report of the proposed action, including required findings, with the clerk of the council. ~~If the council notifies the dCouncil. If the Council notifies the Executive Officer Director~~ within the 14-day period of its intent to review the proposed waiver, the Executive Officer Director shall not issue the permit unless so authorized by the eCouncil.

SECTION 9. Metro Code Section 5.02.085 is amended to read:

5.02.085 Out-of-District Waste

(a) Solid waste generated outside of the district shall not be accepted at the Metro South Station, or the Metro Central Station or MSW Compost Facility for disposal unless a special permit to do so is issued by the Metro ~~executive e~~ Executive Officer. Any permit issued shall specify the circumstances justifying such exception. ~~Any permit issued shall be subject to:~~ and shall take into account the following:

- (1) Available landfill or facility capacity considering the capacity needs for disposal of solid waste generated within the district;
- (2) No adverse impact upon district rate-payers;
- (3) Any solid waste authorized to be disposed under this ordinance shall be subject to the same standards and conditions pertaining to "acceptable waste" deliveries to the above named facilities; and
- (4) Any additional conditions as specified by the ~~executive e~~ Executive Officer which may be necessary for the safe, efficient or cost effective operation of Metro facilities.

(b) Any special permit issued under paragraph 4(a) shall expire in a period of time not to exceed 12 months from date of issuance unless a longer period of time is authorized by the Metro eCouncil. Any renewals or extensions of a permit resulting in a cumulative permit period exceeding 12 months shall require the approval of the Metro eCouncil.

(c) Any special permit issued by the ~~executive e~~ Executive Officer may be revoked upon 30 days notice to the permit holder.

(d) Any permit for a monthly tonnage in excess of 1,000 tons per month must be referred to the Council prior to the approval.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 97-681 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02, REDUCING DISPOSAL FEES CHARGED AT REGIONAL SOLID WASTE FACILITIES AND MAKING CERTAIN FORM AND STYLE ADJUSTMENTS

Date: March 3, 1997

Presented by: Bruce A. Warner  
Roosevelt Carter

#### PROPOSED ACTION

Adopt Ordinance No. 97-681.

#### FACTUAL BACKGROUND AND ANALYSIS

Metro's waste disposal rate has remained stable at \$75/ton since FY 1992. Due to the re-negotiated contract with Oregon Waste Systems (Amendment No. 7), other expenditure savings in the Regional Environmental Management Department over multiple years and a strong, regional economy (resulting in higher than expected tonnage generation and disposal), Metro is able to offer a major reduction in the fees charged for waste disposal. After careful consideration and recommendation of Metro's Rate Review Committee, the Executive Officer recommends a \$70/ton overall disposal rate at Metro facilities for FY 1997-98. Ordinance No. 97-681 will:

- reduce Metro's solid waste disposal fees and adjust the fee components of Metro's solid waste disposal rate system and make adjustments to other fees and credits for overall consistency;
- provide Executive Officer authority to waive disposal fees under certain, extra-ordinary conditions or circumstances;
- expand the definition of "unacceptable waste" such that the Executive Officer may further determine such waste beyond that specifically included in the Code when safety or operational restrictions apply;
- define the basis for assessing a surcharge on special waste; and
- incorporate certain form and style amendments to Metro Code Chapter 5.02.

#### System Disposal Rates

Metro's System Disposal rates were increased to \$75.00 per ton on July 1, 1992. After five years of stability, the proposed rate of \$70.00 per ton for FY 1997-98 is the first overall disposal rate reduction in Metro's history. The proposed \$70.00 per ton rate reflects: (1) the REM Department's most current tonnage forecast; (2) the effects of Amendment No. 7 to the Oregon Waste Systems contract; and (3) a revised revenue estimate following the A. C.



Trucking Franchise Rate Review. The proposed rates also allow the Council to later consider possible changes in the rate structure to address identified inequities to a small class of rate payers. This concept will require further staff analysis and review by the Solid Waste Advisory Committee and Rate Review Committee. The proposed rates do not reflect any charges in our costs to operate the two Metro-owned transfer stations by private contractors. New five (5) year proposals are to be submitted by potential bidders on March 5, 1997. Further, the FY 1997-98 rate proposal has been reviewed and is recommended by Metro's Rate Review Committee.

As proposed, individual fee component recommendations are as follows:

■ Regional User Fee	\$15.00/ton	
■ Metro User Fee	8.00/ton	
■ Regional Transfer Charge	7.50/ton	
■ Transportation/Disposal Fee	37.83/ton	
Total Rate		\$68.33/ton
<u>Additional Fees</u>		
■ Enhancement Fee	.50/ton	
■ DEQ Fees	1.17/ton	
Total Disposal Fee		\$70.00/ton

#### Disposal Fee Waiver

Recent experience has shown that emergency conditions may force interruption of normal operations or temporary shutdown of Metro facilities while customers are waiting to dispose of their waste, e.g., when radiation is detected or when other hazardous or unknown waste is illegally disposed. Such interruptions have, on occasion, led to strong complaints by some customers who were forced to wait for the situation to be cleared. Rather than engage certain, angry customers, it is sometimes more effective to offer a waiver of fees as recognition of a problem they were unable to control. Grant of this authority will help remove scalehouse staff from potentially volatile situations.

#### Unacceptable Waste

Due to the wide variety of materials available to consumers and businesses today, it is nearly impossible to identify all wastes that may be unacceptable at transfer facilities in advance. While an extensive list of such waste is included in the Code, some wastes will surely find their way to the transfer stations that are not specifically noted. In such cases, a timely review and determination is warranted. Grant of this authority will allow transfer station operations to proceed with minimal interruption.

### Special Waste Surcharge

Metro has experienced recent incidents of illegal disposal of certain special wastes resulting in interruption of transfer station operations. These incidences also resulted in hospitalization of employees and customers, required costly resources for appropriate emergency response, investigation and cleanup.

Authority to charge customers for actual costs of response, testing, managing, clean-up and disposal of permitted and non-permitted special wastes found in Metro operated facilities is warranted.

### FISCAL IMPACT

The \$70.00 per ton disposal fee is based on estimated expenses for the Regional Environmental Management Department for FY 1997-98. This will allow Metro to collect all REM's revenue requirements for FY 1997-98.

Implementation of the proposed rates will result in \$53,052,962 at the forecast tonnage level of 1,176,359 total regional tons for FY 1997-98. (725,578 tons are expected to directly transit the Metro facilities.) The excise tax associated with this proposal is \$3,952,157. The FY 1997-98 Proposed Budget assumed 1,103,989 system tons at \$71.00 per ton. The excise tax under this proposal is \$166,265 more than would have been collected in the Proposed Budget.

As calculated the Regional User Fee assumes an "alternative regional user fee" for a small class of rate payers if the Council chooses to adopt such a fee by ordinance after July 1, 1997. Presentation of such a fee for Council consideration is dependent on further study and review by the Solid Waste Advisory Committee and the Rate Review Committee.

### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 97-681.

*Agenda Item Number 7.1*

**Resolution No. 97, 2465, For the Purpose of Amending the Contract Between Metro and Gardiner and Clancy, LLC (Contract No. 904803) for Financial Advisory Services..**

***Contract Review Board***

**Metro Council Meeting  
Thursday March 13, 1997  
Council Chamber**

BEFORE THE CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AMENDING THE ) RESOLUTION NO. 97-2465  
CONTRACT BETWEEN METRO AND GARDINER )  
& CLANCY, LLC (CONTRACT 904803) FOR ) Introduced by  
FINANCIAL ADVISORY SERVICES ) Mike Burton, Executive Officer

WHEREAS, Metro issued an RFP for a three year contract for financial advisory services in November 1995, and

WHEREAS, Metro selected the firm of Gardiner & Clancy, LLC as best qualified proposer to provide those services, and

WHEREAS, Metro executed contract No. 904803 with Gardiner & Clancy, LLC in 1996 for a term of one year, renewable for two years; and

WHEREAS, Amendment of this contract is needed to extend the term of this contract, recognize the new firm name, adjust billing rates, update the scope of work, and increase the contract amount, and

WHEREAS, All payments to the financial advisor are made from budgeted funds or from debt issuance proceeds for actual work performed; and

WHEREAS, The Metro Council as Public Contract Review Board may declare that it is in the public's interest for this work to move forward in the most expedient manner, accepts those findings and waives competitive bidding; now, therefore,

BE IT RESOLVED,

That the Metro Contract Review Board authorizes the execution of Change Order No. 2 to Contract No. 904803 with Gardiner & Clancy, LLC (henceforth known as Clancy, Gardiner, & Pierce, LLC) pursuant to the terms of Metro Code Sections 2.04.054 (a) (2) and (3) and extends the contract expiration date to June 30, 1999 and increases the maximum contract amount by \$162,500.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Jon Kvistad, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

**Project: Financial Advisory Services**  
**Contract No. 904803**  
**Change Order No. 2**

In exchange for the promises and other consideration set forth below, the parties agree to changes in contract no. 904803 as follows (new language is underlined):

- A. All references to "Gardiner & Clancy, LLC" or "Gardiner & Clancy" shall be deleted and replaced with "Clancy, Gardiner, & Pierce, LLC" or "Clancy, Gardiner, & Pierce" as appropriate.
- B. Section 1 shall be amended to read:
1. Duration. This personal services agreement shall be effective January 29, 1996, and shall remain in effect until and including June 30, 1999, unless terminated or extended as provided in this Agreement.
- C. Section 4 shall be amended to read (cumulative effects of change order No. 1 and this change order):
4. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed TWO HUNDRED SEVENTY FIVE THOUSAND FIVE HUNDRED AND 00/100s DOLLARS (\$275,500). The hourly rates charged by the principals and employees of the contractor against this contract shall not exceed:
- |                 |              |
|-----------------|--------------|
| Patrick Clancy  | \$135        |
| Mark Gardiner   | \$135        |
| Chip Pierce     | <u>\$135</u> |
| Janet Gallagher | \$50         |
- The not-to-exceed amount shown above shall include reimbursement for direct, out-of-pocket, third party expenses such as out-of-town travel, conference calls, off-site copying services, mail and distribution of documents, the Sterret Report Management subcontract, and subcontractors or other professionals approved in advance by Metro. Metro shall not reimburse contractor for in-town travel, in-office copying, telephone services (other than conference calls), or subcontractors or other professionals not approved in advance by Metro
- D. The Scope of Work included in Attachment A to contract 904803 is deleted and replaced with the Scope of Work included as Attachment A to this change order.

Clancy, Gardiner & Pierce, LLC

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

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

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

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

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

METRO

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

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

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

## **EXHIBIT A SCOPE OF WORK**

All work of the contractor will be coordinated through the Financial Planning Manager. Principal contacts will include the Chief Financial Officer and key staff personnel of the operating department for which a project is being performed.

The contractor will perform the following:

### **A. Bond Debt Administration and Support**

1. Provide services related to bond sales and capital leases, such as assistance in preparation of preliminary and final official statements, scheduling and structuring sales/instruments, contact with rating agencies.
2. Identify options for debt issuance (Budget Anticipation Notes, Tax Anticipation Notes, etc.) and alternative financing strategies.
3. Make presentations to the Metro Council, Council committees, Bond Counsel, and/or staff as needed.
4. Advise Metro as needed in post-sale administration of debt proceeds.
5. Monitor outstanding debt for refunding and restructuring opportunities to reduce debt services and improve project management.
6. Recommend agency-wide debt management and capital planning policies.

### **B. Regional Parks and Greenspaces**

1. Analysis of long-range funding options for Regional Parks and Open Spaces capital improvements and operations

### **C. Metro Washington Park Zoo**

1. Assist Metro in developing and negotiating any agreements necessary to installing paid parking at the Washington Park parking lot serving the Metro Washington Park Zoo
2. Analysis of long-range funding options for Zoo operations

### **C. Regional Environmental Management**

1. Analysis of rate structure for solid waste tip fees and alternative funding mechanisms.
2. Study of the financial implications of department's major contracts.
3. Financial forecasts of transfer station contracts.

**D. General Government Financial Advice**

1. Assist and advise Metro with the development of comprehensive agency-wide and department specific financial polices, and recommend modification to all adopted financial policies as needed.
2. Assist Metro in the coordination, preparation and update of long range financial and capital improvements plans. Assist in establishing and monitoring financial indicators and in reviewing and updating agency financial policies.
3. Assist Metro in researching and analyzing various ongoing funding and financing alternatives. Provide assistance with identifying, researching and implementing new funding sources under Metro's home rule charter.
4. Assist Metro on certain other matters which may come to Metro's attention which would require the expertise of a financial consultant.

**F. Additional Projects**

It is expected that financial advice will be required on some of the following projects and potential projects.

