

# A G E N D A

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**METRO**

## Agenda

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: February 26, 1998  
DAY: Thursday  
TIME: 7:00 PM  
PLACE: Council Chamber

<u>Approx. Time*</u>		<u>Presenter</u>
7:00 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>	
(10 min.)	4. <b>MPAC COMMUNICATIONS</b>	
	5. <b>CONSENT AGENDA</b>	
7:25 PM (5 min.)	5.1 Consideration of Minutes for the February 19, 1998 Metro Council Regular Meeting.	
	6. <b>ORDINANCES - SECOND READING</b>	
7:30 PM (5 min.)	6.1 <b>Ordinance No. 98-720A</b> , For the Purpose of Amending Metro Code Chapter 5.02, Reducing Disposal Fees Charged at Regional Solid Waste Facilities, Establishing a Performance and Incentive-Based Regional System Charge Credit, Establishing a Transaction Charge, and Making Other Related Amendments.	Morrisette
	7. <b>RESOLUTIONS</b>	
7:35 PM (5 min.)	7.1 <b>Resolution No. 98-2606</b> , For the Purpose of Adopting 1998 Priorities for Federal Transportation Legislation.	McLain

- |                        |            |   |           |
|------------------------|------------|---|-----------|
| 7:40 PM<br>(10 min.)   | 7.2        | <b>Resolution No. 98-2609</b> , For the Purpose of Submitting to the Voters a General Obligation Bond Indebtedness in the Amount of \$82,030,000 for the Completion of the Oregon Convention Center.                      | Naito     |
| 7:50 PM<br>(5 min.)    | 7.3        | <b>Resolution No. 98-2610</b> , For the Purpose of Authorizing Release of RFB #98-6-REM for the Construction of a Latex Paint Processing Building at Metro South Station.   | McFarland |
|                        | <b>8.</b>  | <b>CONTRACT REVIEW BOARD</b>  |           |
| 8:00 PM<br>(5 min.)    | 8.1        | <b>Resolution No. 98-2611</b> , For the Purpose of Authorizing an Exemption from the Competitive Bid Process and Authorizing Issuance of RFP #98R-5-REM for the Replacement of Compaction Systems at Metro South Station. | McFarland |
|                        | <b>9.</b>  | <b>PUBLIC HEARING</b>   |           |
| 8:05 PM<br>(60 min.++) | 9.1        | Draft Stream and Flood Plain Protection Plan (Comments on MPAC and WRPAC Draft Recommendations)   |           |
| 9:05 PM<br>(10 min.)   | <b>10.</b> | <b>COUNCILOR COMMUNICATION</b>  |           |

**ADJOURN**

**CABLE VIEWERS:** Council Meetings, the second and fourth Thursdays of the month are shown on City Net 30 (Paragon and TCI Cablevision) the first Sunday after the meeting at 8:30 p.m. The entire meeting is also shown again on the second Monday after the meeting at 2:00 p.m. on City Net 30. The meeting is also shown on Channel 11 (Community Access Network) the first Monday after the meeting at 4:00 p.m. The first and third Thursdays of the month are shown on Channel 11 the Friday after the meeting at 2:00 p.m. and the first Sunday and Wednesday after the meeting on Channels 21 & 30 at 7:00 p.m.

**PUBLIC HEARINGS:** Public Hearings are held on all Ordinances second read and on Resolutions upon request of the public. All times listed on the agenda are approximate; items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

*Agenda Item Number 5.1*

**Consideration of the February 19, 1998 Metro Council Regular meeting minutes.**

**Metro Council Meeting  
Thursday, February 26, 1998  
Council Chamber**

# MINUTES OF THE METRO COUNCIL MEETING

February 19, 1998

Council Chamber

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

Councilors Absent:

Presiding Officer Kvistad convened the Regular Council Meeting at 2:03 p.m.

## 1. INTRODUCTIONS

None.

## 2. CITIZEN COMMUNICATION

**Art Lewellan, LOTI, 3205 SE 8th #9, Portland, OR 97202**, presented new slides on his LOTI project, the inclusion of the east bank alignment on the DEIS. He said that he did not have confidence in the South/North Light Rail project as proposed. He showed his regional approach to his trolley/street car/electric bus plan to save costs and to do something more for the mall than the light rail could which was to put a frequent electric vehicle on the mall that would cooperate with buses. His regional approach included a streetcar in Milwaukie, Clackamas Town Center and across the Hawthorne Bridge. He had also developed a proposal to extend the Central City streetcar across the Hawthorne Bridge and allow for lines to grow on the east side. He also showed the historic electric bus system that Portland once had serving the Sandy/Hawthorne area. His newest development included rebuilding the Ross Island Bridge to take care of the congestion putting Milwaukie Avenue over Powell Blvd. to allow for the residential commercial area to get to the light rail station on Clinton. He said the neighborhood for transit uses was very inhospitable, his plan he believed would improve the livability of the neighborhoods in that area.

**John Weigant, Bridgeton Neighborhood Association, 429 N Bridgeton, #B, Portland, OR 97217** said his neighborhood had had explosive growth in the last two years. In two years from now, there would be the addition of 2 hotels, an 8-story condo/apartments complex, 100 row houses, and 200 units of manufactured housing development. They were expecting bad traffic congestion on the I-5 Marine Drive interchange as well as on Northeast Marine Drive. They had been assured in their neighborhood planning process that these problems were being attended to by the City of Portland. He had attended an open house concerning the growth in the area and found that there would be triple growth in the next five years. He said there were concurrent sewer improvements and street improvement going on on Marine Drive in the same area. They were not being coordinated. At the Portland Budget Forum this last month they had heard for the first time the need for coordination and systems thinking. His personal goal before Council today was citizen involvement with a systems thinking background. He noted his own background as a Physics teacher. His key goal was to ask the Council to consider the perspectives that were future

oriented. He felt that Metro's focus was looking far into the future yet very few people in the region were actually doing this.

### **3. EXECUTIVE OFFICER COMMUNICATIONS**

**Mike Burton, Executive Officer** introduced Tony Vecchio as the new director of the Metro Washington Park Zoo. Mr. Vecchio came from Providence Rhode Island where he was the director of the Zoo there. He noted that Councilor Naito had been involved with the selection process and explained that process. Mr. Vecchio would begin his position in about a month.

**Councilor Naito** said on behalf of the Council, she thanked Mr. Burton for the extensive outreach and involvement of the staff and members of the community in the excellent selection process. She welcomed Mr. Vecchio.

**Councilor McCaig** shared with Mr. Vecchio the rhinoceros story and asked for his input.

**Councilor Naito** shared with the Council an extraordinary story the interviewing team heard in the selection process. Mr. Vecchio joined with one of the children's hospitals in Rhode Island and created a permanent Zoo exhibit in the hospital itself for ill children who could not leave the hospital. She felt this was the type of innovation that was welcomed at Metro, she looked forward to working with Mr. Vecchio.

**Presiding Officer Kvistad** welcomed Mr. Vecchio to Oregon and indicated that the Council would expedite the confirmation process.

**Councilor McFarland** also welcomed Mr. Vecchio.

**Mr. Burton** presented the 1998-99 proposed budget for Metro which the Council would be considering in the next several months. He noted Mr. Weigant's presentation which spoke to the fact that Metro focuses on the future, looking at a broad scope of what was going on in the region. The Charter required this of Metro. The process of looking ahead, trying to take our vision and make certain that we were meeting those goals was one that was not an easy task. He felt this next year would be one of the more difficult years for Metro in that sense. The implementation of the concepts that everyone worked on in 2040 for the last few years must now happen. He noted that we were beginning to see how much work that was on the part of local jurisdictions to implement it, on the part of citizens to accept it, and the real significant choices that must be made and the tough decisions that the Council had already made and would have to continue to make if we were going to make this work. He believed this wouldn't be an easy task and it would be a difficult year for Metro. The budget he had put together tried to address those growth management questions in a way that hopefully would be helpful to local governments and to the Council in carrying out those tasks. Local governments would need Metro's help. They would be asked to burden a lot of what was going on by Metro's mandate in the Charter. The task before Metro would require local jurisdiction help.

In putting this budget together this year, there had been an emphasis on citizen involvement, a new approach for Metro. Metro's citizen involvement committee had asked that Metro try to involve citizens in the development of those budgets. He noted that in the budget documents, starting on page A282 there were a series of letters from the various citizen involvement budget committees for each one of the departments. They had initially wondered if the citizen

involvement would be a useful process and found that every department felt it was an extremely useful process to have the citizens look at the budgets with the departments.

The budget was built around the access to core Metro values; access to nature, the concept of clean air and water, the ability to get around the region easily, creating safe and stable neighborhoods, creating resources for future generations; and a strong regional economy were the concepts that he had asked the departments to use as a basis when reviewing their budgets. He felt we had met that request.

There were three major points in the budget this year. First, the budget was less this year than it was last year. He reviewed the last three years of budgets, the total budget was down from \$411 million in FY 1997-98 to \$389 for FY 1998-99. There were no new taxes in the budget, no rate or fee increases in this budget. The budget also assumed a reduction in the tip fee with an average rate fixed at \$63.50 a ton. He noted a slide going back to FY 1992-93 through the current and proposed year. For the first few years, Metro had actually had a reduced and constantly reduced fee simply because the Council and the budgets that the Council adopted saw the wisdom in maintaining a flat fee which meant it did not go up when there was inflationary costs that were faced in the region. Metro had consistently brought down that tip fee which included the action the Council took to bring the fee down from \$75 to \$70 and now down to \$63.50, a marked decrease in the tip fee. The budget was built around that decrease. The budget also lived with the aspects of ballot measure 50, he noted the impact that ballot measure 50 had on the Zoo, even though Metro was fairing better under ballot measure 50 than 47, Metro still experienced about a \$1.4 million hit at the Zoo. The actions that Council took last year would help Metro get through that impact and Metro would continue to be able to fund the Zoo in that manner.

The second major point was the emphasis on growth management. This budget produced a 21% increase in the general fund to growth management. He noted a slide which indicated the general fund money, excise tax money given to growth management and how it had increased in this particular budget. The initiatives that Metro was taking for that were to help local governments in their general planning, for urban reserve master planning, Title III planning and to meet the requirements that the Council set up for affordable housing. Those dollars were in an appendix. He explained how they had tried to get those additional dollars into the Growth Management budget. He wished to work with the Council on how Metro could best utilize those additional dollars to get directly them to local governments for assistance in their needs to meet their planning requirements in urban reserve planning and other planning.

Metro was doing its job. The budget implemented the Regional Framework Plan, dealt with the regional inventories and parks (an area that should have been done several years ago), completed the Regional Transportation Plan including the Transit Oriented Developments (TODs), and the transportation program which emphasized improving air quality. This budget anticipated the opening of the Oregon Project at the Zoo which would include the Mountain Goat exhibit (opening September 18th), a new restaurant, and Metro's orientation to light rail. Metro would continue their Open Spaces acquisition program, hoping to add a 1000 more acres to the 4100 acres already purchased as well as land banking. The budget would also complete the preliminary engineering for the South North light rail and the contract it served with MERC to help reduce MERCs overall cost. There was a signed agreement with MERC for this next year. The budget would beef up maintenance improvement of all Metro facilities including the development of master plans. The budget established renewal and replacement funding for all

facilities and a computer replacement funding program. He felt this was an important accomplishment since Metro had had no renewal and replacement at any of the facilities three years ago. The budget also anticipated the completion of the Oregon Convention Center.

Mr. Burton closed by saying, this budget continued to be in balance. Metro continued to provide a broad range of services to the citizens of the region, to manage growth and to protect and enhance livability. There was already a schedule established for the budget process. Key points included the total reduction of the budget, they had put as many dollars as possible into local assistance for planning which would be a major effort before Metro in the next year. Metro continued to carry out the voter mandated bond measure efforts in Open Spaces and at the Zoo. They would also be looking forward to a new measure to complete the Oregon Convention Center.

**Councilor Washington** asked what the slides represented?

**Mr. Burton** responded that when they were running through the slides, he had suggested utilizing more diverse shots of people working in the region. The slides showed the diversity of Metro's workforce and the number of things that Metro did such as parks, open spaces, the zoo, the transfer stations, the HAZMAT facilities. There were an incredible number of citizens working for Metro who worked for the citizens. Metro staff was the first point of contact with the community, they were our best public relations and did an excellent job.

**Councilor Naito** said she felt this was a brilliant strategy on Mr. Burton's part. Usually people start falling asleep when they listen to a budget presentation, the slides kept everyone awake.

**Presiding Officer Kvistad** called for questions and then asked Mr. Burton to give a general overview. He felt things were going to get tighter and more difficult.

**Mr. Burton** agreed and felt that the Council had taken very correct action to reduce the tip fee. To some extent, Metro had enough in reserves to hold that for four or five years. The general operation of the agency was dependent upon the excise tax that was charged at the various facilities. The waste stream was a major portion of that. He felt it was a very efficient way to run a government. In the absence of a Metro, if they had to shift these responsibilities over to other governments that had general purpose of general fund costs, split up the centralized services provided by Metro such as accounting, data and legal services, it would run up the costs considerably. Metro had been running very tight on a very entrepreneurial basis. Mr. Burton was most concerned about the long term operation of Metro's parks. There was no operational funding for Metro's parks, there was capital funding but in order to maintain a major park system including open spaces, Oxbow, Blue Lake, Chinook Landing, the facilities that the people of the region enjoyed Metro needed to look at some kind of operational base. This should be considered. Internally, the services paid for themselves. Metro's salaries, the general cost of government was a very minimal part of what the total cost of government was. In this region, if you took the entire cost of this agency, for about \$.07 a day on a \$1000 valued assessed house, you got a Convention Center, a Zoo, 6000 acres of parks, an Expo Center and all of the other facilities, the land use planning, and the transportation system. He did not think any government could do this at those costs. Looking down the road with inflation and diminishing potential cost in our excise taxes, he felt that we needed to assure ourselves that Metro was going to continue to find a way to pay for those non-revenue source activities that Metro had which was planning, transportation, and some of the general administration costs. Now, Metro depended on excise tax

whether or not that was something the agency wished to continue as a matter of policy was a question that should be discussed. Over the next year or two it was worthwhile for the Council and the Executive to have this discussion about what other options might be considered.

**Councilor McLain** asked about the increase in the Growth Management area, she had heard him speak of urban reserve planning and assistance to local jurisdictions. She had not heard about taking care of the implementation or the review of the elements of the Functional Plan as those compliance plans came due in August 1998.

**Mr. Burton** said these were built into the budget as well. After the budget was done, he had gone back through the budget process, identified every spare dollar, made some reductions such as ending balance to try to make \$100,000 additional money available which could be given directly to local governments that needed this for planning in those other areas. How this was allocated would be a discussion that the Council and he needed to have, how could this be done. Local governments had asked for about \$400,000. In fact, there were some elected officials who actually asked Metro to increase the excise tax and make that available back to them. He was not proposing this but he had found at least some of that money. The other activities were funding within the budget.

**Councilor McLain** verified that she would find both the Functional Plan and the review of Title III storm water elements and the non-source point in the budget?

**Mr. Burton** responded, yes.

**Presiding Officer Kvistad** thanked Mr. Burton and the staff for all of their hard work.

**Councilor McCaig** announced the dates of the public hearings on the budget: Wednesday, February 25, 1998 at the Budget Committee at 3:30 p.m., Wednesday April 13th on the actions taken throughout the process, April 23rd at which time the Council would approval transmitting the budget to TSCC. There would also be a public hearing at a night meeting scheduled on May 28th before the full Council and again on Thursday, June 25th, there would be a final hearing on the budget and hopefully the final adoption of the budget. There were at least five public hearings scheduled for the budget. Throughout the process they would open up the meetings for public hearings as well.