1. Regional Transportation and Growth Management Planning Funding
2. Open Spaces Operations Funding



# CHANGE ORDER SUMMARY

CHANGE ORDER NO: 2 INITIATION DATE: Feb 20, 1997  
CONTRACT NO: 904803 PROJECT: Financial Advisory Services  
CONTRACTOR: Clancy, Gardiner and Pierce, LLC VENDOR # 13807  
(formerly Gardiner and Clancy, LLC)  
PROPOSED BY: Craig Prosser, Financial Planning Manager  
PROJECT MANAGER/DEPARTMENT

## FINANCIAL IMPACT

BUDGET CODE/TITLE: 610-041400-524190-00000 and bond issuances

Original Contract Sum: \$ 65,000

Net Change Orders to Date: \$ 48,000

Contract Sum Prior to this C/O: \$ 113,000

This Change Order Request: \$ 162,500

New Contract Sum, Post C/O: \$ 275,500

Fiscal Year ~~96-97~~ 96-97

Appropriation \$ 80,500

Contract, Paid to Date: \$ 94,000

Est. Appropriation Remaining: \$ 181,500

EFFECTIVE DATE(S): Jan. 29, 1996 - June 30, 1997

## REVIEW & APPROVAL:

Craig Prosser 2/21/97  
DIVISION MANAGER DATE

DEPARTMENT DIRECTOR DATE

Steve Dethlefs 2/21/97  
DIRECTOR ADMINISTRATIVE SVC DATE

FISCAL DATE

Steve Dethlefs 2/21/97  
BUDGET (MULTI-YEAR ONLY) DATE

LEGAL DATE

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 97-2465 FOR THE PURPOSE OF AMENDING THE CONTRACT BETWEEN METRO AND GARDINER & CLANCY, LLC ( CONTRACT NO. 904803) FOR FINANCIAL ADVISORY SERVICES

Date: February 20, 1997

Presented by: Craig Prosser

## PROPOSED ACTION

Approval to amend the existing contract (Contract No. 904803) between Metro and Gardiner & Clancy, LLC for financial advisory services related to the analysis of alternative funding mechanisms for Metro's solid waste system. This resolution will increase extend the term of the contract until June 30, 1999, change the billing rates, increase the contract amount by \$162,500, update the scope of work, and recognize the change in the firm name to Clancy, Gardiner, & Pierce, LLC.

## FACTUAL BACKGROUND

Resolution 95-2229, approved by the Metro Council on November 2, 1995, authorized Metro to issue a Request for Proposals from qualified firms for financial advisory services for a three year period and to enter into a contact with the successful proposer. The RFP was issued, proposals were received and and evaluated, and the firm of Gardiner & Clancy, LLC was selected as the most qualified proposer. The selection committee, made up of the Chief Financial Officer, the Financial Planning Manager, and representatives of several departments which use the financial advisor's services had two concerns about Gardiner & Clancy, however: The firm was quite new (although all three principals had been in the financial advisory business for a number of years), and the principals had extensive community involvement which could create potential conflicts of interest. For these reasons, the selection committee recommended not to enter into a three year contract with the firm, but rather to enter into a one year contract which was renewable for 2 years upon successful completion of the first year. The term of the original contract ran from January 29, 1996 to January 31, 1997.

In January 1997, the Financial Planning Manager polled all of the original members of the selection team to determine their level of satisfaction with the services of Gardiner & Clancy and to obtain their recommendation on the possible extension of the contract for two years. All of the members reported

that they are satisfied with Gardiner & Clancy's performance and recommended extending the contact for two years.

The Chief Financial Officer and the Financial Planning Manager conducted a performance review of Gardiner & Clancy with the firms three principals on February 4, 1997. The review noted the high quality of service provided by Gardiner & Clancy and the timeliness of response. The review also noted that although potential conflicts of interest do exist because of the principals other business and community interests, the firm principals have been very good about notifying Metro of those potential conflicts in advance and avoiding any actions in conflict with Metro or Metro's goals. It is therefore appropriate to extend the contract. This contract was scheduled to terminate in January. It is recommended to extend this contract two and a half years, to June 30, 1999, to coincide with the end of Metro's fiscal year and to move the termination date out of Metro's heavy budget workload period.

Four additional changes to the contract are also appropriate at this time:

1. During the course of 1996, Gardiner & Clancy promoted Chip Pierce, made him a partner in the firm, and changed their name to Clancy, Gardiner & Pierce. All references in the contract to Gardiner & Clancy are therefore being changed to Clancy, Gardiner & Pierce.
2. With the promotion of Chip Pierce to partner, his billing rate is being increased to \$135 per hour.
3. The original contract amount for one year was \$65,000. This amount was subsequently amended by Amendment No. 1 dated March 31, 1996 by \$48,000 for additional work not included in the original scope of work related to analysis of alternative funding mechanism for Metro's solid waste system (Resolution 96-2304). With a two and a half year extension, the total contract amount must be adjusted. The recommendation is to increase maximum contract amount by the original amount (\$65,000) times two and a half years for a total increase of \$162,500. This amount is a maximum reimbursement only. Actual reimbursement is based on work performed.
4. Some minor changes are also being made to the scope of work to reflect current requirements.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 97-2465.

*Agenda Item Number 8.1*

**Resolution No. 97-2466, For the Purpose of Authorizing the Executive Officer to Purchase Property Necessary to the Construction of the Peninsula Crossing Trail.**

***Executive Session Held Pursuant to ORS 192.660(1)(e). Deliberations with persons designated to negotiate real property transactions.***

**Metro Council Meeting  
Thursday March 13, 1997  
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING  
THE EXECUTIVE OFFICER TO PURCHASE  
PROPERTY NECESSARY TO THE  
CONSTRUCTION OF THE PENINSULA  
CROSSING TRAIL

) RESOLUTION NO. 97-2466  
) Introduced by Mike Burton  
) Executive Officer

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the electors of Metro approved Ballot Measure 26-26 for Open Spaces, Trails and Streams, which authorizes Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements pursuant to Metro's Open Spaces Program; and

WHEREAS, Metro allocated \$1.6 million in funding for the construction of the Peninsula Crossing Trail comes from Metro's Bond Measure 26-26; and

WHEREAS, in February, 1995, Metro completed the Peninsula Crossing Trail Feasibility Study, which identified an undeveloped 1.5 acre parcel of land, zoned multi-family, located at the intersection of Carey and Columbia Boulevards. The Feasibility Study recommended acquisition of this 1.5 acre parcel to eliminate potential conflicts with the trail, and as an open space enhancement.

WHEREAS, on November 14, 1996, the Metro Council approved an IGA with the City of Portland to design, construct and maintain the Peninsula Crossing Trail; and

WHEREAS, the acquisition of a 1.5 acre parcel of property, located at the intersection of Carey Boulevard and Columbia Boulevard and identified in Exhibit A, is necessary for trail design, construction and public safety reasons.

BE IT RESOLVED,

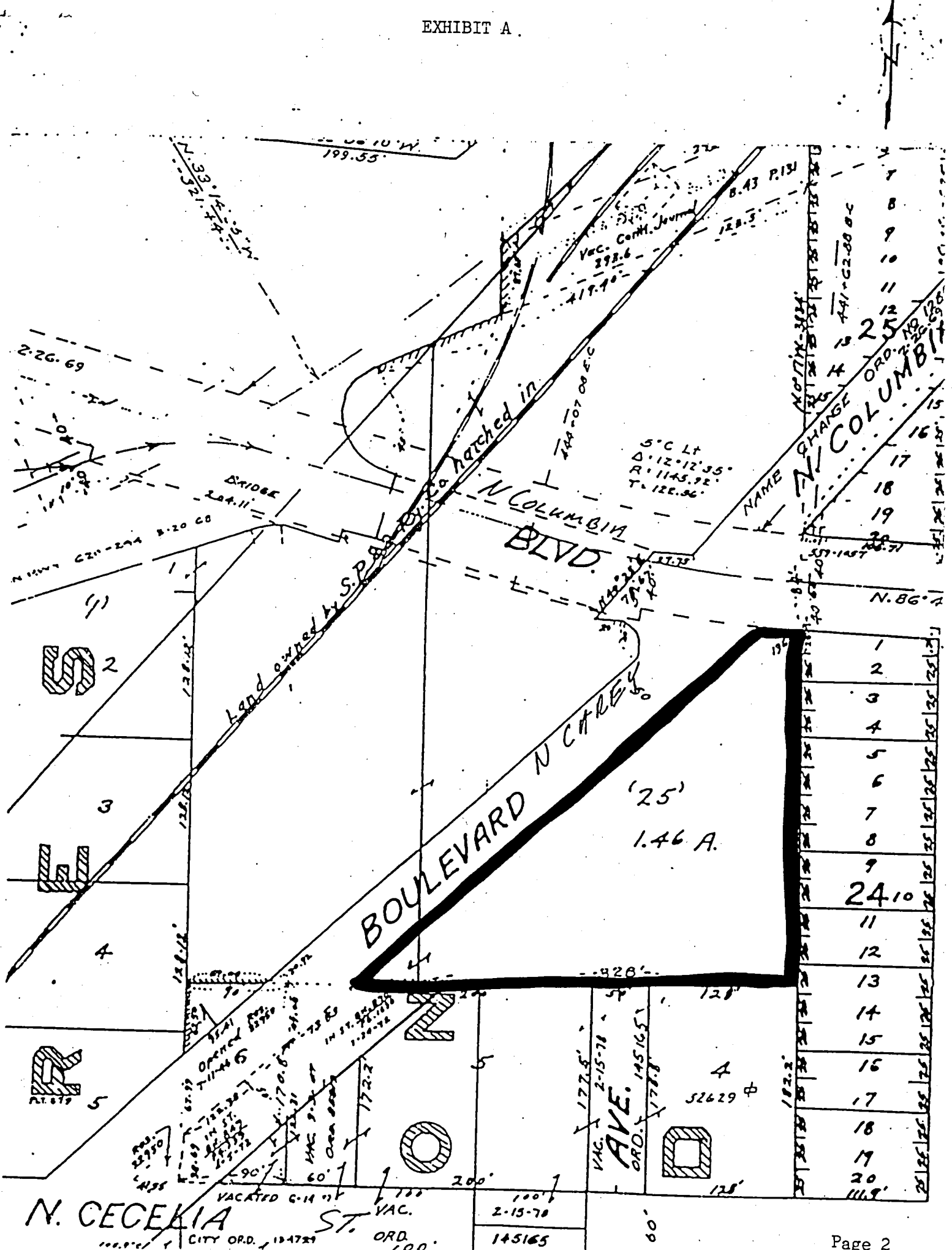
That the Metro Council authorizes the Executive Officer to execute a Purchase and Sale Agreement to purchase the 1.5 acre parcel, identified in Exhibit A, subject to the terms and conditions set forth in the Purchase and Sale Agreement.

ADOPTED by Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

Approved as to Form:

\_\_\_\_\_  
Jon Kvistad, Presiding Officer

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



CHARGE

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COLUMBIA

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N. CECEKIA ST. VACATED 6-14-77  
CITY ORD. 134729

145165  
2-15-78

**LEGAL DESCRIPTION**

That portion of the Southeast one-quarter of Section 6, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at the intersection of the Southeasterly right of way line of N. Carey Boulevard, according to the recorded plat thereof, and the South right of way line of N. Walker Street, according to the recorded plat thereof; thence South  $89^{\circ} 53'$  East along said South right of way line of N. Walker Street a distance of 32.4 feet to the Northwest corner of Lot 1, Block 24, COLLEGE PLACE ADDITION TO THE CITY OF PORTLAND, OREGON; thence South  $00^{\circ} 11'$  East along the West line of said Block 24, a distance of 325.0 feet, more or less, to the Northeast corner of Lot 4, MILTON ADDITION; thence South  $89^{\circ} 13'$  West along the North line of MILTON ADDITION to the Southeasterly right of way line of N. Carey Boulevard; thence Northeasterly along said Southeasterly right of way line of N. Carey Boulevard to the point of beginning.

## Staff Report

### **CONSIDERATION OF RESOLUTION NO. 97-2466 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE PENINSULA CROSSING TRAIL**

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**Date: February 19, 1997**

**Presented by:**

**Jim Desmond  
Nancy Chase**

#### **PROPOSED ACTION**

**Resolution No. 97-2466, requests authorization for the Executive Officer to purchase a 1.5 acre parcel of land, located at the intersection of Carey Boulevard and Columbia Boulevard, and necessary for trail design, construction and public safety reasons.**

#### **BACKGROUND AND ANALYSIS**

Ballot Measure 26-26 for Open Spaces, Parks and Streams identified the Peninsula Crossing Trail as a regionally significant trail and authorized Metro to finance the capital improvements necessary to construct the Trail. Accordingly, Metro allocated \$1.6 million in funding for the construction of the Peninsula Crossing Trail. Metro's Peninsula Crossing Trail Feasibility Study, completed in February, 1995, identified an undeveloped 1.5 acre parcel of land, zoned multi-family and located along the trail at the intersection of Carey and Columbia Boulevards.

The Feasibility Study recommended acquisition of this 1.5 acre parcel to eliminate potential conflicts with the trail and to provide an open space amenity. If in public ownership, this partially forested site would provide some needed space in the trail corridor to comply with the Americans with Disabilities Act (ADA), as the trail negotiates a particularly difficult, elevated connection with Columbia Boulevard. The acquisition would also promote public safety by allowing the construction of a less abrupt intersection with Columbia Boulevard, which carries a high volume of relatively high speed truck traffic. Further, acquisition by Metro of this property would prevent the dangerous congestion that would result from a three-way intersection involving Columbia Boulevard, an apartment complex driveway, and the Peninsula Crossing Trail.

Some of the costs of the acquisition will be made up by design savings resulting from the acquisition. Most importantly, the product (the public recreation and commuter trail) will be enhanced.

No refinement plan was conducted for this project because it is principally a capital project for trail construction, as the remainder of the trail will be located within existing public right-of-way or on city-owned property. Funds for this acquisition will be taken from the account established to purchase the Willamette Cove property adjacent to the trail. That property was acquired in February, 1996 for less than budgeted.