#### 4. MPAC COMMUNICATION

None.

#### 5. CONSENT AGENDA

##### 5.1 Consideration meeting minutes of the February 12, 1998 Regular Council Meeting.

**Motion:** Councilor Naito moved to adopt the meeting minutes of February 12, 1998 Regular Council Meeting.

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



**Discussion:** Councilor Morissette noted a change on page 8 which should say, he suggested that Mr. Turpel talk to Mr. Ye in working out the issues with Mr. Weigant.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously as amended.

## 6 ORDINANCES - FIRST READING

6.1 **Ordinance No. 98-724, For the Purpose of Adopting the Annual Budget for Fiscal Year 1998-99, Making Appropriations, Creating Funds, Levying Ad Valorem Taxes, Authorizing Interfund Loans, and Declaring an Emergency.**

Presiding Officer Kvistad assigned Ordinance No. 98-724 to the Finance/Budget Committee.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-724. No one came forward. Presiding Officer Kvistad closed the public hearing.

## 7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 97-710, For the Purpose of Establishing a Coordinated 2017 Population Forecast for Use in Maintaining and Updating Comprehensive Plans.**

**Main**

**Motion:** Councilor Morissette moved to adopt Ordinance No. 97-710.

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

**Motion to**

**Amend #1:** Councilor McFarland moved to amend Ordinance No. 97-710 with the following language: "These projections estimate aggregated County growth only over the planning period. These projections make no estimate of the projected population trends of individual cities.

This ordinance did not authorize any city to include in a comprehensive plan or land use regulation any projection for zero growth or a declining population.

Additionally, no city may avoid taking its fair and appropriate share of the regions growth consistent with State and regional law."

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

The previous action on this item had been continued at this meeting from the last Council meeting.

**Motion to**

**Withdraw**

**Amend #1:** Councilor McFarland moved to withdraw her first amendment.

**Seconded:** Councilor Morissette agreed to the withdrawal of the Amendment 1.

**Motion to Amend #2:** **Councilor McFarland** moved to substitute Ordinance No. 97-710 with Ordinance No. 97-710A.

**Seconded:** **Councilor McLain** seconded the amendment.

**Discussion:** **Councilor McFarland** said by making her recommended changes this eliminated the problem of segregating the population into the three counties. This put this issue at rest and simply gave a population forecast for the whole region.

**Vote to Amend #2:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

**Presiding Officer Kvistad** opened a public hearing on Ordinance No. 97-710A.

**Presiding Officer Kvistad** indicated that the amendment had taken Mr. Weigant's recommendations to be specific about the population forecast, rather than round up, they had changed the population forecast to a number.

**Mr. Weigant** asked if there was simply a single number? **Presiding Officer Kvistad** responded, yes. **Mr. Weigant** said it was customary in population numbers to give a high and a low. It was also customary to call them projections instead of forecast because projections implied that they were much more related to a series of assumptions. That allowed for identification of assumptions, furthermore, he felt that they would find these population numbers much more useful if they were presented as graphs. It also satisfied some of the precision problems. He noted some of the trends in the region. He said in the Port of Portland's projections they were continuing to use the 3.6% projections when at other times they said they were using Metro's numbers. He was concerned that the Port was pursuing economic development at rates that were not consistent with the 2040 Plan. Metro had dropped all intervals, he felt that five year intervals would be suitable and wouldn't be needed at all if they were presented graphically. He felt that the Council needed to adopt some policy to reduce low quality job creation because many of these jobs were related to population growth resulting from rapid job creation. Part of his prior presentation was to train staff in systems thinking which was part of his conclusion in looking at the human perspectives and Metro's role in the area and in the time frame. Very few people were looking at the complexities in the somewhat distant future; very few people were looking beyond that. He anticipated marked world population changes about the year 2050, he was not convinced that our region was preparing itself for marked population changes in those periods. Therefore, because a part of the issue of systems thinking was that we understood things more clearly when they were presented in a graphic way, he would be opposed to a single number for a population projection. He thought that was very difficult to use, particularly for anyone to get an understanding of the assumptions that went into that number. Mayor Katz's state of the City speech had comments on family wage jobs and he thought our goal to seek quality jobs related to much of this.

**Councilor McLain** said much of the information that **Mr. Weigant** had recommended were good ideas. She believed that some of these ideas were incorporated into their system thinking that she felt Metro had. The family wage job issue had come up at Metro, it was in Metro's documents including RUGGOs. It was her hope that she could make an appointment to review some of the

material because it looked to her that Mr. Weigant was in agreement with the kind of work that Metro was trying to do. This would give Mr. Weigant a better understanding of Metro's process and some of the work the staff did.

**Presiding Officer Kvistad** closed the public hearing.

**Vote on the**

**Main Motion:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

**8. CONTRACT REVIEW BOARD**

**8.1 Resolution No. 98-2608, For the Purpose of Entering into A Multi-Year Contract with the Most Qualified Proposer by Authorizing Issuance of a Request for Proposals for an Urban Reserve Productivity Analysis.**

**Motion:** Councilor Naito moved to adopt Resolution No. 98-2608.

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

**Discussion:** Councilor Naito reviewed Resolution No. 98-2608. Last year the Council adopted over 18,000 acres in urban reserves, in land that would eventually come into the Urban Growth Boundary as needed. Of that acreage over 4100 acres were identified as first tier, land designated to come in, in the first cut. Metro Code required that Metro did planning before amending the Urban Growth Boundary. Metro tried to accomplish growth in a different way by knowing where they were going to build what rather than having a haphazard approach. There had been discussions on changing the time line, but this was not before the Council today. Last fall, the Council adopted an Urban Growth Report recommending that over 32,000 units and approximately 2900 jobs would need to be accommodated outside of the existing Urban Growth Boundary in the next twenty years. State law required that Metro meet one half of the need by the end of 1998 and the other half by 1999. The overlay was some state land use planning goals, Goal 14, that Metro planned for public facilities and made maximum efficiency of the land in the urban setting. Now they were trying to take the growth population number and convert that to acreage on the ground. The first step in doing that would be to identify the capacity of the land in the urban reserves. This RFP was the first step in this process. The resolution sets out an RFP to identify enough capacity within the urban reserves to meet the 32,400 identified last fall. This contract did this in phases, starting with Tier 1. In looking at Tier 1, existing utilities would be reviewed, sewer and water, roads and parks. They were recommending that the person who did this contract utilize the same variables adopted by the Council in doing the Urban Growth Report such as unbuildable lands, wetlands and other natural areas. At that time, after completing the work on Tier 1, they had extensive discussion about this issue in Committee. The Committee wanted to maximize the financial arrangement, the cost factor with a consultant to determine if the Council needed to go beyond the First Tier that they had a consultant in place and would not have to go out for another bid. This resolution recommended that at the time of completion of Tier 1, the consultant would come back to the Council with recommendations of additional land that could be reviewed if we did not meet the 32,400 capacity that was identified in the Urban Growth Report. The time line on the RFP was very short because they wanted to get this work going as quickly as possible. There had been extensive notice given of this RFP. Those notified would have two weeks to prepare a proposal, a very short turn around time. Drafts of the proposal had already been out in the community and circulated to all known consultants since

mid-January. Consultants had had the draft to give feedback concerning any changes that should be made in the proposal. There had been extensive notice given out to the community that would be likely to submit bids. The budget for this proposal, in phase one which would be the first Tier, was a budget not to exceed \$55,000. She urged adoption of this resolution.

**Councilor McLain** said she supported this RFP. She asked rhetorically if we were going to engage in a second step, which they would have to on additional lands. If the productivity of that additional land was to be reviewed there had to be some set of criteria or some policy direction given to the consultant versus the consultant coming to Council. There would be some discussion with staff concerning the review of additional lands and how staff and the committee would discuss with the consultant what the Committee felt was important in the next phase. She asked if that was Councilor Naito's understanding and indicated that Mr. Turpel was nodding yes. She requested that this be clear.

**Councilor Naito** said the RFP clearly stated on its face that the consultant would simply make a recommendation that would be revisited by Council. It was a policy decision that must be made and brought back to the Council for a decision. The Committee also discussed the fact that at the time of the event of this, as the Council was looking at the end of the process bringing in the entire 32,400 units, that by that time some of the lawsuits should be settled and the Council would have a clearer idea of actually what land was in the urban reserve. She was hopeful that there would be a timely decision on these suits so this process could work together.

**Councilor McLain** said she thought that was acceptable, she added that even though the Council agreed that all of the acreage would and should be done, that again the conclusion of the lawsuits or other conditions may cause the Council to question the consultant's application of what should come next.

**Presiding Officer Kvistad** opened a public hearing on this item.

**Mr. Weigant** pointed out the need for systems thinking and the difficulty of achieving balance in this proposal. The Council was proposing 32,400 dwelling units and 2900 jobs under most circumstances we would expect these two numbers to be better balanced because jobs, people and housing units all equated to each other which demonstrated the need for a consultant to probe into this deeply.

**Presiding Officer Kvistad** closed the public hearing and asked for further discussion.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

**Councilor Morissette** said he would be excusing himself from the executive session because he owned property close to the Cooper Mountain property area being considered. He wanted to point out that there was a little bit of controversy at the recent SWAK meeting concerning a reduction in user fees ordinance before Council next Thursday. There was not a majority supporting the curve in the SWAK meeting. He noted that John Houser, Council Analyst, had prepared a commentary of the issues and suggested Council review and comment on this before next Thursday's Council meeting.

**9. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e).  
DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL  
PROPERTY TRANSACTIONS**

**9.1 Resolution No. 98-2607, For the Purpose of Authorizing the Executive Officer to Purchase Property in the Cooper Mountain Target Area.**

Members Present: Jim Desmond, Alison Kean-Campbell, Alexis Dow, members of the press, council staff.

**Motion:** Councilor McFarland moved to adopt Resolution No. 98-2607.

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

**Discussion:** Councilor McFarland said the Council had heard an explanation by Mr. Desmond. She recommended adoption of the resolution.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present. Councilor Morissette was not present.

**10. COUNCILOR COMMUNICATION**

Presiding Officer Kvistad reminded the Council that the February 26th meeting began at 7:00 p.m. Action items would be dealt with prior to the public hearing on Title III.

Councilor Washington wished Auditor Alexis Dow's a happy birthday today.

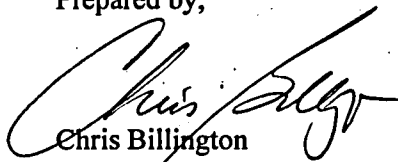
Councilor Naito said she had turned the construction project at the Zoo and understood other Councilors had also done this. She said that it was certainly very exciting and remarkable what they were accomplishing at the Zoo.

Presiding Officer Kvistad announced that there was a mailer in the back of the Council chamber which was the Metro Council schedule on the public hearings for the budget and on the stream and flood plain protection. The Metro Council Office phone number was 797-1540, the office would be happy to mail a schedule to anyone who called and requested it.

**11. ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:15 p.m.

Prepared by,

  
Chris Billington  
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
021998c-01	none listed	LOTI brochure	TO: Metro Council FROM: Art Lewellan, LOTI Designer	
021998c-02	2/19/98	FY 1998-99 Budget Presentation Notes	TO: Metro Council FROM: Mike Burton Executive Officer	Ordinance No. 98-724
021998c-03	2/19/98	FY 1998-99 Budget Slides utilized for Executive Officer presentation	TO: Metro Council FROM: Mike Burton, Executive Officer	Ordinance No. 98-724
021998c-04	2/19/98	Growth Allocation Implicit in 2017 Ordinance	TO: Metro Council FROM: Edward Starkie, Leland Consulting Group	Ordinance No. 97-710
021998c-05	2/16/98	Ordinance No. 97-710 (A) Establishing 2017 Population Forecast	TO: Elaine Wilkerson, Director of Growth Management FROM: Dan Cooper, Legal Counsel	Ordinance No. 97-710
021998c-06	January 1996	The 2015 Regional Forecast	FROM: Growth Management Services and Data Resource Center	Ordinance No. 97-710
021998c-07	2/19/98	Rate Ordinance issues at SWAK	TO: Metro Council FROM: John Houser, Council Analyst	Ordinance No. 98-720A

*Agenda Item Number 6.1*

**Ordinance No. 98-720A, For the Purpose of Amending Metro Code Chapter 5.02, Reducing Disposal Fees Charged at Regional Solid Waste Facilities, Establishing a Performance and Incentive-Based Regional System Charge Credit, Establishing a Transaction Charge, and Making Other Related Amendments.**

***Second Reading***

**Metro Council Meeting  
Thursday, February 26, 1998  
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE )      ORDINANCE NO. 98-720A  
CHAPTER 5.02, REDUCING DISPOSAL FEES )  
CHARGED AT REGIONAL SOLID WASTE )      Introduced by Mike Burton  
FACILITIES, ESTABLISHING A PERFORMANCE- )      Executive Officer  
AND INCENTIVE-BASED REGIONAL SYSTEM )  
CHARGE CREDIT, ESTABLISHING A TRANSAC- )  
TION CHARGE, AND MAKING OTHER RELATED )  
AMENDMENTS )

WHEREAS, it is desirable to reduce disposal fees charged at Metro's regional solid waste facilities to reflect Metro's reduced operating costs for the 1998-99 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 require adjustment as a result of such fee changes; and

WHEREAS, the Metro Rate Review Committee convened pursuant to Chapter 5.08 of the Metro Code and recommended that Metro establish a per-ton disposal charge of \$62.50 for the Metro Central and Metro South Transfer Stations; and

WHEREAS, the Rate Review Committee also recommend that Metro establish a \$5.00 transaction charge in addition to the above fees and charges; and

WHEREAS, it is appropriate to make certain related modifications to existing portions of Chapter 5.02 of the Metro Code; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5:02.010 is amended to read:

5.02.010 Purpose

The purpose of this chapter is to establish solid waste disposal rates, charges and credit policies for the Metro South Station and the Metro Central Station and to establish the method for setting and administering appropriate fees and charges assessed on solid waste generated within district or delivered to solid waste facilities regulated by or contracting with Metro.



**SECTION 2.** Metro Code Section 5.02.015 is amended to read:

**5.02.015 Definitions**

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Acceptable special wastes" means those special wastes that are approved for disposal at Metro South Station or Metro Central Station by the Metro Regional Environmental Management Department in the form of a special waste permit. Unacceptable waste, as defined in this section, is expressly excluded.

(b) "Cash account customer" means a person who pays cash for disposal of solid waste at Metro South Station or Metro Central Station.

(c) "Commercial customer" means a person primarily engaged in the business of collection or transportation of solid waste who is authorized by any federal, state or local government to perform such collection or transportation.

(d) "Conditionally exempt generator (CEG)" means a Conditionally Exempt Small Quantity Generator as defined in 40 CFR 261.4 (b) (1).

(e) "Credit account customer" means a person who pays for disposal of solid waste through a charge account at Metro South Station or Metro Central Station.

(f) "Direct-haul disposal charge" means that fee which pays for the direct unit costs of disposal of solid waste under the disposal contract between Metro and Oregon Waste Systems, Inc. The Direct-haul Disposal Charge is levied on solid waste that is generated or originates within the Metro boundary and is delivered directly to Columbia Ridge Landfill under Metro's disposal contract with Oregon Waste Systems, Inc. by persons other than Metro. The Direct-haul Disposal Charge is equal to the disposal component of the Disposal Fee.