## **FINDINGS**

Acquisition of this property is recommended based on the following:

- This acquisition allows a safer, easier, and less costly ADA-accessible design alternative to be employed at the trail's intersection with Columbia Boulevard, a heavily traveled commercial thoroughfare.
- The acquisition of this property will preempt potential conflicts between the Peninsula Crossing Trail and future apartment complex residents and their automobiles.
- Acquisition of the property will provide a forested open space amenity in an area of the trail that is surrounded by high density residential and industrial uses.
- The property is owned by a willing seller and the acquisition will be conducted in accordance with the provisions in the Open Spaces Implementation Work Plan.

## **Executive Officer's Recommendation**

The Executive Officer recommends passage of Resolution No. 97-2466.

**69TH OREGON LEGISLATIVE ASSEMBLY - 1997 Regular Session**  
**STAFF MEASURE SUMMARY**  
**House Committee on Revenue**

**MEASURE:** HJR 85A  
**CARRIER:** Rep. Brian & Beyer

**REVENUE:** Yes - Revenue  
**FISCAL:** Yes - Fiscal

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**Action:** Be Adopted with Amendments  
**Vote:** 9-0-0  
**Yeas:** Representatives Brian, Beyer, Corcoran, Edwards, Lewis, Rasmussen, Shetterly, Simmons, Strobeck  
**Nays:**  
**Exc.:**

**Prepared By:** Jim Scherzinger, Legislative Revenue Officer  
**Meeting Dates:** March 6, 7, 8, 10, 11, 12, 1997

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**WHAT THE BILL DOES:**

Replaces existing constitutional property tax limits (except for Measure 5) with new limits that integrate old limits with Measure 47 that passed in 1996.

Requires 17% statewide cut of property taxes in 1997-98. Exempts bonds, hospital districts, police and fire pension funds, and levies approved for 1996-97 and later that met Measure 47 voting requirements. Requires distribution of cuts to reflect Measure 47 while recognizing new levies. Adjusts cut if new value growth exceeds 4% in 1995-97.

Limits 1997-98 assessed value of each property to its 1995-96 market value less 10%. Limits growth to 3% thereafter. Allows value increases for new construction, subdivision, rezonings, omitted property, and loss of exemption. Adds new value at the ratio the average assessed to market value of existing property in the same class and area. Applies value limit to specially assessed values, such as farm use.

Establishes permanent rate limits for each taxing district based on reduced levies and new assessed values. The fixed rate combined with the 3% value cap limit the tax on each existing property to 3% growth.

Allows voters to approve new levies outside the rate limit (but not over Measure 5's rate limits). Limits operating levies to five years. Limits capital project levies to 10 years or the useful life of the project, which ever is less. Allows voters to establish permanent rate limit for district not imposing property tax.

Requires levies outside the rate limits, new rate limits of previously untaxed districts, and bond levies outside the Measure 5 rate limits to be approved at the general election or an election with a 50% turnout.

Limits ability of local government to raise fees to make up cuts made by this measure unless approved by voters.

Reestablishes Measure 5 rate limits at \$5 per \$1000 of real market value for schools and \$10 per \$1000 for non-schools. Allows property assessment date to be moved back to January 1. Requires value reduction of property suffering catastrophic loss after assessment date.

Returns existing hybrid urban renewal system to system of dedicating all taxes on growth in the urban renewal area to the renewal district. Allows taxes to be imposed above tax increment to pay debt issued under existing plans.

Requires the state to replace school revenue lost due to the 17% cut.

Allows HJR 85 implementing statute to take effect immediately.

**EFFECT OF COMMITTEE AMENDMENTS:**

Replace split roll with value limit on all property. Left Measure 5 in Constitution. Exempt hospital districts, some voter-approved levies, and police and fire pension system from 17% cut. Adjust 17% cut for new value growth. Apply value limit to specially assessed property. Accommodate district formations, mergers, consolidations, and divisions. Require 50% turnout to approve exempt bonds. Require catastrophic loss reduction. Require school loss replacement.

**BACKGROUND:** The voters passed Measure 47 last November. Its wording is often unclear, contradictory, contrary to the apparent intent of the measure, or impossible to implement.

*This summary has not been adopted or officially endorsed by action of the committee.*

STATE OF OREGON  
LEGISLATIVE REVENUE OFFICE  
H-197 STATE CAPITOL BUILDING  
SALEM, OREGON 97310-1347  
PHONE (503) 986-1266 — FAX (503) 373-7807

REVENUE IMPACT OF PROPOSED LEGISLATION  
1997 REGULAR SESSION

BILL NUMBER	REVENUE AREA	ECONOMIST	DATE
HJR 85A	Property Tax	Scherzinger	3/12/97

**MEASURE DESCRIPTION:**

Replaces existing constitutional property tax limits (except for Measure 5) with new limits that integrate old limits with Measure 47 that passed in 1996.

Requires 17% statewide cut of operating property taxes in 1997-98. Exempts bonds, hospital districts, police and fire retirement fund taxes, and levies approved by voters for 1996-97 and later that met Measure 47 voting requirements. Requires distribution of statewide cuts to reflect Measure 47 cuts while recognizing new levies.

Limits the 1997-98 assessed value of each property to its 1995-96 market value less 10%. Limits growth to 3% thereafter. Allows additions to value for new construction, subdivision, rezonings, omitted property, and loss of exemption. Adds new value at the ratio the average assessed to market value of existing property in the same class and area. Applies value limit to the special values of property in special assessment programs, such as farm use.

Establishes permanent rate limits for each taxing district based on reduced levies and new assessed values. The fixed rate in combination with the 3% value cap limit the tax on each existing property to 3% growth.

Allows voters to approve new levies outside the rate limit (but not over Measure 5's rate limits). Limits operating levies to five years. Limits capital project levies to 10 years or the useful life of the project, whichever is less. Allows voters to establish permanent rate limit for district not imposing property tax.

Requires levies outside the rate limits, new rate limits of previously untaxed districts, and bond levies outside the Measure 5 rate limits to be approved at the general election or an election with a 50% turnout.

Requires Legislature to limit ability of local government to raise fees to make up cuts made by this measure unless approved by voters.

Reestablishes Measure 5 rate limits at \$5 per \$1000 of real market value for schools and \$10 per \$1000 for non-schools. Allows property assessment date to be moved back to January 1. Requires value reduction of property suffering catastrophic loss after assessment date.

Returns existing hybrid urban renewal system to system of dedicating all taxes on growth in the urban renewal area to the urban renewal district. Allows taxes to be imposed above tax increment to pay debt issued under existing plans.

Requires the state to replace school revenue lost due to the 17% cut.

Allows HJR 85 implementing statute to take effect immediately.