(g) "Disposal fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are the long haul transport contract and the Oregon Waste Systems, Inc., disposal contract.

(h) "Enhancement fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(i) "Facility Retrieval Rate" means the percentage expressed by dividing the sum of all tonnage recovered at a solid waste facility, excluding all Source-Separate Recyclable Materials, by the sum of the tonnage recovered at such facility, excluding all Source-Separate Recyclable Materials, and the total solid waste destined for disposal from the facility.

(j) "Household hazardous waste" means any discarded, useless or unwanted chemical, material substance or product that is or may be hazardous or toxic to the public or the environment and is generated by households which may include, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

(k) "Limited purpose solid waste" means construction, demolition, process residue, land clearing waste and non-hazardous industrial dust.

(l) "Metro Central Station" is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

(m) "Metro disposal system" means Metro South Station, Metro Central Station, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

(n) "Metro Facility Fee" means those fees which pay for direct management costs of the Metro disposal system and for capital items directly related to such facilities. This fee is imposed upon all solid waste delivered to Metro Central Station or the Metro South Station.

(o) "Metro South Station" is the solid waste transfer station owned and operated by Metro and located at 2001 Washington, Oregon City, Oregon 97045.

(p) "Metro waste management system" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system

(q) "Non-commercial Customer" means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

(r) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or any other private entity or any public agency.

(s) "Processing Residual" means the non-putrescible solid waste destined for disposal which remains after recyclable materials have been removed from such non-putrescible solid waste.

(t) "Recoverable Solid Waste" means wood waste, yard debris, or tires, whether Source-Separated or commingled, and delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for mechanical extraction of useful materials, notwithstanding the presence of incidental amounts or types of other contaminants.

(u) "Recovery Rate" means the percentage expressed by dividing the sum of tonnage recovered at a solid waste facility, excluding Source-Separate Recyclable Materials, by the sum

of the tonnage recovered at such facility, excluding Source-Separate Recyclable Materials, plus the Processing Residual at such facility.

(v) "Recyclable Material" has the meaning specified in ORS 459.005(19).

(w) "Regional System Fee" means those fees which pay the cost of Metro Waste Management System.

(x) "Regional transfer charge" means those fees which pay the direct unit operating costs of the Metro transfer stations. This fee is imposed upon all solid waste delivered to Metro disposal system facilities.

(y) "Regional transfer station" is a transfer facility that accepts putrescible and non-putrescible wastes from wide variety of commercial and public users; and includes as ancillary activities: collection of household and conditionally exempt generator hazardous waste, recycling drop center, and resource recovery.

(z) "Solid waste" means all putrescible and nonputrescible wastes, including garbage, rubbish, refuse, paper and cardboard, commercial, industrial, demolition and construction waste, home and industrial appliances.

(aa) "Solid Waste Disposal Transaction" means the usage of Metro transfer station disposal facilities by a customer for the purpose of delivering for disposal a single load of solid waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers), and shall be determined to occur upon a customer's entrance to Metro transfer station facilities.

(bb) "Source-Separate" has the meaning specified in ORS 459.005(26).

(cc) "Special loads" means all loads of household hazardous waste that are 35 gallons or more in the aggregate or loads that contain any acutely hazardous waste.

(dd) "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.
- (2) Waste transported in a bulk tanker.
- (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 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, 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
    - (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
    - (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
    - (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 that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers 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.
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.
- (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.
- (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.

- (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).
- (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.
- (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.
- (14) Radioactive waste.
- (15) Medical waste.

(ee) "Transaction Charge" means that fee which, for each transaction, serves to pay for related scalehouse costs at the Metro transfer stations.

(ff) "Transfer Facility" means a solid waste disposal facility that receives solid waste primarily for reloading into different vehicles for transport to Metro South Transfer Station, Metro Central Transfer Station, a Metro licensed or franchised facility, or a Metro Designated Facility.

(gg) "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) Special waste without an approved special waste permit. The executive officer may deny a special waste application if the special waste poses an unacceptable health and safety risk, or is likely to damage transfer station equipment.

**SECTION 3.** Metro Code Section 5.02.025 is repealed and Section 4 of this Ordinance is enacted in lieu thereof:

**SECTION 4.**

**Disposal Charges at Metro South & Metro Central Station**

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of a Tonnage Charge of \$62.50 for each ton of solid waste delivered for disposal and a Transaction Charge of \$5.00 for each Solid Waste Disposal Transaction.

(b) The Tonnage Charge specified in subsection (a) of this section includes:

- (1) A disposal charge of \$38.61 per ton;
- (2) A regional transfer charge of \$7.00 per ton;
- (3) The fees specified in section 5.02.045;
- (4) An enhancement fee of \$.50 per ton; and
- (5) DEQ fees totaling \$1.24 per ton.

(c) Notwithstanding subsection (a) of this section, there shall be a minimum solid waste disposal charge at the Metro South Station and at the Metro Central Station for loads of solid waste weighing 320 pounds or less of \$15, which shall consist of a minimum Tonnage Charge of \$10.00 plus a Transaction Charge of \$5.00 per Transaction.

(d) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any \$0.50 charge rounded down.

(e) The Director of the Regional Environmental Management Department may waive disposal fees created in this section for Non-commercial Customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

(f) 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**

<u>Tonnage Charge Component</u>	<u>\$/Ton Rate</u>
Disposal Charge	38.61
Regional System Fee	14.00
Metro Facility Fee	1.15

Regional Transfer Charge	7.00	
Metro Tonnage Charges	\$ 60.76	
Additional Fees		
Enhancement Fee	\$ .50	
DEQ Fees	<u>1.24</u>	
Total Tonnage Charges:	\$62.50	
		<u>\$/Transaction</u>
Per-Transaction Charge		\$5.00
Minimum Tonnage Charge	\$10.00	

**SECTION 5.** Section 6 of this Ordinance is added to and made a part of Metro Code Chapter 5.02.

**SECTION 6.**

**Source Separated Recyclable Disposal Charge Credit**

Notwithstanding Metro Code Section 5.02.025, Non-commercial customers at Metro South Station or Metro Central Station who dispose of source-separated recyclable material as defined in ORS 459.005 shall receive a disposal charge credit in the amount of \$3 for disposing of fewer than 100 pounds of recyclables and in the amount of \$6 for 100 pounds or more of recyclables.

**SECTION 7.** Section 8 of this Ordinance is added to and made a part of Metro Code Chapter 5.02.

**SECTION 8.**

**Charges for Management of Household Hazardous Wastes**

(a) Charges for managing household hazardous waste delivered to Metro Hazardous Waste Facilities shall be as follows:

- (1) \$5.00 for each 35 gallons of household hazardous waste or any lesser portion thereof;
- (2) \$5.00 handling Charge for each empty container;
- (3) \$10.00 handling Charge for any container holding less than 25 gallons of household hazardous waste; and
- (4) \$15.00 handling Charge for any container holding 25 or more gallons of waste.

(b) Each of the above charges may be waived by the Director of the Regional Environmental Management Department.

**SECTION 9.** Section 10 of this Ordinance is added to and made a part of Metro Code Chapter 5.02.

**SECTION 10.**

**Charges for Conditionally Exempt Generator Waste**

The amount charged for acceptance of CEG 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, all applicable excise taxes, and the cost of material utilized for managing the waste.

**SECTION 11.** Section 12 of this Ordinance is added to and made a part of Metro Code Chapter 5.02.

**SECTION 12.**

**Disposal Charge for Recoverable Solid Waste**

(a) There is hereby established a Recoverable Solid Waste Disposal Charge that shall be collected on all Recoverable Solid Waste accepted at the Metro South Station or Metro Central Station.

(b) The Recoverable Solid Waste Disposal Charge shall be based on Metro's actual costs in managing Recoverable Solid Waste. The amount of the Recoverable Solid Waste Disposal Charge shall consist of a Recoverable Solid Waste Variable Charge as defined in this Section and a Transaction Charge as defined in Section 5.02.025. The Recoverable Solid Waste Disposal Charge shall be in lieu of all other base disposal charges, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by of this chapter.

(c) The Variable Charge for Recoverable Solid Waste shall be the greater of:

(1) The highest price charged by private solid waste operators for similar Recoverable Solid Waste as reported quarterly in the Market Price Report published by Metro Recycling Information; or

(2) The sum of:



- (i) the contractual price paid by Metro to any contract operator of Metro South Station and Metro Central Station for recovering and processing Recoverable Solid Waste;
- (ii) the Metro Facility Fee as defined in Section 5.02.025 of this chapter and expressed on a per-unit basis; and
- (iii) an amount equal to 21.6 percent of the Regional System Fee as defined by Metro Code Section 5.02.015 and expressed on a per-unit basis.

(d) Notwithstanding subsection (b) of this section, there shall be a minimum charge for loads of Recoverable Solid Waste as established by the Director of the Regional Environmental Management Department.

(e) Notwithstanding any other provision of this section, the charge for the disposal of a single Christmas tree shall be the Transaction Charge as set forth in Metro Code Section 5.02.025.

(f) All Fees charged for disposal of Recoverable Solid Waste shall be clearly posted at Metro South Station and at Metro Central Station.

**SECTION 13.** Section 14 of this Ordinance is added to and made a part of Metro Code Chapter 5.02.

#### **SECTION 14.**

##### **Charges for Direct-haul Disposal**

Each facility licensed or franchised under Metro Code Chapter 5.01 and authorized to transport solid waste directly to the Columbia Ridge Landfill shall pay to Metro a charge of \$24.93 per ton of solid waste which is generated or originates within the Metro boundary and which the facility directly transports to the Columbia Ridge Landfill.

**SECTION 15.** Section 16 of this Ordinance is added to and made a part of Metro Code Chapter 5.02.

#### **SECTION 16.**

##### **Special Waste Surcharge and Special Waste Permit Application Fees**

(a) 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 Metro to manage special wastes. The surcharge and fee shall be applied to all special wastes.

(b) The special waste surcharge shall be 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.

(c) 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.

SECTION 17. Metro Code Section 5.02.035 is repealed and Section 18 of this Ordinance is enacted in lieu thereof.

SECTION 18.

5.02.035 Litter Control Surcharge

(a) A surcharge of \$100 per Solid Waste Disposal Transaction shall be levied against a commercial customer who disposes of solid waste or Recoverable Solid Waste at Metro Central Station or Metro South Station if, when entering the facility, any portion of the commercial customer's waste or Recoverable Solid Waste is visible to Metro scalehouse personnel.

(b) A surcharge of \$25 per Solid Waste Disposal Transaction shall be levied against a Non-commercial customer who disposes of solid waste or a Recoverable Solid Waste at Metro Central Station or at Metro South Station if, when entering the facility, any portion of the non-commercial customer's waste or Recoverable Solid Waste is visible to Metro scalehouse personnel.

(c) No surcharge shall be levied under this section if the solid waste or Recoverable Solid Waste is only visible through a secure covering.

(d) The surcharge provided for in this section shall be collected in the same manner as Metro collects all other disposal fees and charges at the facility.

SECTION 19. Metro Code Section 5.02.045 is repealed and Section 20 of this Ordinance is enacted in lieu thereof:

**SECTION 20.**

**5.02.045 System Fees**

(a) **Regional System Fee:** Solid waste disposal facility operators shall collect and pay to Metro a Regional System Fee of \$14.00 per ton for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with Metro Code section 5.01.150.

(b) **Metro Facility Fee:** Metro shall collect a Metro Facility Fee of \$1.15 per ton for all solid waste delivered to Metro Central Station or Metro South Station.

(c) System fees described in paragraph (a) shall not apply to:

- (1) inert material; including but not limited to earth, sand, stone, crushed stone, crushed concrete, broken asphaltic concrete and wood chips used at disposal facilities for cover, diking, road base, or other productive use at such solid waste disposal facilities;
- (2) solid waste received at facilities which are licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 and which accomplish materials recovery and recycling as a primary operation; or
- (3) solid waste received at Transfer Facilities which deliver such wastes to a Metro-owned, licensed, franchised, or designated facility where Metro fees are collected and paid to Metro.

**SECTION 21.** Section 22 of this Ordinance is added to and made a part of Metro Code Chapter 5.02.

**SECTION 22.**

**5.02.047 Regional System Fee Credit**

(a) A solid waste facility which is licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Regional System Fee otherwise due each month under Section 5.02.045 for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:

### System Fee Credit Schedule

Recovery Rate		System Fee Credit of no more than
From Above	Up To & Including	
0%	20%	0.00
20%	25%	1.00
25%	30%	3.00
30%	35%	6.46
35%	40%	8.00
40%	45%	9.82
45%	100%	12.00

(b) The Executive Officer may establish additional administrative procedures regarding the Regional System Fee Credits, including, but not limited to establishing eligibility requirements for such credits and establishing incremental System Fee Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (a) of this section.

(c) The provisions of this section are repealed June 30, 1999.

SECTION 23. Metro Code Section 5.02.055 is amended to read:

5.02.055 Remittance to Metro of 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 fees and charges other than excise taxes to Metro as specified in this section.

(b) 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. Fees and other charges will be delinquent if not received by Metro on or before the due date, either by personal delivery to the Metro Department of 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 24 Metro Code Section 5:02.060 is amended to read:

5.02.060. Account 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) Metro's executive officer shall establish and maintain appropriate account 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 officer.

(c) Account charges shall accrue on a monthly basis. 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; 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 Administrative Services during business hours or, if delivered by mail, 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 the Department of Administrative Services.

(f) An account 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 Administrative Services may adjust accounts receivable and reverse finance charges in accordance with prudent credit practices. Adjustments over \$500 shall be reported to the council in writing on a monthly basis, and adjustments over \$10,000 shall require council approval.

(h) The 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 council in writing on a monthly basis when the amount exceeds \$500, and amounts over \$10,000 shall require council approval.

**SECTION 25.** Metro Code Sections 5.02.065, 5.02.070 and 5.02.085 are repealed.

**SECTION 26.** The amendments to the Metro Code provided for in Sections 1 through 25 of this Ordinance shall take effect on June 1, 1998.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1998

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

ATTEST:

Approved as to Form:

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

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

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE	)	ORDINANCE NO. 98-720
CHAPTER 5.02, REDUCING DISPOSAL FEES	)	
CHARGED AT REGIONAL SOLID WASTE	)	Proposed Amendments
FACILITIES, ESTABLISHING A PERFORMANCE-	)	Introduced by Metro
AND INCENTIVE-BASED REGIONAL SYSTEM	)	Regional Environmental
CHARGE CREDIT, ESTABLISHING A TRANSAC-	)	Management Department
TION CHARGE, AND MAKING OTHER RELATED	)	Staff
AMENDMENTS	)	

1. On page 2 of proposed Ordinance No. 98-720, Section 5.02.015(f), second sentence, delete "or its transport operator".
2. On page 2 of the proposed Ordinance, following Section 5.02.015(h), insert the following:

" 'Facility Retrieval Rate' means the percentage expressed by dividing the sum of all tonnage recovered at a solid waste facility, excluding all Source-Separate Recyclable Materials, by the sum of the tonnage recovered at such facility, excluding all Source-Separate Recyclable Materials, and the total solid waste destined for disposal from the facility."