**REVENUE IMPACT:**

**Local Government:**

Reduction of local property tax revenue of \$804 million in the 1997-99 biennium compared to what would have been collected under Measure 5. By contrast, the current Measure 47 "bonds out of the base" forecast is a 1997-99 property tax revenue reduction of \$1.006 billion.

However, the Measure 47 reduction may be substantially overstated due to uncertainties over how the courts and the legislature will interpret the measure. In addition to uncertainties over whether bonds are included in the base, it is unclear which bonds are exempt from Measure 47 limits and which voter-passed levies might be allowed outside Measure 47 limits. These Measure 47 estimates assume few non-voter approved bond taxes and no voter passed levies could be imposed outside Measure 47 limits. If these assumptions are wrong, the total revenue difference between HJR 85 and Measure 47 could be much smaller.

	HJR 85				Measure 47 (Bonds out of Base)			
	Operating Taxes		Total Taxes		Operating Taxes		Total Taxes	
1996-97	2,131		2,528		2,131		2,528	
1997-98								
Measure 5	2,302		2,737		2,302		2,737	
Limit	1,941		2,376		1,844		2,302	
Change from M5	-361	-15.7%	-361	-13.2%	-458	-19.9%	-458	-16.7%
Change from 96-97	-190	-8.9%	-152	-6.0%	-287	-13.5%	-249	-9.8%
1998-99								
Measure 5	2,481		2,963		2,481		2,963	
Limit	2,038		2,520		1,933		2,415	
Change from M5	-443	-17.9%	-443	-15.0%	-548	-22.1%	-548	-18.5%
Change from 97-98	+97	+5.0%	+105	+4.3%	+89	+4.8%	+136	+6.0%
Biennium								
Measure 5	4,783		5,700		4,783		5,700	
Limit	3,979		4,896		3,979		4,694	
Change from M5	-804	-16.8%	-804	-14.1%	-1,006	-21.0%	-1,006	-17.6%

All figures in millions of dollars

**State Government:**

General Fund revenue decrease of up to \$9.6 million in the 1997-99 biennium due to greater property tax deductions. The decrease caused by this bill is much smaller under different assumptions about how Measure 47 should be interpreted.



031297C-02

**69TH OREGON LEGISLATIVE ASSEMBLY - 1997 Regular Session**  
**STAFF MEASURE SUMMARY**  
**House Committee on Revenue**

**MEASURE:** HB 3511A  
**CARRIER:** Rep. Brian & Beyer

**REVENUE:** NO - Revenue  
**FISCAL:** YES - Fiscal

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**Action:** Do Pass as Amended  
**Vote:** 9-0-0  
**Yeas:** Representatives Brian, Beyer, Corcoran, Edwards, Lewis, Rasmussen, Shetterly, Simmons, Strobeck  
**Nays:**  
**Exc.:**

**Prepared By:** Jim Scherzinger, Legislative Revenue Officer  
**Meeting Dates:** March 6, 7, 8, 10, 11, 12, 1997

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**WHAT THE BILL DOES:**

Sets procedure for statewide election on restructuring the property tax (HJR 85A) on May 20, 1997.  
Specifies ballot title, estimate of financial effect, and voters pamphlet explanation.  
Allows ten days after measure filed with Secretary of State to submit voters pamphlet arguments for or against measure.  
Appropriation for special election left blank until any other measures that may make May ballot are identified.

**ISSUES DISCUSSED:**

Contents of financial effect estimate.

**EFFECT OF COMMITTEE AMENDMENTS:**

Adjust statements to reflect changes to HJR 85. Specify financial effect.

**BACKGROUND:**

HJR 85A restructures constitutional limits on property taxes.

LEGISLATIVE REVENUE OFFICE

REVENUE IMPACT ANALYSIS

BILL # HB 3511A

DATE: 3-12-97

THE LEGISLATIVE REVENUE OFFICE HAS DETERMINED THIS  
LEGISLATION HAS NO IMPACT ON STATE OR LOCAL REVENUES  
ANALYZED BY THIS OFFICE.

**1997 Regular Legislative Session**  
**FISCAL ANALYSIS OF PROPOSED LEGISLATION**  
**Prepared by the Legislative Fiscal Office**

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**MEASURE NUMBER:** HB 3511 (See also HJR 85)

**STATUS:** A Engrossed

**SUBJECT:** Procedure for statewide election regarding the Constitutional amendment to replace existing tax limitations (BM 47).

**GOVERNMENT UNIT AFFECTED:** Secretary of State

**PREPARED BY:** Bill Coulombe

**REVIEWED BY:** John Lattimer

**DATE:** March 12, 1997

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	<u>1997-99</u>	<u>1999-2001</u>
<b>EFFECT ON EXPENDITURES:</b> See Comments		

**EFFECT ON REVENUES:**  
none

**EFFECT ON POSITIONS:**  
none

**GOVERNOR'S BUDGET:** This bill is not anticipated in the Governor's recommended budget.

**BALLOT MEASURE 30:** This bill is not expected to create or increase the service levels provided by local governments.

**COMMENTS:** This bill sets forth the procedure for a statewide special election on HJR 85, relating to the constitutional amendment to replace the tax limitation (Ballot Measure 47), passed in November 1996. The election is to be held May 20, 1997.

An unspecified General Fund appropriation is made to the Secretary of State's office for expenses incurred in submitting the measure to the voters. See also HJR 85 fiscal impact for the cost estimates to the Secretary of State's Office for holding the special election.



February 27, 1997

**METRO**  
**LEGISLATIVE PRIORITIES**  
(Exhibit A to Resolution No. 97-2451A)

Metro has considerable interest in the 1997 Legislative Session, and will be monitoring its developments and actively participating as a constructive voice on behalf of the metropolitan region. Numerous areas of legislative activity will be of importance to Metro, and several bills will be introduced at Metro's request.

To further Metro's mission, it will be important to pursue the following this Session:

**A. Implementation of Ballot Measure 47**

The dramatic impact of Ballot measure 47 will be felt not only by Metro, but also by its regional partners. The Zoo will suffer a minimum loss of \$1.5 million, a 28% reduction in the operating budget, if the region's allocation of Ballot Measure 47 losses is proportional. Metro must work closely with others to minimize the severity of impact on Metro, and to ensure that other local governments have resources and authority sufficient to provide services to the region's citizens. Absent adequate resources, Metro's regional partners may not be in a position to meet the burgeoning needs of a growing region nor implement effective growth management policies.

**B. Growth Management**

The Charter adopted by the region's voters in 1992, directs that regional planning and growth management are Metro's primary functions--in order to maintain and enhance the livability and economic vitality of the area. Rapid growth is occurring in the region. Metro's job is to insure that this growth occurs in a manner which minimizes negative impacts on the region's current or new citizens, and promotes important values. Metro has been working with its regional partners and citizens in the region over the past several years to accomplish these tasks, through the Region 2040 process, the development and adoption of Urban Reserves and the creation of a Framework Plan.