3. On page 3 of the proposed Ordinance, Section 5.02.015(r), insert "non-putrescible" following "means the" and also delete "resource recovery has taken place" and insert "recyclable materials have been removed from such non-putrescible solid waste."
4. On page 3 of the proposed Ordinance, Section 5.02.015(s), delete "means Solid Waste" and insert "means wood waste, yard debris, or tires, whether Source-Separate or commingled, and".
5. On page 3 of the proposed Ordinance, delete Section 5.02.015(t) and replace it with the following:

"Recovery Rate" means the percentage expressed by dividing the sum of tonnage recovered at a solid waste facility, excluding Source-Separate Recyclable Materials, by the sum of the tonnage recovered at such facility, excluding Source-Separate Recyclable Materials, plus the Processing Residual at such facility.

6. On page 4 of the proposed Ordinance, following Section 5.02.015(t), insert the following:

"Recyclable Material" has the meaning specified in ORS 459.005(19).

7. On page 4 of the proposed Ordinance, following Section 5.02.015(z), insert the following:

“Source-Separate” has the meaning specified in ORS 459.005(26).

8. On page 10 of the proposed Ordinance, delete Section 12(d) and replace it with the following language:

“Notwithstanding subsection (b) of this Section, there shall be a minimum charge for loads of Recoverable Solid Waste as established by the Director of the Regional Environmental Management Department.”

9. On page 10 of the proposed Ordinance, delete Section 12(f), and renumber Section 12(g) accordingly.

10. On page 13 of the proposed Ordinance, delete Section 22 and replace it with the following:

**SECTION 22.**

**5.02.047 Regional System Fee Credit**

(a) A solid waste facility which is licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Regional System Fee otherwise due each month under Section 5.02.045 for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:

**System Fee Credit Schedule**

<u>Recovery Rate</u>		<u>System Fee Credit of no more than</u>
<u>From Above</u>	<u>Up To &amp; Including</u>	
0%	20%	0.00
20%	25%	1.00
25%	30%	3.00
30%	35%	6.46
35%	40%	8.00
40%	45%	9.82
45%	100%	12.00



(b) The Executive Officer may establish additional administrative procedures regarding the Regional System Fee Credits, including, but not limited to establishing eligibility requirements for such credits and establishing incremental System Fee Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (a) of this section.

(c) The provisions of this Section are repealed June 30, 1999.”

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2/9/98

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 98-720A FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02, REDUCING DISPOSAL FEES CHARGED AT REGIONAL SOLID WASTE FACILITIES, ESTABLISHING A PERFORMANCE- AND INCENTIVE-BASED REGIONAL SYSTEM CHARGE CREDIT, ESTABLISHING A TRANSACTION CHARGE, AND MAKING OTHER RELATED AMENDMENTS

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Date: February 17, 1998

Presented by: Bruce A. Warner  
Roosevelt Carter

### PROPOSED ACTION

Adopt Ordinance No. 98-720A.

### FACTUAL BACKGROUND AND ANALYSIS

The Regional Environmental Management Department (REM) is able to reduce the fees on solid waste for FY 1998-99, based on the following factors:

- a strong economy has resulted in increased tonnage that offer significant savings in the cost of disposal under Change Order No. 7 to the contract with Oregon Waste Systems;
- cost of the new contract with Browning-Ferris Industries of Oregon, Inc. for the operation of Metro South and Metro Central Transfer Stations is less than was projected;
- REM's operations and management fixed costs have remained relatively stable, while regional growth has resulted in significantly more waste from which to recover these costs;
- the Unappropriated Fund Balance increased in excess of department requirements, offering additional rate-reduction opportunities.

Metro Rate Review Committee and the Metro Executive Officer recommend adoption of Ordinance No. 98-720A, enacting the following changes to be implemented effective June 1, 1998 and for FY 1998-99:

- reduce Metro's solid waste disposal fees to \$62.50 per ton, adjust the fee components of Metro's solid waste disposal rate system, and make adjustments to other fees and credits for overall consistency;
- recover scalehouse costs and encourage delivery of larger, more efficient loads through a charge of \$5.00 per transaction at Metro Transfer Stations;
- establish a Regional System Fee that is linked to the recovery performance of solid waste facilities to help support material recovery through an incentive system;

- encourage delivery of source-separated and high-grade loads to Metro transfer stations through charges that reflect Metro's costs of recovery, when less than the cost of disposal;
- incorporate certain form and style amendments to Metro Code Chapter 5.02.

**System Disposal Rates**

The primary objective of this year's rate-setting process was to reduce disposal fees to reflect contract savings and continued growth in the regional economy while supporting recovery and recycling achievements. The proposed rate of \$62.50 per ton, including a recovery performance-based Regional System Fee Credit, combined with the proposed \$5 transaction charge accomplishes these objectives.

As proposed, individual fee component recommendations are as follows:

	<u>Current Rate</u>	<u>Proposed Rate</u>
	<i>Per Ton</i>	<i>Per Ton</i>
■ Transportation/Disposal Fee	\$37.83	\$38.61
■ Metro Facility Fee	8.00	1.15
■ Regional Transfer Charge	7.50	7.00
■ Regional System Fee	15.00	14.00
<b>Total Rate</b>	<hr/> <b>\$68.33</b>	<hr/> <b>\$60.76</b>
 <u>Additional Fees</u>		
■ Enhancement Fee	0.50	0.50
■ DEQ Fees	1.17	1.24
<b>Total Disposal Fee</b>	<hr/> <b>\$70.00</b>	<hr/> <b>\$62.50</b>
	 <i>Per Transaction</i>	 <i>Per Transaction</i>
■ Transaction Charge		<b>\$5.00</b>

**Direct-Haul Disposal Charge**

This ordinance establishes a disposal charge for facilities that meet certain requirements to direct-haul waste to Columbia Ridge Landfill. This rate is the same average disposal charge that is built into the Metro tip fee, \$24.93 per ton.

### **\$5 Transaction Charge**

Metro incurs nearly the same scalehouse costs regardless of the size of the load delivered to a Metro transfer station. Presently, the per-ton tip fee includes the scalehouse costs. Thus, customers with larger loads pay a greater proportion of these costs than those with smaller loads. The proposed transaction charge reflects a pricing strategy that is closer to the cost of service than the current flat tip fee. The cost to process one load (customer) through the Metro transfer station scalehouse is approximately five dollars. Therefore, the effective rate per ton will depend on the load size. For example, a five-ton load will have an effective rate of \$63.50 per ton; a one-ton load will have an effective rate of \$67.50 per ton; and so forth.

### **Recovery Performance-Based Regional System Fee Credit**

In balancing the objectives of reducing the rate and encouraging recycling and recovery, REM and the Rate Review Committee recommend a proportion of the Regional System Fee paid by a facility be credited to that facility, dependent on that facility's recovery rate.

In order to qualify for a Regional System Fee Credit, a facility must recover a minimum of 10% of all waste received. Such an eligibility requirement is consistent with the objective of encouraging recycling and recovery.

REM staff recommend the Regional System Fee Credit recovery-rate calculation be based on the ratio of waste recovered to dry-waste processing residual, and apply to dry-waste processing residual only. Such a method of computation allows for a facility with a relatively small dry-waste stream to receive credit for recovery efforts. The recovery formula for determining credits excludes source-separated recyclables, and any special or industrial wastes that are simply consolidated and reloaded.

As this approach is untested, REM and the Rate Review Committee recommend that the credits under this program be funded from the Undesignated Fund Balance to avoid potential fluctuations in revenue during the initial period of the program. Approximately \$900,000 of the Undesignated Fund Balance has been earmarked to cover these credits. As the performance-based credit program is untested, a sunset date of June 30, 1999 is also recommended.

### **Recoverable Solid Waste Disposal Charge**

To further realize the objective of supporting recovery and recycling within a cost-of-service framework, this ordinance establishes a procedure to encourage delivery of source-separated and high-grade loads to Metro transfer stations through charges that reflect Metro's costs of recovery, when less than the cost of disposal.

Metro's charge for delivery of yard debris has been \$54.00 per ton since July 1992. After review of the costs associated with the processing of yard debris, Metro's Rate Review Committee recommended that this charge should be based on direct and indirect costs related specifically to the processing of acceptable recoverable materials. The Rate Review Committee and REM staff recommend this charge extend beyond yard debris to include wood and tires.

The proposed per-ton charge for delivery of yard debris, wood and tires comprises the sum of the following components:

1. the per-ton contractual price paid by Metro to the transfer station operator for recovery and processing of these materials;
2. the per-ton Metro Facility Fee (Tier II);
3. the per-ton program-specific "indirect costs;" and,
4. applicable excise tax.

Indirect costs are defined in this context as a portion of the REM Department's annual transfers for support services divided by the total annual tons delivered to Metro South and Metro Central Stations. Recognizing the volatility of recycling markets and in response to Rate Review Committee recommendations, it is also proposed that in no case shall Metro's charge be less than the amount charged by private operators.

Based on the proposed formula, the proposed charge for yard debris, wood and tires delivered to Metro South and Metro Central Transfer Stations for FY 1998-99 is \$38.00 per ton plus the transaction charge of \$5.00 per transaction.

**Effective Date**

The effective date of June 1, 1998 is proposed to assure that rate changes take effect at the beginning of the month so as to avoid administrative problems.

**FISCAL IMPACT**

Implementation of the proposed rate of \$62.50 per ton and the Transaction Charge of \$5.00 per transaction on June 1, 1998 results in the following projections of variances from the FY 1997-98 Adopted Budget.

	<b>FY 1997-98 Adopted Budget</b>	<b>Revised Rates (\$70 thru May 30; \$62.50 + \$5 TF from June 1)</b>	<b>Variance from FY 1997-98 Adopted Budget</b>	<b>FY 1998-99 Requested Budget</b>	<b>Variance from FY 1997-98 Adopted Budget</b>
<b>Metro tonnage</b>	725,578	792,814	67,236	804,371	78,793
<b>Regional tonnage</b>	1,176,359	1,281,431	105,072	1,339,549	163,190
<b>SW Revenue from Rates</b>	\$51,418,000	\$56,012,000	\$4,594,000	\$52,639,000	\$1,221,000
<b>Excise Tax (8.5%)</b>	\$5,671,000	\$6,226,000	\$555,000	\$6,118,000	\$447,000

The proposed rate of \$62.50 per ton plus the \$5 Transaction Charge for FY 1998-99 represents about \$900,000 less than the revenue required from rates to cover FY 1998-99 expenses. This results in a \$900,000 draw-down of the Undesignated Fund Balance. In addition to the \$900,000 draw-down

required to meet expenses, approximately \$900,000 from the Undesignated Fund Balance will be used to fund the Solid Waste Revenue Fund recovery incentive through a performance-based Regional System Fee Credit. Use of the Undesignated Fund Balance for these purposes has been carefully considered, and is recommended by the Rate Review Committee and REM staff.

The proposed rate of \$62.50 per ton plus the \$5 Transaction Charge along with the anticipated \$1.8 million contribution from the Undesignated Fund Balance will allow Metro to collect all of REM's revenue requirements for FY 1998-99.

The Executive Officer's proposed FY 1998-99 Budget reflects the proposed rate of \$62.50 per ton plus the \$5 Transaction Charge, and the projected Metro Excise Tax generated from this rate.

## **SECTION-BY-SECTION SUMMARY**

### **Section 1 of Ordinance 98-720A Purpose**

Section 1 of Ordinance 98-720A amends Metro Code Section 5.02.010 as follows:

The purpose is expanded for consistency and clarity.

### **Section 2 of Ordinance 98-720A Definitions**

Section 2 of Ordinance 98-720A amends Metro Code Section 5.02.015 as follows:

"Acceptable special waste" is changed for accuracy.

"Commercial customer" is added. This term replaces "credit account customer" because it more accurately describes the customer indicated.

"Conditionally exempt generator (CEG)" is added.

"Direct-haul disposal charge" is added.

"Facility retrieval rate" is added to establish a method for computing eligibility for the Regional System Fee Credit.

"Household hazardous waste" is changed for accuracy and clarity.

"Metro Facility Fee" (previously "Metro User Fee") is changed to reflect reallocation of direct management costs of the Metro disposal system to Tier II, changes to the Oregon Waste Systems contract, and reallocation of the long-haul transport contract and debt service costs to Tier I. Also, the term itself is changed from Metro User Fee to Metro Facility Fee, so as not to confuse the

meaning of User Fee with that described in Section 15 of the Metro Charter which pertains to retail sales.

“Metro waste management system” is added.

“Non-commercial customer” is added. This term replaces “cash account customer” because it more accurately describes the customer indicated.

“Processing residual” is added.

“Recoverable solid waste” is added to reflect a broader spectrum of recoverable materials accepted at a lower fee as detailed in Sections 11 and 12 of the ordinance.

“Recovery rate” is added for the purposes of calculating the performance-based Regional System Fee Credit.

“Recyclable material” is added.

“Regional System Fee” (previously “Regional User Fee”) is changed to reflect the philosophy that costs associated with maintaining disposal capacity should be borne by all users of the system. Changes specifically reflect the reallocation of the long-haul transport contract and debt service costs to Tier I. Also, the term itself is changed from Regional User Fee to Regional System Fee, so as not to confuse the meaning of User Fee with that described in Section 15 of the Metro Charter which pertains to retail sales.

“Regional transfer station” is added.

“Solid waste disposal transaction” is added.

“Source-Separate” is added.

“Transaction charge” is added.

“Transfer facility” is added.

**Section 3 and Section 4 of Ordinance 98-720A Disposal Charges At Metro South Station and Metro Central Station**

Section 3 and Section 4 of Ordinance 98-720A repeal Metro Code Section 5.02.025 and replace it with a new Metro Code Section. Metro Code Section 5.02.025 is re-enacted with the following amendments:

This section has been simplified by removing references to covered load credits, the recycling credit, and hazardous waste charges. For the purpose of clarity, language referring to credits and charges has been consolidated and moved to separate sections.

**Section 7 and Section 8 of Ordinance 98-720A Charges for Management of Household Hazardous Wastes**

Section 7 and Section 8 of Ordinance 98-720A add a new section to Metro Code Chapter 5.02.

For the purpose of clarity, the language from Metro Code Section 5.02.025 establishing charges for management of household hazardous wastes is moved to this new section. Minor changes were made to the existing language for clarity and accuracy.

**Section 9 and Section 10 of Ordinance 98-720A Charges for Conditionally Exempt Generator Waste**

Section 9 and Section 10 of Ordinance 98-720A add a new section to Metro Code Chapter 5.02.

For the purpose of clarity, the language from Metro Code Section 5.02.065 establishing charges for Conditionally Exempt Generator waste is moved to this new section. Minor changes were made to the existing language for clarity and accuracy.

**Section 11 and Section 12 of Ordinance 98-720A Disposal Charge for Recoverable Solid Waste**

Section 11 and Section 12 of Ordinance 98-720A add a new section to Metro Code Chapter 5.02.

The language from Metro Code Section 5.02.070, which dealt with the fee for source-separated yard debris, is moved to this new section in order to group sections establishing charges together, for the purpose of clarity and consistency.

The language from the yard debris section is changed to reflect broadening of the spectrum of materials accepted as recoverable and charged a lower fee as such. Materials established as eligible for this charge are yard debris, wood and tires. It is also changed to reflect the proposed formula for setting the charge for recoverable materials accepted at Metro facilities. It is established that the Regional Environmental Management Department Director shall set minimum charges for recoverable materials. Uncovered load charges are changed to reflect a lower fee for recoverable solid waste.

**Section 13 and Section 14 of Ordinance 98-720A Charges for Direct-Haul Disposal**

Section 13 and Section 14 of Ordinance 98-720A add a new section to Metro Code Chapter 5.02.

This section is added to establish that facilities that are franchised or authorized under Chapter 5.01 to direct haul waste to Columbia Ridge Landfill shall pay Metro a charge of \$24.93/ton. When said facilities deliver waste to Columbia Ridge Landfill, Metro's account will be charged; subsequently, Metro will charge said facility. The charge of \$24.93/ton is equal to the average disposal charge under Change Order 7 plus applicable excise tax.

Until Chapter 5.01 is revised, this section applies to no facility.



Subsections (a) and (b), which differentiate between cash and credit customers by setting the fee for cash customers \$25/ton more than for credit customers, and Subsection (c)(6) which establishes a \$25/ton rebate for cash customers when they deliver a covered load, and Subsection (d) which establishes a rebate for cash customers delivering separated recyclable loads, and Subsection (e) which establishes a different minimum charge for cash and credit customers, are replaced with the following:

- one fee for the disposal of solid waste at the Metro South and Central stations, including a \$5 transaction charge;
- incentive to cover loads is provided for all types of customers in the re-enacted and amended Metro Code Section 5.02.035 Litter Control Surcharge;
- the recycling credit is addressed in a new Metro Code Section; and,
- a minimum disposal charge of \$15 is established.

Fees and charges paid in cash are rounded down from fifty cents. This is for purpose of administrative efficiency.

Subsection (h) which states that the Executive Officer may waive disposal fees under extraordinary circumstances, and defines limiting conditions is edited and moved. The revision states that the REM Department Director may waive disposal fees for non-commercial customers under extraordinary circumstances or conditions. This change is proposed for administrative efficiency purposes. In such extraordinary situations as when this measure may be exercised the need for immediate decisions makes the REM Director a logical choice. The new Metro Code Section 5.02.027, Charges for Management of Household Hazardous Waste states, states that the REM Director may waive fees for promotional purposes. This allows for waiving of household hazardous waste disposal fees at the household hazardous waste mobile events. The provision in Metro Code Section 5.02.075 allowing the Executive Officer to issue exemption permits to public agencies, local governments, or certain non-profit entities remains unchanged.

The table following Metro Code Section 5.02.025 is changed to reflect new rates and fees, and to otherwise be consistent with changes to the chapter.

### **Section 5 and Section 6 of Ordinance 98-720A Recycling Credit**

Section 5 and Section 6 of Ordinance 98-720A add a new section to Metro Code Chapter 5.02.

For the purpose of clarity, the language from Metro Code Section 5.02.025 establishing a recycling credit is moved to this new section. Minor changes were made to the existing language for clarity and accuracy.

**Section 15 and Section 16 of Ordinance 98-720A Special Waste Surcharge and Special Waste Permit Application Fees**

Section 15 and Section 16 of Ordinance 98-720A add a new section to Metro Code Chapter 5.02.

The language from Section 5.02.065 establishing a special waste surcharge and special waste permit application fees is moved to this new section in order to group references to charges together, for the purpose of clarity.

The words "a per ton charge" are deleted from the first line of Subsection (b) because in some cases the special waste surcharge is determined by container; for example, by the load or by the drum.

**Section 17 and Section 18 of Ordinance 98-720A Litter Control Surcharge**

Section 17 and 18 of Ordinance 98-720A repeal Metro Code Section 5.02.035 and replace it with a new section, amended as follows:

References to "credit account" customer were changed to "commercial" customer, and "cash account" customer were changed to "non-commercial" customer for consistency with the purpose of the distinction between the two types of customers.

A surcharge of \$25 per load levied against non-commercial customers delivering uncovered loads of solid waste is established. The surcharge provides the incentive to cover loads that was previously provided for by the \$25/ton rebate in Section 5.02.025. The surcharge is per load as opposed to per ton in order to be consistent with the per load surcharge levied against commercial customers.

**Section 19 and Section 20 of Ordinance 98-720A System Fees**

Section 19 and Section 20 of Ordinance 98-720A repeal Metro Code Section 5.02.045 and replace it with a new section, amended as follows:

Reference to User Fees is deleted so as not to confuse the meaning of User Fee with that described in Section 15 of the Metro Charter which pertains to retail sales. The term Regional User Fee is replaced by Regional System Fee, and the term Metro User Fee is replaced by Metro Facility Fee.

Subsection (a) is changed for clarity and to reflect new fees. Reference to whether waste is generated within or outside of the Metro boundary is moved from Subsection (a) to (a) (1) because the phrase does not apply to (a) (2) Metro Facility Fee.

For clarity, Subsections (c), (d) and (e) are combined under Subsection (b). Subsection (b) (3) (previously Subsection (e)) is revised to assure that fees are not collected more than once on any particular load of waste by stating that transfer facilities do not have to collect a system fee on waste being taken to a facility where that fee is collected.

**Sections 21 and Section 22 of Ordinance 98-720A Regional System Fee Credit**

Section 21 and Section 22 of Ordinance 98-720A add a new section to Metro Code Chapter 5.02.

Subsection (a) establishes a performance-based Regional System Fee Credit and a recovery-based eligibility requirement, and states that the credit and eligibility requirement will be based on the recovery rate achieved by the facility as calculated on a six-month rolling average.

Subsection (b) provides for the Executive Officer to establish additional administrative procedures.

**Section 23 of Ordinance 98-720A Remittance To Metro Of User Fees And Other Charges By Franchisees And Other Designated Facilities**

Section 23 of Ordinance 98-720A amends Metro Code Section 5.02.055 as follows:

Subsection (c) is added to reflect the proposed performance-based Regional System Fee Credit.

**Section 24 of Ordinance 98-720A Account Policy At Metro Solid Waste Disposal Facilities**

Section 24 of Ordinance 98-720A amends Metro Code Section 5.02.060 as follows:

The word "credit" is changed to "account" in the title (previously Credit Policy at Metro Solid Waste Disposal Facilities), so as not to be confused with the word "credit" as used in the new Section 5.02.047 Regional System Fee Credit.

**Section 25 of Ordinance 98-720A**

Section 25 of Ordinance 98-720A repeals Metro Code Sections 5.02.065 (Special Waste Surcharge and Special Waste Permit Application Fees; Conditionally Exempt Generator Waste), 5.02.070 (Source Separated Yard Debris Disposal Charge), and 5.02.085 (Out-of-District Waste).

Language in Metro Code Sections 5.02.065 and 5.02.070 is moved to new sections for the purpose of clarity. Reference to Conditionally Exempt Generator Waste is moved from Section 5.02.065 to a new Section 5.02.028.

**EXECUTIVE OFFICER RECOMMENDATION**

The Executive Officer recommends approval of Ordinance No. 98-720A.

*Agenda Item Number 7.1*

**Resolution No. 98-2606, For the Purpose of Adopting 1998 Priorities for Federal Transportation  
Legislation.**

**Metro Council Meeting  
Thursday, February 26, 1998  
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING 1998 )  
PRIORITIES FOR FEDERAL TRANSPORTATION)  
LEGISLATION )

RESOLUTION NO. 98-2606  
Introduced by  
Mike Burton,  
Executive Officer

WHEREAS, The Intermodal Surface Transportation Efficiency Act (ISTEA) was adopted by Congress in 1991; and

WHEREAS, ISTEA expired at the end of federal Fiscal Year 1997 (September 30, 1997); and

WHEREAS, Congress adopted an interim extension to May 1, 1998; and

WHEREAS, Congress will be considering reauthorization of ISTEA during 1998; and

WHEREAS, ISTEA has a significant policy effect on transportation planning and decision-making in the Portland region; and

WHEREAS, The Portland region adopted a position on the reauthorization of ISTEA in January 1997 by Resolution No. 96-2442; and

WHEREAS, It is through ISTEA that federal "New Rail Starts" funding commitments are made; now, therefore,

BE IT RESOLVED,

That the Metro Council:

Endorses the ISTEA Position Paper as reflected in Exhibit A subject to coordination with ODOT on a statewide position.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

Approved as to Form:

Jon Kvistad, Presiding Officer

Daniel B. Cooper, General Counsel

## EXHIBIT A

### ISTEA REAUTHORIZATION PORTLAND, OREGON REGIONAL POSITION PAPER ~~JANUARY 1997~~ FEBRUARY 1998

This position paper should be viewed as a work in progress. ISTEA reauthorization began in 1996 and will extend over the next nine months during which time numerous proposals will surface which require further consideration by the Portland region. This position represents the region's ~~starting place~~ position at this point in the Congressional deliberation, thereby allowing these positions to be advocated through national organizations, before federal hearings and with the Oregon Congressional delegation. In addition, changes will be considered, if necessary, after coordination with other interests statewide through ODOT.

#### I. Introduction

The transportation providers of the Portland region believe there is a national interest in transportation that should be reflected in the programmatic emphasis in the next ISTEA. This national interest should focus on maintaining and improving metropolitan mobility to support the economic engines of the country and further international competitiveness. Second, it should maintain and improve vital connections between metropolitan areas. Finally, effective connections to international passenger and freight terminals to access the global marketplace are critical.

In order to ensure these national interests are accomplished through the distribution of federal transportation funds, a programmatic approach, rather than a block grant approach, is most appropriate. In this manner, the Federal Government can target its resources to the program areas that represent the national interest. The current ISTEA, with several improvements, provides an excellent model for such an approach to the next ISTEA and most of the new ISTEA proposals continue with this model. The ground-breaking changes in flexible financing, local control and public involvement embodied in the passage of ISTEA in 1991 were a major step forward in transportation development. Reauthorization of ISTEA should focus on building on the strengths of this landmark legislation rather than on major rollbacks or wholesale changes.

Reauthorization of ISTEA to include these provisions is integral to the Portland region's objectives for growth management and building a livable community. This region has strived to link transportation investments to land use decisions to achieve multiple objectives of preserving farm

and forest lands, reinvesting in communities, meeting air quality standards, efficiently using existing infrastructure, and maintaining a livable region in the face of massive growth. It is essential that the Federal Government maintain its partnership with the Portland region through the reauthorization of ISTEA.

The region would like to highlight the following issues for consideration during the reauthorization of ISTEA:

## II. Substantive Issues

1. MPO Role in Decision-Making. We believe that the increased local and state role in transportation decision-making is one of the most important advances in ISTEA. The region strongly supports continuing a strong MPO role in planning, project selection, joint TIP/STIP approval, and public involvement. The MPO role in ISTEA has improved the partnership of local government officials, state departments of transportation and other transportation interests and should be reinforced in reauthorization.
2. Joint MPO/State DOT Approval of TIPs. Joint approval of state and metropolitan Transportation Improvement Programs (TIP) in each metropolitan area ensures a partnership approach to solving transportation problems. Typically, the state DOT is responsible for only a part of the transportation system and cities, counties, transit districts and port districts are responsible for the balance. Through a partnership approach, transportation investment decisions can be made to ensure the system as a whole meets the needs of the public and responds to the federal interest. Often in a complex metropolitan area, trade-off decisions must be made to determine which improvements to which part of the system can most effectively meet the needs. In addition, it is critical that transportation investment decisions are coordinated with land use decisions for the region which typically rest with local governments rather than the state DOT. Joint approval of the TIP assures that all parties responsible for the transportation system are party to making the priority decisions about its improvement.
3. Flexible Funding. The region supports maintaining and, where appropriate, expanding flexible funding. Flexibility gives local and state governments and citizens the opportunity to craft the most appropriate local solutions to transportation needs. Flexible funding has been a key component of this region's effort to respond to the demands of growth, address congestion and freight

mobility needs and preserve livability and environmental quality. While the region supports continuing the existing categories for Surface Transportation Program funds, Transportation Enhancement funds, and Congestion Mitigation/Air Quality funds, including metropolitan set-asides, there should not be any additional categorical funding allocations in the next ISTEA if they have the effect, particularly in the environment of reduced or level funding, of actually reducing rather than increasing flexibility. This can occur if there is less funding split up among more categories. The region supports expanding the flexibility of existing STP and CMAQ funds to address capital improvements to freight and passenger rail and intermodal facilities. In addition, the region supports maintaining the existing flexibility provisions for the NHS program.

4. Maintain the Federal Transit Program. Some proposals under consideration by Congress would dramatically alter the transit program to establish a "minimum allocation" to each state rather than the current model based upon where the need is the greatest, where the greatest amount of service is provided and which projects have the highest merit. Retaining the current structure is particularly important in maintaining a viable "New Starts" program. Light rail projects cannot be built based upon a small formula allocation to each state. Rather, periodic large appropriations are needed to build a segment of that system, followed by years when no funds whatsoever are provided. This is comparable to the years when the Interstate system was being built -- many states received more to construct their segments of the Interstate system than they were contributing to the Trust Fund through user fees.
  
45. Reject Rollbacks and Devolution. The region does not support the rollback or elimination of major elements of ISTEA, such as local control, public involvement or joint MPO/state DOT approval of TIP/STIP or the "devolution" of the federal program and its return to the states. The passage of ISTEA resulted in improved coordination between the state, region and federal transportation providers. The benefits to the taxpayers are a more efficient use of existing transportation investments and the construction of new investments that best reflect their individual community needs. In this region, the experience of ISTEA has been a positive one and has resulted in a greater degree of public involvement in and support for the transportation investments. In addition, it is problematic for states to adopt sufficient tax increases to offset the elimination of the federal program.



56. Discretionary Section 3 "New Start" Program. The region supports the continuation of a discretionary Section 3 "New Starts" program. The program has been shown to be an effective way for urban areas to implement large-scale innovative transit alternatives to new freeway construction. Opportunities to leverage private sector investments are substantially enhanced with the existence of a categorical program and predictable funding allocations. The existence of a categorical program and the scale of investment accommodated by the New Start program is critical to the integration of long-range transit development and land use planning efforts such as that underway in the Portland region.

The region supports the proposal now under consideration in the House Bill to change the "New Starts" program from one of involving earmarking of specific projects by Congress to one of advancing the projects with the highest merit. Under this proposal, 92 percent of the funds would be available to commit to construction of new projects and 8 percent to pre-construction environmental and engineering studies. Construction funds for a specific project would be approved by Congress at the point in time it has completed its pre-construction engineering and environmental studies based heavily on an independent recommendation of the Federal Transit Administration on the merits of the project. Under this approach, we would anticipate that the South/North LRT project would be authorized for construction in this ISTEA update with the actual funding commitment for Segment 1 provided in 1999 upon completion of the Final Environmental Impact Statement.

67. New Start Evaluation and Land Use Benefits. The region believes that one of the most important benefits of the Section 3 New Start program is the opportunity it offers communities to reduce urban sprawl and its associated costs. The new ISTEA should direct FTA to include the benefits of improved land use and the reduced costs of sprawl in the analysis for new rail projects. Projects which can demonstrate the reduced costs of sprawl through legally binding land use requirements should be given additional consideration in the allocation of New Start funding.

FTA should be encouraged to continue its efforts to include in its evaluations the value of reduced sprawl, reduced utility costs, road construction and maintenance costs, air pollution and other benefits associated with the more compact development pattern attainable with integrated transit development and land use planning.