**1. Boundary Commission revision legislation (*Metro bill*).**

Request introduction of legislation to provide Metro with the responsibility for boundary, annexation and urban service decisions,

consistent with the results of the charter mandated Boundary Commission study as adopted by the Council.

**2. Retention of growth management and land use planning authority.**

Support efforts to retain Metro's authority to perform its growth management and land use planning functions, and oppose attempts to limit Metro's local control, diminish the regionally adopted Charter, and circumvent the policy established by the Metro Council.

**3. Monitor annexation legislation.**

Monitor annexation legislation, and work with Metro's regional partners to ensure that annexations, and the efficient provision of essential urban services, occur in a manner which meets the needs of local jurisdictions, the region's citizens and Metro policy.

**4. Support an adequate DLCD budget.**

The policy established by the Land Conservation and Development Commission, and the work of the Department of Land Conservation and Development, complements much of what Metro is trying to accomplish in the region. Accordingly, Metro supports adequate funding of the DLCD budget, subject to council review of the actual budget proposal.

**5. Regional and local planning funding.**

Metro will support efforts to provide funding for land use planning on both the regional and local levels, to ensure that the region can effectively accommodate and manage the growth which is occurring, subject to council review of specific legislative proposals.

**6. Natural disaster planning and response.**

The state's experience over the past year underscores the importance of having mechanisms in place to plan for and respond to natural disasters. Metro will support legislation offered by Oregon's emergency managers to provide funding for natural disaster planning and response.

**7. Seismic standards.**

Metro will support efforts or proposed programs to assist property owners complying with seismic standards for buildings.

## **C. Transportation**

Transportation and transit planning are essential components of Metro's growth management responsibilities. Transportation plans must be developed to support land use policies and, ultimately, move people and goods throughout the region in an efficient manner. Increased funding will be an important goal if the region is to be able to meet the needs imposed by growth.

### **1. Support enhancement of Oregon's transportation programs.**

Metro will support efforts to enhance Oregon's and the region's transportation programs. The specific elements of such proposals will be presented separately by the Transportation Department to the Council for approval.

### **2. Continue transportation components of regional growth management.**

Metro will support efforts to sustain policy and funding for transportation components of regional growth management. Specifically, Metro will support continuation of the Oregon Department of Transportation's Transportation/Growth Management grant program.

### **3. Preserve local and regional control/authority.**

Metro will work with its regional partners to maintain regional and local control and preserve regional and local authority to develop funding for transportation needs. This would include preserving local and regional options for generating revenues, such as vehicle registration fees and gas taxes.

## **D. Solid Waste and Recycling**

Metro is responsible for solid waste disposal, as well as solid waste reduction and recycling. Metro will continue to work with its regional partners to provide cost-effective disposal and promote waste reduction. In the wake of a recent occurrence at a transfer station where employees were injured as they were handling chlorine, Metro will work to ensure safe disposal and transporting of hazardous or potentially hazardous materials.

### **1. Flow Control.**

Metro will oppose attempts to erode Metro's authority over solid waste flow control in the region.

**2. Metro fee avoidance.**

Metro will oppose industry specific attempts to evade Metro fees on solid waste.

**3. Minimum recycled material content requirements.**

Metro will support efforts to increase the requirements for minimum recycled material content and to continue encouragement of markets for recycled materials. With adequate markets in place the recycling program costs borne by the public can be offset to a greater degree.

**4. Maintain successful recycling programs.**

The region is well on its way to accomplishing the recycling goals established by Metro. This success – due to the state’s policies and local and regional recycling programs – should continue. Accordingly, Metro will support maintaining the components of these successful recycling programs, and oppose efforts to weaken them. Additionally, Metro will actively participate in deliberations on legislation which could dramatically reduce the region’s recovery of beverage containers by promoting redemption centers.

**5. Disposal of hazardous or potentially hazardous materials.**

Metro will work closely with state and local officials to identify measures to improve employee and public safety in disposing or transporting hazardous or potentially hazardous materials. This is necessitated by the recent incident with chlorine at one of Metro’s transfer stations.

**E. Regional Parks and Greenspaces**

Metro has the considerable responsibility to acquire, plan, operate and manage a system of regional parks and greenspaces. With the 1994 transfer of parks functions from Multnomah County, and the approval of the 1995 bond measure to acquire and protect open spaces, parks and streams, Metro operates 21 regional parks and natural areas, as well as 14 pioneer cemeteries. Metro will ask for several statutory changes to reflect these increased responsibilities.

**1. Metro and parks statutes (*Metro bill*)**

Metro will request introduction of housekeeping legislation to add Metro to the listing of public entities in the parks statutes.

**2. Authorization of Metro receipt of parks revenues (*Metro bill*)**

Metro will request introduction of legislation to allow Metro to directly receive Multnomah County's share of state revenues for local parks. This action is pursuant to the express provisions of the Intergovernmental Agreement between Multnomah County and Metro.

**3. Acquiring property with farm/forest deferral designation (*Metro bill*)**

Metro will request introduction of legislation which would add Metro to the list of entities allowed to purchase, for a public purpose, property bearing a farm and forest deferral designation without exposing Metro to a tax obligation.

**4. Authority to partition parks and greenspaces property (*Metro bill*)**

Metro will request introduction of legislation granting authority to partition property purchased by Metro for parks and greenspaces purposes. This would encourage acquisition of property where the seller desires to maintain a personal residence on a portion of the property.

**5. Parks funding and stream protection programs**

Metro will monitor legislative efforts to provide funding for state and local parks systems, and enhance stream protection programs. While generally supportive of securing stable funding for the state parks system, Metro would prefer the development of new programs and revenues that would also be made available to meet the considerable acquisition, operation and maintenance needs of regional and local parks systems.

**F. Metro Washington Park Zoo**

The Metro Washington Park Zoo will be facing some of the greatest challenges and threats in its 110 year history. Although the full impact of Ballot Measure 47 will not be known until this Spring, the Zoo is facing dramatic cuts in its operating budget—assuming proportional allocation of losses throughout the region, the Zoo will lose at least \$1.5 million. It is likely to be more. Along with its regional partners, Metro will take an active role in the legislative deliberations surrounding the implementation of Ballot Measure 47 to minimize the impact on the Zoo, allow it to continue to operate on an entrepreneurial basis, and to help craft collaborative responses to the region's needs.

Already the largest paid tourist attraction in Oregon, the region's voters approved in September, 1996, a \$28.8 million capital bond measure for development of an Oregon Exhibit at the Zoo. The new exhibit will feature examples of wildlife from across Oregon, providing visitors with the complete Oregon experience.

Metro will request a \$500,000 allocation, likely from lottery revenues dedicated to economic development and tourism, for the state's share of the Oregon Exhibit. The funds are to be used to tie the features of the Exhibit to specific locations in Oregon, and to promote tourism in those locations across the state.