78. Blanket Authorization of Contingent Commitments and Existing Full-Funding Grant Agreements. The region supports the "en bloc" authorization of contingent commitment projects and carryover Full-Funding Grant Agreements. Failure to authorize these projects would unfairly penalize communities that have moved forward with the expenditure of local and state funds under the spirit and the letter of ISTEA's contingent commitment provisions. The level of local trust and cooperation with the Federal Government would be seriously harmed if contingent commitment projects are not authorized as indicated in ISTEA. Not authorizing contingent commitment projects will send a signal to the private sector that public sector financing is unreliable and would reduce future opportunities for public-private ventures. "En bloc" reauthorization of carryover Full-Funding Grant Agreements is critical to complete projects in mid-stream. In many cases, appropriations for these projects have not kept pace with the amount authorized in the current ISTEA and contracted for in these Full-funding Grant Agreements. The remaining appropriation must be provided for in the next ISTEA.
89. Innovative Financing. Steps taken in ISTEA to authorize innovative methods for financing transportation facilities is very helpful. These should be nurtured and expanded in the next ISTEA authorization bill. The flexible funding provisions of ISTEA provided important new tools for local communities to address their transportation needs. However, transportation infrastructure needs still far outstrip local, state and federal resources. Additional innovative financing mechanisms should be explored and local jurisdictions, MPOs and states should be given a broader range of tools to address funding shortfalls. In particular, the region supports expanded authority for tolling federal facilities to address mobility, freight movement and congestion demands. Secondly, the Congestion Pricing authority should be retained and funded. Third, expanded opportunities for public-private partnerships could allow greater private sector participation in transportation financing. Fourth, expanded methods of providing the required local match should be retained and enhanced. Finally, the pilot effort to implement "Infrastructure Banks" should continue, be made permanent and ~~should be capitalized with federal seed money~~ the "firewalls" between the transit and highway portions of the banks should be removed.

Of particular interest in the area of Innovative Finance is a proposal being considered in the Senate Bill to provide a federal credit enhancement program to help

with short-term borrowing required on large projects. Referred to as the "Transportation Infrastructure Financing Improvement Act" or "TIFIA," this program would provide federal support to borrow funds, thereby enhancing short-term cash flow, lowering interest costs and speeding up project completion.

910. Congestion Pricing. The Congestion Pricing PILOT Program should be retained and funded. Market-based mechanisms have proven ability to manage demand with limited resources. The PILOT program to date has been instrumental in promoting the effectiveness of market policies to significantly reduce peak period congestion. By allowing regions around the country to intensively study the concept, the PILOT program has significantly furthered the understanding of the role that congestion pricing can play in managing transportation costs while enhancing mobility. The recent opening of State Route 91 in California and the High Occupancy Toll Lanes in San Diego and the high level of public acceptance in recent public opinion surveys conducted as part of the Southern California Council of Governments' and the San Francisco Bay Bridge projects and the Houston HOV buy-in project demonstrate the growing support for congestion pricing. Like any policy which involves a dramatic change in behavior among the general populous, implementations of congestion pricing face enormous challenges in terms of public education and acceptance. The program is now poised to capitalize on the concrete successes in a variety of locations around the country. The Portland metropolitan region is currently in the midst of a study which is exploring the potential of this tool to play a key role in our regional transportation future. The region is interested in having access to funding through the PILOT program should it conclude congestion pricing is an appropriate tool to implement in the Portland region. In particular, current proposals under consideration by Congress to limit these PILOT projects to three locations nationwide should be lifted or expanded.
1011. Increased Funding. ISTEA recognized the critical link between transportation investments and economic development, increased productivity and individual opportunity. Funding for ISTEA programs should be increased to reflect this critical linkage. To maintain the equity and flexibility in ISTEA, the existing 80/20 funding ratio between highways and transit should remain constant.
1112. Many of the highway funding distribution formulas are biased against Oregon, resulting in the state being in a

"donor" status, paying more into the federal trust fund than returns through ISTEA. These formulas should be revisited to correct this problem.

- ~~1213.~~ 4.3 cents of the federal fuel tax is now which was being used for deficit reduction was shifted back into the Transportation Trust Fund in 1997. When this tax increase was adopted by Congress, it was on the basis of being an interim measure to reduce the deficit and the commitment was made to return this to the Highway and Transit Trust Funds. This commitment ~~should be~~ was fulfilled in 1997 since through a shift of this 4.3 cents to the deficit is nearly in check but the authorization to spend these user fees has not been provided by Congress. In addition, even without this 4.3 cents, the Trust Funds have been growing due to limits on appropriation.

As the Congress debates options for use of the budget surplus, from cutting taxes to increased spending on social programs, a high priority should be placed on investing in transportation infrastructure. Toward this end, ISTEA spending levels should be increased to fully spend those user fees being collected as follows: 1) one-half cent for passenger rail; 2) 80 percent of the balance to the Highway Trust Fund; and 3) 20 percent of the balance to the Transit Trust Fund with an associated increase in spending authority in these areas to spend down the Trust Fund balances and the added 4.3 cents.

- ~~1314.~~ The High-Speed Rail Program within ISTEA should be reauthorized for the five selected priority corridors, including the Cascadia Corridor from Eugene, Oregon to Vancouver, B.C. There are important trackway improvements needed within the Portland metro area to improve speed and safety. In addition, the Portland region benefits from improved service (speed and frequency) to Eugene, Seattle and Vancouver, B.C.

Associated with this, one-half cent of the 4.3-cent gas tax ~~now~~previously dedicated to deficit reduction should be committed to intercity passenger services, capital improvements, such as high-speed rail, intercity bus and Amtrak. This program would provide for grants and loan guarantees to such applicants as ODOT, transit districts, Amtrak and local governments.

- ~~1415.~~ NHS Priority Corridors -- I-5 Trade Corridor. ISTEA designated several high priority NHS corridors throughout the nation. These corridors receive special funding for capital improvements. Oregon in cooperation with Washington and California should seek special status for

I-5 as an NHS Priority Trade Corridor. With the passage of NAFTA, this special designation is of even greater importance.

Establishment of this tri-state international trade corridor should include a critical component focusing on the bi-state I-5 crossing corridor and the deficiencies in the current interface between north-south international trade on I-5, east-west international trade between the Pacific Rim and points east via the Ports of Portland and Vancouver, inadequate facilities to meet cross-river commuting demands and growth in barge traffic on the Columbia River and the difficulty in accommodating this river traffic.

With this I-5 Priority Trade Corridor designation, appropriate bi-state studies should be undertaken to address the problems of moving freight to and from the ports and between the states and moving commuters between these two parts of the Portland-Vancouver region. Following these studies to define and agree upon appropriate methods to address the needs, funds should be sought to begin implementing the key priority improvement projects.

1516. Match Ratios. Oregon should oppose any attempts to change the match ratios as outlined in ISTEPA. Oregon benefits from the sliding scale match ratio provisions of ISTEPA tied to federal lands within the state and should advocate for their inclusion in the next ISTEPA. In addition, ISTEPA should explicitly allow "overmatching" federal funds with a higher than required local match.
1617. Fiscal Constraint. The current requirement to base transportation plans and programs on realistic revenue forecasts should be continued. This requirement has brought about more realistic plans rather than simply a "wish list" and therefore greater attention to funding decisions which assume more cost-effective projects. However, equal attention should be paid to a "vision" plan to provide the basis for pursuing the funding needed to accomplish that vision.
1718. Oregon is facing a severe shortfall in meeting its Transportation Capital needs. This has been exacerbated by federal funding cuts and lack of action by the Oregon Legislature to meet the need. Most recently, ODOT was forced to cut \$400 million from its Modernization Program. Highway "Demo" projects represent a possibility for helping to meet these needs. The state should submit projects that have the greatest likelihood of being included as "Demo" projects.

19. Fix the six-month lapse in ISTEA. In 1997, Congress failed to agree on the update to ISTEA which lapsed on September 30, 1997. In order to assure continued flow of funds to the states and localities, a six-month interim extension was adopted. Without action by Congress, all federal spending will come to a halt on May 1, 1998, right before the start of the 1998 construction season. It is essential that Congress act to avoid this lapse and to provide the second half of funding for federal fiscal year 1998.
20. Support for Transportation/Land Use Program. Senator Wyden has sponsored a program to provide funds to states and localities for land use actions which support transportation. Eligible activities would include transit-oriented development, right-of-way protection, access management, and interchange management plans. The region supports enactment of this program and award of one of the discretionary grants to Oregon and the Portland region.
21. The Congress should not limit the options available to states on the methods of collecting transportation user fees, particularly to provide the means of maintaining cost-responsibility between light and heavy vehicles.

## Project Priorities

FY 97 ~~is~~ was the final year of ISTEA which was adopted in 1991. In 1997~~8~~, both consideration of the FY 98-2003 ISTEA and the FY 98~~9~~ Appropriations Bill will provide opportunities to consider earmarking projects. The following priorities should be considered for funding through the ISTEA reauthorization or appropriations or other legislative actions. This list should be accepted on a preliminary basis to allow for coordination with ODOT on statewide priorities. It may be necessary to add projects elsewhere in the state or delete some Portland area projects. The "Regional Priority Projects" are endorsed as priorities for all jurisdictions of the region while the other projects are a priority for individual jurisdictions.

### A. Regional Priority Projects

#### 1. Completion of Westside/Hillsboro LRT project - Section 3.

~~\$74 million of "contingent commitment" for the Hillsboro extension must be authorized in ISTEA; in addition,~~ \$10036.8 million remains to be appropriated as the final appropriation in FY 989 for this project.

#### 2. Initiation of South/North LRT project - Section 3.

~~It is the intent of the region to re-examine the scope and cost of the South/North project now under consideration in order to define a Phase I project that meets regional objectives within a more constrained budget and to seek federal "New Rail Starts" funding. In March 1997, the region will amend the alternatives now under consideration in the Draft EIS. This project is likely to require partial funding in the next ISTEA and a commitment to complete the funding in the following ISTEA. implement a phased South/North LRT project from the Clackamas Regional Center to Vancouver, Washington. The Draft EIS will be published in February 1998 to provide the basis for adoption of the final alignment and phasing plan. The Final EIS is scheduled for completion in early 1999 which will allow Tri-Met to enter into a Full-Funding Grant Agreement with the Federal Transit Administration in the summer of 1999 for the first construction segment. In support of this project, the region is seeking \$487.1 million in construction authorization for the project in the ISTEA update and an FY 99 appropriation of \$30 million for completion of preliminary engineering, the Final Environmental Impact Statement and final design and initial right-of-way purchases.~~

It is the intent of the region to re-examine the scope and cost of the South/North project now under consideration in order to define a Phase I project that meets regional objectives within a more constrained budget and to seek federal "New Rail Starts" funding. In March 1997, the region will amend the alternatives now under consideration in the Draft EIS. This project is likely to require partial funding in the next ISTEA and a commitment to complete the funding in the following ISTEA. implement a phased South/North LRT project from the Clackamas Regional Center to Vancouver, Washington. The Draft EIS will be published in February 1998 to provide the basis for adoption of the final alignment and phasing plan. The Final EIS is scheduled for completion in early 1999 which will allow Tri-Met to enter into a Full-Funding Grant Agreement with the Federal Transit Administration in the summer of 1999 for the first construction segment. In support of this project, the region is seeking \$487.1 million in construction authorization for the project in the ISTEA update and an FY 99 appropriation of \$30 million for completion of preliminary engineering, the Final Environmental Impact Statement and final design and initial right-of-way purchases.

Also needed to accomplish this is a local and regional commitment over this same time period. Consideration should be given to various local and regional sources in addition to the \$475 million General Obligation Bond Measure, and the \$55 million of regional STP funds and the \$10 million of Clackamas County urban renewal funds.

~~The region will consider adoption of a detailed financial plan for this proposal in March 1997.~~

3. Deepening of the Columbia River Ship Channel - Corps of Engineers.

The Port of Portland, in cooperation with other Columbia River ports, is seeking Corps of Engineers funding to deepen the Columbia River ship channel to accommodate larger ocean-going vessels. This is critical to the international competitiveness of the Portland area and the greater Columbia River Basin and directly tied to truck and freight rail access improvements in the Rivergate area.

We strongly support continued funding of \$725,000 per year in Fiscal Years 1998 and 1999 for the U.S. Army Corps of Engineers' completion of the feasibility and environmental studies for the Columbia River channel deepening.

The region also encourages Congress to approve bill language to provide a contingent authorization of ~~\$65 million~~ for the federal share of the project, subject to required environmental, economic and engineering reviews. This authorization is a critical step in keeping the project on schedule for construction early in the next decade.

4. I-5 Priority Trade Corridor

The region requests earmarking \$10 million to the states of Oregon and Washington and the affected regional and local governments in the Portland-Vancouver area to develop a strategic plan to correct deficiencies in the bi-state I-5 Trade Corridor. This planning process should address and develop agreement on actions needed to meet the following needs:

- a. Structural, functional and capacity limitations on the I-5 Columbia River bridge and the I-5 approaches on both sides of the Columbia River causing congestion during commute periods, thereby impeding interstate and international commerce across the Columbia River.
- b. Impacts of congestion on access to the Port of Portland and Vancouver.



- c. Access routes to and from Port of Portland and Vancouver terminals, including Marine Drive, Columbia Boulevard, Mill Plain Road, access to West Hayden Island and access between the two ports.
- d. Effects of increased size and volume of barge traffic on I-5 and Burlington Northern Railroad lift spans and the resulting disruption to vehicular traffic. This could include Coast Guard involvement in correcting lift span problems, changing the location and/or depth of the main shipping channel and/or changing restrictions on hours of operation of the I-5 lift span.

Upon completion of this planning process, implementation priorities will be defined which could affect future ISTEA and appropriation requests. If the Congress chooses to appropriate funds toward construction projects in this I-5 Trade Corridor, the region has projects that could proceed to implementation immediately.

#### B. Local or Agency Priority Projects

Projects presented in this section are acknowledged by the region as being a priority by one or more individual jurisdiction or agency in the Portland region. The projects presented below are grouped into a first component encompassing projects that our Congressional delegation have requested for inclusion in ISTEA and a second component which remain priorities and should be considered for funding if the opportunity arises.

#### PREVIOUSLY REQUESTED CONGRESSIONAL PRIORITIES

1. I-5/Highway 217/Kruse Way Interchange - FHWA Demo project.

A revised design has been developed and endorsed by ODOT, the affected local governments and Metro. \$38 million of Highway Demonstration funds or Interstate Discretionary funds would allow this critical I-5 bottleneck and safety problem to be corrected.

2. Sunnybrook Interchange - FHWA Demo project.

Project development on this project is nearly complete. \$19 million of Highway Demonstration funds or Interstate Discretionary funds in combination with previously committed ODOT and local funds would allow this project to proceed on schedule.

3. South Rivergate Railroad Overcrossing/Columbia Boulevard Corridor - FHWA Demo project.

Columbia River channel dredging and Rivergate rail improvements are increasing the cargo movements into and out

of the Rivergate port terminals. \$15 million of Highway Demonstration funds for this railroad grade separation would enhance truck access to these terminals. This project is the second in a series of planned improvements in the Columbia Boulevard corridor between Rivergate and I-205.

54. Lovejoy Ramp Removal/Broadway Bridge Rehabilitation - FHWA Demo and Bridge Program.

Replacement of the Lovejoy ramp in the River district and upgrade to the Broadway Bridge will enable major redevelopment in this Central City district. \$15 million of Highway Demonstration funds and \$10 million of Highway Bridge Repair and Replacement funds would allow these projects to proceed.

95. Willamette Valley High-Speed Rail - High-Speed Rail Account.

Funding should be sought for track upgrade to improve speed and safety. The Eugene to Vancouver, B.C. corridor is one of five priority corridors selected by USDOT following establishment of the High-Speed Rail Program in the last ISTEA. A component of these funds should be through the recently authorized Amtrak capital improvement funding program.

106. Transit-Oriented Development Revolving Fund - Section 3.

In 1994, \$3 million of Regional STP funds were allocated to establish this revolving fund. Initiation of the grant application through the Federal Transit Administration is now in progress was awarded in May 1997 and the program is now being implemented. In addition, \$10 million of Section 3 funds would additional funding is now being sought to allow additional projects adjacent to LRT to be implemented. Potential sources for these funds include HUD or through the land use program proposed by Senator Wyden to be included in ISTEA.

#### OTHER PRIORITIES

41. Sunset Highway - Phase III.

The Westside Corridor Project included both LRT to Hillsboro and Sunset Highway improvements. The Sunset Highway projects, however, have been delayed due to lack of funding. This \$27 million would allow the next logical phase to proceed.

72. 242nd Avenue/I-84 Connection: Mt. Hood Parkway Interim Improvement.

242nd Avenue is the region's designated NHS corridor connection between I-84 and U.S. 26. Existing roads in this corridor are poorly connected to these highways or provide less direct travel into and out of the region for autos and substantial truck movements.

The proposed project will provide for a more direct connection to I-84 by extending 242nd Avenue northerly from Glisan Street to Sandy Boulevard and connecting to I-84 via ramps. Development of this alignment will replace a hazardous, steep three-lane road (238th Avenue) which has a high accident rate and must be closed during icy conditions. Existing East County streets used for travel into and through the region are projected to suffer from increased congestion. Thus a more direct route with access control and with some operational changes can better serve these substantial non-local traffic movements.

Much of the right-of-way is currently owned by Multnomah County and ODOT. Project cost for project construction is \$20 million. An additional \$5 million is proposed to make operational enhancements to the existing 242nd Avenue to improve flow and eliminate bottlenecks.

83. Cornell @ Cornelius Pass and Baseline @ 185th Intersections.

Implementation of the Region 2040 Growth Concept in the vicinity of the Westside LRT project creates the need to also provide road improvements. This \$12 million demonstration project will identify and construct the correct solution to accommodate the land use regime the region desires for this area.

114. Federal demonstration funds for a regional "Intelligent Transportation System" should be sought. This technology shows promise to improve the efficiency of the region's freeway, arterial and transit systems.

5. Buses

Tri-Met has a continuing need to expand its fleet by 18 buses per year in addition to the routine placement of 34 buses. Tri-Met should work with ODOT to develop a statewide funding request for bus-related improvements by transit systems statewide.

~~6. Seek federal discretionary funds to "capitalize" the Oregon State Infrastructure Bank for such projects as the Tualatin Expressway and cash flow management for the Westside LRT project.~~

The criteria for recommending these projects is as follows:

1. Projects are of statewide significance.
2. Projects can be built within the timeframe of the next ISTEPA bill (1998-2003).
3. There is a strong base of support for the project within the governments, community and business organizations.
4. The proposal would bring new funds to the state, not merely result in reallocation of existing funds.
5. Members of the Congressional delegation express a willingness to pursue the project.
6. There should be a short list of priorities.
7. The list should be integrated with ODOT's statewide priorities.

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 98-2606 FOR THE PURPOSE OF ADOPTING 1998 PRIORITIES FOR FEDERAL TRANSPORTATION LEGISLATION

Date: January 27, 1998

Presented by: Andrew Cotugno

#### PROPOSED ACTION

This resolution updated the 1997 regional policy position on the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 to serve as the basis for a coordinated regional lobbying position as Congress considers its update during 1998. It was anticipated that the new ISTEA would be adopted by September 30, 1997 when it expired but Congress couldn't agree and postponed action to 1998. In order to avoid a lapse of funds, they adopted an interim, six-month extension. If Congress fails to act again, transportation spending will come to a halt on May 1, 1998.

One of the key elements is to seek federal "New Rail Starts" funding for Phase I of the South/North LRT project. In addition, a new regional priority emphasis is recommended for inclusion to focus on the bi-state I-5 Trade Corridor in cooperation with the State of Washington.

TPAC has reviewed these priorities for federal transportation legislation and recommends approval of Resolution No. 98-2606.

#### FACTUAL BACKGROUND AND ANALYSIS

When ISTEA was adopted in 1991, it established a significant national policy direction in support of multi-modal decision-making, funding flexibility, regional responsibility for decision-making, integration with local land use plans, partnership with state and local governments and increased public involvement. These provisions of ISTEA provided the Portland region a significant tool to meet its transportation and land use goals. This policy position paper, in large part, calls for continuing this policy direction with some refinements. Since this position paper was substantially established in 1997, presented here is an amended version to be more responsive to the issues under debate at this time.

#### CONTINUE THE SUCCESSES OF ISTEA

Key provisions of ISTEA that should be continued include:

- Continuation of the MPO role in decision-making;
- Joint approval with the state of transportation funding allocations;

- Continuation of flexible funding programs, particularly the Surface Transportation Program, Congestion Mitigation/Air Quality Program and Transportation Enhancement Program;
- Continuation and expansion of the "New Rail Starts" Program; and
- Linkage of transportation decision-making to land use.

#### REFINEMENTS TO ISTEA

Potential areas of refinement to ISTEA include:

- Expansion of innovative financing authority, including tolls and congestion pricing;
- Shifting of 4.3 cents of gas tax from deficit reduction to transportation with a commensurate increase in transportation spending levels;
- Funding for high-speed rail and other intercity passenger services; and
- Expansion of funding flexibility for freight projects.

*Agenda Item Number 7.2*

**Resolution No. 98-2609, For the Purpose of Submitting to the Voters a General Obligation Bond Indebtedness in the Amount of \$82,030,000 for the Completion of the Oregon Convention Center.**

**Metro Council Meeting  
Thursday, February 26, 1998  
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUBMITTING TO ) RESOLUTION NO 98-2609  
THE VOTERS A GENERAL OBLIGATION )  
BOND INDEBTEDNESS IN THE AMOUNT ) Introduced by  
OF \$82,030,000 FOR THE COMPLETION ) Executive Officer Mike Burton,  
OF THE OREGON CONVENTION CENTER ) Presiding Officer Jon Kvistad,  
 ) and Regional Facilities Chair  
 ) Ruth McFarland

WHEREAS, The original plan for the Oregon Convention Center ("OCC") called for utilization of the entire site. In 1986, regional voters approved a \$65 million General Obligation bond toward the construction of Phase I of the Convention Center plan. All of the land necessary for completion of Phase II, the current proposed expansion, was purchased at that time; and

WHEREAS, Phase I of the Oregon Convention Center project, the existing facility, was completed in 1989 and has exceeded projections for attendance, the generation of regional revenue and employment. The facility has been operating at practical capacity for three years and is turning away potential business and losing existing business; and

WHEREAS, Upon completion of the original plans, the Oregon Convention Center is projected to generate an additional \$170 million economic impact on the tri-county region annually, to expand regional employment by an estimated 3,400 permanent jobs, and to attract new cultural and economic resources to the region. Failure to expand the facility pursuant to the original plan will result in a loss of OCC's competitive position and a decline in revenue and other economic benefits generated by OCC; and

WHEREAS, Metro has engaged the involvement of the community in this project, including citizens' groups, civic organizations, business leaders, and elected officials; and

WHEREAS, The completion of the Oregon Convention Center is regarded as a project of significant economic benefit for regional voters; now, therefore,

BE IT RESOLVED:

1. That the Metro Council hereby submits to the qualified voters of the District the question of issuing General Obligation bonds in the maximum principal amount of \$82,030,000 for the completion of the Oregon Convention Center as generally described in Exhibit "B." The bonds shall mature over a period of not more than 30 years.

2. That the measure shall be placed on the ballot for the general election to be held on November 3, 1998.



3. That the District shall cause a Notice of Measure Election and the Ballot Title attached as Exhibit "A" to be submitted to the Elections Officer, the Tax Supervising and Conservation Commission, and the Secretary of State in a timely matter as required by law.

4. That the Executive Officer, pursuant to Oregon Law and Metro Code Chapter 9.02, shall transmit this measure, ballot title, and explanatory statement to the County Elections Officer for inclusion in any county voters' pamphlets published for the election on this measure.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 1998.

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Jon Kvistad, Presiding Officer

APPROVED AS TO FORM:

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Daniel B. Cooper, General Counsel

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2/3/98

**EXHIBIT A.  
BALLOT TITLE**

Caption

Bonds to complete the Oregon Convention Center.

Question

Shall Metro issue \$82,030,000 of general obligation bonds to finance Oregon Convention Center completion? If bonds are approved, they will be payable from taxes on property ownership that are not subject to the limits of Sections 11 and 11b, Article XI of the Oregon Constitution.

Explanation

The measure authorizes \$82,030,000 in bonds for capital construction and improvements to expand and improve the Oregon Convention Center. Approval of the measure will complete the Oregon Convention Center, increase exhibition, meeting room, and lobby/prefunction space, parking, and add a ballroom. It will increase facility capacity, allowing the facility to serve larger events, multiple events at the same time, and expanded event schedule. The completed Oregon Convention Center will generate employment, tax revenue, and a projected additional \$170 million economic impact on the tri-county region annually. Bonds mature in not more than 30 years. The maximum annual cost to the taxpayer is estimated to be \$9.72 on a \$100,000 home .

**EXHIBIT B.  
DESCRIPTION**

**OREGON CONVENTION CENTER  
COMPLETION MEASURE**

The purpose of this measure is to obtain voter approval for an expansion of the Oregon Convention Center (OCC) to complete the original facility plans through the issuance of general obligation bonds in the amount of \$82,030,000.

The proposal to expand the Oregon Convention Center is part of the long term strategic plan for the Center established at its inception and reaffirmed in the OCC business plans. Completion is the first priority of the current three year business plan. The project will enable the Center to remain competitive and to continue generating significant tax revenue and economic benefits for the Tri-county region.

OCC is an international multi-purpose convention and trade show facility. It is a 500,000 square foot facility consisting of 150,000 square feet of column-free exhibit space; a 25,000 square foot ballroom dividable into four separate rooms; 28 breakout/meeting rooms with a total of 30,000 square feet and 55,000 square feet of lobby and pre-function space; parking on site for 1,040 vehicles and kitchen facilities for serving up to 5,000 meals.

Since its opening in September 1990 more than 4.3 million people have attended OCC events, nearly double original projections. The Center has generated more than \$2.2 billion in total economic activity in the tri-country region, including more than \$107 million in tax revenue that helps to pay for police, education, and other social services. OCC has generated 5200 permanent jobs in the community. Convention and trade shows, while representing only one-third of total attendance, generate about 95 percent of the economic impact.

The Center has been operating at practical capacity for three years and is turning away potential convention business. In addition, OCC is losing existing convention business that has outgrown the facility. OCC's competitors are expanding, and convention business trends indicate that growth in the industry will continue unabated. Without completion, tax receipts and other economic benefits generated by OCC are projected to decline. With completion, the expanded Center is expected to generate growth in hotel/motel tax revenue, an estimated 3400 new permanent jobs and other indirect economic benefits for the region.

Completion Plan

Initial plans for completion of the original Oregon Convention Center (OCC) facility call for 350,000 additional square feet, bringing total OCC square footage to 850,000. The completion plan would add the following:

- 1) 100,000-115,000 square feet of clear span exhibit space
- 2) 35,000 square foot ballroom

- 3) 30-40 meeting rooms (30-35,000 square feet)
- 4) 30-35,000 square feet of lobby/pre-function space
- 5) Parking garage under the new space on two levels
- 6) 10 loading docks with an expanded courtyard for trucks

Some of these items may be replaced, deleted, or modified.

Present plans call for all of the additional square footage to be constructed on the site of the parking lot located at the SW corner of the existing facility, adjacent to Martin Luther King Jr. and Lloyd Boulevards. A new parking lot is planned to be constructed underground, beneath the new structure.

The expanded facility will have state of the art technology, including fiber optic capabilities, complete lighting controls, computer-controlled heating and air conditioning, and capacity for audio visual connections and telephone Internet. The exterior and landscaping will match the existing facility.

The finishes for the new parts of the building will be of the same quality and type as the original facility, including wall coverings, furniture, large atriums, and artwork. The "1% for Art Program," (a legal requirement that 1% of construction costs be dedicated to artwork) will apply to the new space. Selection of artwork will be handled through a competition similar to that utilized during construction of the existing facility. This program will integrate art into the design and construction process to enhance the lobby spaces, new VIP suite, and other new areas.

Currently, OCC can only handle one convention of 2500 to 3000 people. With expansion, OCC will be able to handle multiple conventions of 2500 to 3000 people at the same time; expanded events of clients who are now using the entire facility; and larger conventions of 3000-5000 people.

### Community Involvement in the Project

There is broad community support for this project. The hospitality community, represented by the Tri-County Lodging Association and the Portland Oregon Visitors Association, took the lead, through its endorsement and active involvement in putting together and securing support for the layered funding package. Business leaders, the arts community, the City of Portland and Multnomah County lent their involvement and support to OCC completion. Initial formal endorsements of the project have been received by the following groups:

- Tri-County Lodging Association
- Portland Oregon Visitors Association (POVA)
- Oregon Tourism Commission
- Tourism Industry Council
- Oregon Association of Minority Entrepreneurs
- Oregon Society of Association Executives (OSAE)
- African American Chamber of Commerce

- Oregon Association of Convention & Visitor's Bureaus (OACVB)
- Hispanic Chamber of Commerce
- Urban League of Portland
- North/Northeast Business Association
- Albina Community Bank
- African American Legislative Roundtable
- NE Coalition of Neighborhoods Inc.
- Black Leadership Conference
- Northeast Economic Development Alliance
- City of Portland
- Multnomah County

### Cost and Funding for the Project

The project will cost approximately \$97 million. Property taxpayers are being asked to authorize \$82,030,000 through a general obligation bond. Debt service on approximately \$10 million of those bonds will be backed by a ½% increase in the transient lodging tax levied by Multnomah County. The balance of the project will be financed by tax increment financing from the City of Portland, MERC/OCC funds, and investment earnings. If project costs are not exceeded, any remaining funds will be dedicated to capital construction and/or improvements related to the Oregon Convention Center.

The \$82,030,000 amount therefore includes obtaining approximately \$10 million in GO bond *authority* from the voters, to cover bonds which are actually intended to be repaid from the ½% increase in Multnomah County Transient Lodging Tax. Thus the voters will only be expected to pay for \$72,030,000 in bonds, even though they are asked to authorize the \$82,030,000 number.

The maximum annual cost to the taxpayer is estimated to be \$9.72 on a \$100,000 home.

A detailed outline of estimated sources and uses of funds is attached.

**Oregon Convention Center Completion Project  
Estimated Sources and Uses of Funds**

**Sources of Funds:**

Bond Proceeds	\$ 82,030,000
(1) Investment Earnings	5,000,000
OCC/MERC Fund Balance	6,000,000
PDC Funding	5,000,000
Total sources of Funds	<u>\$ 98,030,000</u>

**Uses of Funds:**

(2) Construction and Related Costs	\$ 97,000,000
(3) Costs of Issuance	1,030,000
Total Uses of Funds	<u>\$ 98,030,000</u>

- (1) Assumes investment earnings averaging 5.35%
- (2) Includes \$5,000,000 in Furniture and Equipment
- (3) Includes underwriter's costs, administrative, legal, accounting, rating agency, planning, printing and miscellaneous expense.