#### **G. Utility Deregulation**

Metro will monitor legislation and deliberations concerning the deregulation of utilities in Oregon. This issue is of importance to Metro because it is a substantial consumer of utility services. Additionally, many of the local governments in the region rely, or hope to rely, upon utility franchise fees as a major source of funding. As the region continues to grow, Metro's regional partners will require reliable revenues to plan and provide services for all of our constituents.

#### **H. Public Contracting**

Several public contracting issues may arise this Session which might have a significant impact on the way the Metro conducts its business.

##### **1. Oppose efforts to restrict regional and local authority.**

Metro will join other jurisdictions and oppose efforts to change public contracting laws in such a way as to undermine Metro's ability to protect the public's interest. Such efforts may include proposals to separate local government Contract Review Boards from their governing bodies, and to restrict government's use of negotiated construction contracts.

##### **2. Support State's efforts to improve contracting laws.**

Metro will support proposals by the State to improve ORS Chapter 279. Such proposed changes would allow the use of electronic advertising instead of newspapers, and implement the recommendations of the regional disparity study by changing the definitions of Minority and Women-Owned Businesses (M/WBE) and Emerging Small Businesses (ESB).

**3. Monitor efforts to improve QRF statutes.**

Metro will monitor any legislation intended to improve the rules and statutes governing Qualified Rehabilitation Facilities (QRF's).

**I. Water**

Metro will closely monitor legislative action affecting water, rivers and streams. It is important that the metropolitan area plan for and provide adequate domestic water supplies and conservation measures, at the same time that streamflows and aquatic life are protected.

Exhibit A to Resolution No. 97-2469  
 Metro's Position on 1997 Oregon Legislation  
 February 20, 1997

S=Support  
 M=Monitor  
 A=Amend  
 O=Oppose

**A. Implementation of Ballot Measure 47**

Bill	Title	Subject	Status	Position
HB 2047	Ballot measure 47 implementation	Ballot measure 47		M

**B. Growth Management**

Bill	Title	Subject	Status	Position
HB 2139	Program for rehab of existing buildings	Seismic rehabilitation		S
HB 2287	Limits expedited land division requirements to Metro	Local land use regulation		M
HB 2289	Allows school capacity as only reason for denying development application	Development and school capacity		M
HB 2292	Exempts cities of 25,000 or less from HB 2709 (1995) requirements	Buildable lands within UGB		M
HB 2361	Allows development on rural lands, EFU	Rural lands		O
HB 2398	Allows public facilities in residential zones	Promotes Metro policy to provide for schools in connection with UGB amendments; so broad as to possibly allow for administrative offices (rather than schools).		M/A
HB 2515	Notice of land use action by local government	Requires local government to include notice of land use actions in property tax		O



		statement		
HB 2521	Local government charges for geographical data	Limits price local government may charge for GIS data		O
HB 2545	Condemnation of real property	Requires public entity to offer for sale public land of similar value to property acquired by condemnation		O
SB 5505	DLCD Budget and Growth Management Grants	DLCD Budget		M

### C. Transportation

Bill	Title	Subject	Status	Position
HB 2213	Governor's Livability and Economic Opportunity Account in State Highway Fund: creates regional planning committees; imposes VMT tax and transportation fee	Transportation		M

### D. Solid Waste and Recycling

Bill	Title	Subject	Status	Position
HB 2346	Adds containers to "bottle bill;" allows use of redemption centers	Beverage containers		M
SB 144	EQC identifies commodities of interest/ recovery rate; commercial recycling	Solid waste management		M
SB 420	Hazardous waste management	Requires DEQ to recover costs for HW management		M

### E. Regional Parks and Greenspaces

Bill	Title	Subject	Status	Position
HB 2140	Allows issuance of revenue bonds	State Parks		M
HB 2208	Imposes beverage container tax for state parks, Watershed	Beverage Container Tax		M

	Improvement Grant Fund, and Or. Recyc. Dev. Fund			
HB 2254	Sale of non-residential parcels prior of approval of tentative plans	Allows Metro Open Spaces to purchase parcels prior to approval of subdivision plats		S
HB 2497	Increase vehicle registration fees	If approved by voters, vehicle registration fee revenue would go to state parks and police (HJR 10)		M
SB 393	RV Trip Permit Fees	Increase fees		S
HJR 10	Constitutional amendment to increase vehicle registration fees for state parks and police	Authorizes registration fee increase described in HB 2497		O

#### H. Public Contracting

Bill	Title	Subject	Status	Position
HB 2022	Prohibits disclosure of information	Public Records		M
SB 44	Discrimination/Disability	Employment		M
SB 139	Modifies contracting procedures	Contracting		S
SB 143	Modifies hours and overtime pay	Public Employment		M

*As amended*

would participate in adopting policies coordinating the city and county comprehensive plans in this particular Raleigh Hills Town Center area which was part of the urban service boundary area that had just been resolved.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

**7. COUNCILOR COMMUNICATIONS**

**Councilor McFarland** said that she had the privilege and honor of being at the official opening of Metro's large building out at Expo with its many square feet of free floor space without any columns in it. It was a magnificent building which spoke for itself. She encouraged those who hadn't seen it to do so. It was their privilege to have represented the Council and she understood that the \$13.4 million that it cost for completion had already increased in value to \$18 to \$20 million.

**Councilor Washington** said he was pleased to be there with Councilor McFarland at the Expo ribbon cutting. He noted she was a former professor and a good one.

**Presiding Officer Kvistad** encouraged those who had not been out there yet, that it was a truly spectacular building and a great resource for the region. The Smithsonian exhibition would be there on April 3rd for one month. It would be free to the public and gave them the opportunity to see the newest regional building. He thanked Intel for the \$2.5 million contribution, Hoffman Construction for completing the construction ahead of time and under budget as well as Councilor Washington for all of his work as Chair of Regional Facilities, Councilor McFarland, Mr. Burton and staff for directing that to completion, and to MERC as well as all of the members of the Council. It was a tremendous asset to the region.

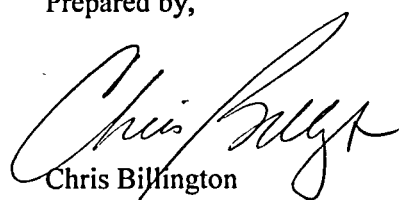
**Councilor McFarland** shared with the Council that the 7,000 pound patient at the Zoo was to be operated on. She noted the special equipment to get her on and off the gurney when she had bones in her toes removed and the special efforts Allied Power and Hoffman Construction Company had made assisting the Zoo.

**Councilor Washington** noted the Presiding Officer's father, Mr. Kvistad's improvement in health.

**8. ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 2:55 p.m.

Prepared by,

  
Chris Billington  
Clerk of the Council