## **STAFF REPORT**

### **CONSIDERATION OF RESOLUTION No. 98-2609, REFERRING GENERAL OBLIGATION BONDS IN THE AMOUNT OF \$82,030,000 TO THE VOTERS TO COMPLETE THE OREGON CONVENTION CENTER**

Date: February 3, 1998

Presented by: Mike Burton  
Executive Officer

Mark B. Williams  
MERC General Manager

#### Background:

The Oregon Convention Center (OCC) is an international multi-purpose convention and trade show facility built and owned by Metro and operated on Metro's behalf by the Metropolitan Exposition- Recreation Commission (MERC) pursuant to Chapter 6 of the Metro Code.

The total cost for construction of Phase I, the existing facility, was \$90 million, and was partially financed by a \$65 million Metro regional general obligation bond. All of the land necessary to complete Phase II, the current proposed expansion, was purchased at that time. The current 500,000 square foot facility contains 150,000 square feet of column-free exhibition space; 30,000 square feet of breakout/meeting room space; a 25,000 square foot ballroom; 55,000 square feet of lobby and pre-function space; parking on site for 1,040 vehicles and kitchen facilities for serving up to 5,000 meals.

Since its opening in September 1990, OCC has exceeded all projections for attendance, financial success, and economic benefits generated in the region. Nearly 5 million people have attended OCC events, more than double original projections. The Center has generated more than \$2.2 billion in total economic activity in the Metro region, including more than \$107 million in tax revenue that helps to pay for police, education, and other social services. OCC has generated 5200 permanent jobs in the community.

OCC has been operating at practical capacity for three years and is turning away convention business. In addition, OCC is losing existing conventions that have outgrown the facility. OCC's competitors are expanding to take advantage of the projected unabated growth in the convention industry. Without completion, OCC will become the smallest convention center among the Western cities which it traditionally competes against, and will lose business that will further benefit the regional economy. Tax receipts generated by OCC will likely decline.

Staff Report

Metro Resolution No. 98-2609

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Initial plans to complete the original facility would add a total of 350,000 additional square feet, bringing total OCC square footage to 850,000. The present completion plans would add the following: 100,000-115,000 square feet of clear span exhibit space; a 35,000 square foot ballroom; 30-40 meeting rooms (30-35,000 square feet); 30-35,000 square feet of lobby/pre-function space; a parking garage under the new space on two levels; and 10 loading docks with an expanded courtyard for trucks. Some of these items may be replaced, deleted, or modified during the course of the project.

Currently, OCC can handle only one convention of 2500 to 3000 people. With expansion, OCC will be able to handle multiple conventions of 2500 to 3000 people at the same time; expanded events of clients who are now utilizing the full facility; and larger conventions of 3000-5000 people.

The expanded Center will generate an estimated additional \$170 million economic impact on the Metro region annually; growth in hotel/motel tax revenue that helps to pay for schools, police, fire and other social programs; an estimated 3400 new permanent jobs; and other indirect economic benefits for the Metro region. The project is part of the long term strategic plan established for the Center at its inception and reaffirmed in the OCC Business Plans.

Community Support for the Project

There is broad community support for this project. The hospitality community, represented by the Tri-County Lodging Association and the Portland Oregon Visitors Association, took the lead, through its endorsement and active involvement in putting together and securing support for the layered funding package. Business leaders, the arts community, the City of Portland and Multnomah County lent their involvement and support to OCC completion. Initial formal endorsements of the project have been received by the following groups:

- Tri-County Lodging Association
- Portland Oregon Visitors Association (POVA)
- Oregon Tourism Commission
- Tourism Industry Council
- Oregon Association of Minority Entrepreneurs
- Oregon Society of Association Executives (OSAE)
- African American Chamber of Commerce
- Oregon Association of Convention & Visitor's Bureaus (OACVB)
- Hispanic Chamber of Commerce
- Urban League of Portland
- North/Northeast Business Association



Staff Report

Metro Resolution No. 98-2609

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- Albina Community Bank
- African American Legislative Roundtable
- NE Coalition of Neighborhoods Inc.
- Black Leadership Conference
- Northeast Economic Development Alliance
- City of Portland
- Multnomah County

Cost and Funding for the Project:

The project will cost approximately \$97 million. Property taxpayers are being asked to authorize \$82,030,000 through a general obligation bond, approximately \$10 million of which will be backed by a ½% increase in the transient lodging tax levied by Multnomah County. The balance of the project will be financed by approximately \$5 million in tax increment financing from the City of Portland, approximately \$6 million in MERC/OCC funds, and approximately \$5 million in investment earnings. If project costs are not exceeded, any remaining funds will be dedicated to capital construction and/or improvements related to the Oregon Convention Center.

The \$82,030,000 amount therefore includes obtaining approximately \$10 million in GO bond *authority* from the voters, to cover bonds which are actually intended to be repaid from the ½% increase in Multnomah County Transient Lodging Tax. Thus the voters will only be expected to pay for \$72,030,000 in bonds, even though they are asked to authorize the \$82,030,000 number.

The maximum annual cost to the taxpayer is estimated to be \$9.72 on a \$100,000 home.

A detailed outline of estimated sources and uses of funds is attached.

Metropolitan Exposition-Recreation Commission Recommendation

Metro Code Section 6.01.040(a) directs the Metropolitan Exposition-Recreation Commission to advise the public owners of the MERC facilities on financial measures which may be necessary or desirable with respect to major capital projects.

On January 14, 1998, MERC passed No. 98-4, formally endorsing the Oregon Convention Center completion project, and requesting that the Metro Council refer this bond measure to the voters in the November 1998 general election.

Staff Report  
Metro Resolution No. 98-2609  
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Executive Officer Recommendation

The Executive Officer recommends that the Council approve Resolution 98-2609.

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**REGIONAL FACILITIES COMMITTEE REPORT**

**CONSIDERATION OF RESOLUTION NO. 98-2609, REFERRING GENERAL OBLIGATION BONDS IN THE AMOUNT OF \$82,030,000 TO THE VOTERS TO COMPLETE THE OREGON CONVENTION CENTER.**

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Date: February 18, 1998

Presented by: Councilor Naito

**Committee Action:** At its February 18, 1998 meeting, the Regional Facilities Committee voted 2-1 to recommend Council adoption of Resolution 98-2609. Voting in favor: Councilors Naito and McFarland. Voting nay was Councilor McCaig.

**Council Issues/Discussion:** The issue was introduced to the committee by Metro Executive, Mike Burton, Gary Conkling, MERC Chair, Mark Williams, MERC General Manager, and Jeff Blosser, OCC Director.

Metro action, pursuant to state law and Metro Code Chapter 9.02, is required in order to put this measure before the voters. Specifically, Metro is proposing to issue \$82,030,000 in general obligation bonds, to be used with other funds to complete what is referred to as phase 2 of the Oregon Convention Center. Total construction and finance costs equal \$98,000,000. City of Portland and Multnomah County will be contributing to the financing through tax increment financing, for the city, and a 1/2% increase in the transient lodging tax, by the county, if the measure passes.

Speakers spoke to several issues, including the overall economic benefits of the current facility and the expanded facility, the specific benefits of hiring policy to targeted neighborhoods, and clearly identified benefits to the central city and the region.

The current facility is at capacity and business is being turned away. Standing still is not really an option, given expansion of facilities in competing markets, and Portland risks falling into a lower tier of convention sites if more space, and the right configuration of space is not created, speakers said.

Councilor McCaig asked a series of questions and raised concerns related to the relative growth and capacity of our regional area, other regional needs which might be reflected in November ballot measures--including transportation and education, and the nature and likely success of the campaign to pass this measure.

Mr. Conkling, in response, said that voters should have the chance to prioritize their votes based on accurate information. He believes that the economic benefits of completing the OCC are such that not only local and regional benefits accrue, but arguably also, through increased income tax revenues, those issues which Counselor McCaig are concerned. He also stated that the Oregon Convention Center may serve as the face of regional government.

In voting no, Counselor McCaig explained that she would have been more comfortable voting on this issue at a later date, so that she could have been informed about other potential ballot measures.

Counselors Naito and McFarland expressed satisfaction with the success of the OCC to-date, the economic, neighborhood and social benefits of the Center and the desire to remain competitive at least the same market level that we are currently competing in.

*Agenda Item Number 7.3*

**Resolution No. 98-2610, For the Purpose of Authorizing Release of RFB #98-6-REM for the Construction of a Latex Paint Processing Building at Metro South Station.**

**Metro Council Meeting  
Thursday, February 26, 1998  
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING RELEASE ) RESOLUTION NO. 98-2610  
OF RFP #98B-6-REM FOR THE CONSTRUCTION )  
OF A LATEX PAINT PROCESSING BUILDING AT ) Introduced by Mike Burton  
METRO SOUTH STATION ) Executive Officer

WHEREAS, For reasons of safety and efficiency as described in the accompanying staff report, Metro requires the construction of a latex paint processing building at Metro South Station; and

WHEREAS, The project was identified in Metro's Adopted Capital Improvement Plan; and

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

BE IT RESOLVED,

1. That the Metro Council authorizes issuance of RFB #98B-6-REM attached hereto as Exhibit "A".
2. That the Metro Council, pursuant to Section 2.04.026(b) of the Metro Code, authorizes the Executive Officer to execute a contract with the lowest responsive bidder.

ADOPTED by the Metro Council this \_\_\_ day of \_\_\_\_\_, 1998.

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

Approved as to Form:

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

DOCUMENT TOO LARGE TO COPY,  
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COPIES OF REQUEST FOR BIDS

**REQUEST FOR BIDS**

**FOR**

**METRO SOUTH TRANSFER STATION**

**LATEX PAINT BUILDING, UTILITIES &  
EQUIPMENT**

**RFB # 98B-6-REM**

**February 1998**

**Metro**  
**Regional Environmental Management Department**  
**600 N.E. Grand Avenue**  
**Portland, OR 97232-2736**

**EXECUTIVE SUMMARY**  
**RESOLUTION 98-2610**  
**CONSTRUCTION OF A LATEX PAINT PROCESSING BUILDING AT THE METRO**  
**SOUTH TRANSFER STATION**

**PROPOSED ACTION**

- Adopt Resolution No. 98-2610, which authorizes release of RFP #98B-6-REM and authorizes the Executive Officer to execute a contract for the construction of a latex paint processing building at the Metro South Transfer Station.

**WHY NECESSARY**

- Metro's Hazardous Waste Program receives more latex paint than any other material, and the amount is growing by 12% annually.
- An independent health and safety audit identified a variety of ergonomic and potential respiratory problems associated with current operations that are conducted in an abandoned loading tunnel.
- The tunnel provides inadequate storage, causing paint to be stored outdoors, where it can freeze and become unrecoverable.
- Staff has concluded that due to its original design, the tunnel is an inappropriate place to conduct these operations, and that latex paint recovery operations need to be moved.
- An analysis comparing contracting out latex paint processing with construction and operation of a new facility concluded that construction of a latex paint processing building was the more cost-effective option.

**ISSUES/CONCERNS**

- Increased congestion may occur in the waste transport contractor's on-site parking lot. However, safety and working conditions will improve for staff, while latex paint recovery rates should increase.

**BUDGET/FINANCIAL IMPACTS**

- The Engineer's Estimate for this project is \$540,000. This amount is higher than the staff's preliminary design estimate of \$468,000 included in the Capital Improvement Plan. However, sufficient funds are available in the General Account.
- The increase is due mainly to improvements in the HVAC and structural features of the building.
- These enhancements were made to improve environmental safeguards and increase storage available from the preliminary design.



## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 98-2610, FOR THE PURPOSE OF AUTHORIZING RELEASE OF RFB #98B-6-REM FOR THE CONSTRUCTION OF A LATEX PAINT PROCESSING BUILDING AT METRO SOUTH STATION

Date: January 29, 1998

Presented by: Bruce Warner,  
Rob Smoot

## PROPOSED ACTION

Adopt Resolution No. 98-2610, which authorizes release of RFB #98B-6-REM and authorizes the Executive Officer to execute a contract for the construction of a latex paint processing building at the Metro South Transfer Station.

## FACTUAL BACKGROUND AND ANALYSIS

Metro receives about 75,000 gallons of latex paint annually through its Hazardous Waste Program. Utilizing an abandoned loading tunnel at Metro South, the program has been able to recycle 64% of the paint received, and solidify and dispose of 36%. The program receives more latex paint than any other material, and the amount is growing by 12% annually.

### *Health and Operational Efficiency Concerns*

An independent health and safety audit identified a variety of ergonomic and potential respiratory problems associated with current operations. In addition, the tunnel provides inadequate storage, causing paint to be stored outdoors, where it can freeze and become unrecoverable. Staff has concluded that due to its original design, the tunnel is an inappropriate place to conduct these operations, and latex paint recovery operations should be moved.

### *Options Considered*

The following two scenarios were examined to replace tunnel operations:

- 1) Contracting out processing and recovery of latex paint, or
- 2) Constructing an appropriate building to process and recover the paint.

Based on an analysis for Metro's capital improvement program, construction of a latex paint processing building was shown to be the most cost effective option, while achieving higher recycling rates. In addition, owning the paint facility will allow Metro to control the recovery rate.

### *The Structure*

For this function, we recommend a prefabricated metal building that will be manufactured and partially assembled off-site. It will be approximately 5,000 square feet in area, and

will consist of a paint processing area, storage space, office, lunchroom and lavatory/shower. A prefabricated building was chosen because it is the least expensive structure, and it can be erected in the shortest time frame.

Design and specifications for construction of the building and related utilities have been developed through a previous procurement approved by the Metro Council. These specifications are included in RFB #98B-6-REM, which is attached to the resolution as Exhibit "A". Construction is expected to begin in May of 1998 and conclude in September 1998.

#### BUDGET IMPACT

The Engineer's Estimate for this project is \$540,000. This estimate is higher than staff's preliminary design estimate of \$468,000 included in the Capital Improvement Plan. However, sufficient funds are available in the General Account. The increase is due mainly to improvements in the HVAC and structural features of the building. These enhancements were made to improve environmental safeguards and increase storage available from the preliminary design.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 98-2610.

## **REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT**

### **CONSIDERATION OF RESOLUTION NO. 98-2610, FOR THE PURPOSE OF AUTHORIZING THE RELEASE OF RFB #98-6-REM FOR THE CONSTRUCTION OF A LATEX PAINT PROCESSING BUILDING AT METRO SOUTH STATION**

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Date: February 17, 1998      Presented by: Councilor McFarland

**Committee Recommendation:** At its February 17 meeting, the Committee considered Resolution No. 98-2610 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors McFarland, Washington and Chair Morissette.

#### **Background**

Metro has recycled paint returned to our HHW facilities for several years. The material has been processed into a range of colors, repackaged in large drums and then given to non-profit and public agencies. The paint processing presently occurs at Metro South in the old transfer trailer tunnel between the HHW facility and the main transfer station building. Over the years, Metro has made several "improvements" designed to meet various state and federal health and safety requirements. In addition, the tunnel lies at the lowest point at the transfer station and is subject to flooding.

Metro has embarked on a pilot project with two local paint companies to encourage their customers to return unused paints directly to their retail outlets. If this program is successful, Metro may explore the potential of expanding the program. If a large-scale return program is initiated, the amount of paint available for recycling would likely exceed the capacity of the existing processing facility.

**Committee Issues/Discussion:** Bruce Warner, Regional Environmental Management Director, presented the staff report. Warner explained that the purpose of the proposed resolution is the solicit proposals for the construction of a new latex paint processing building at a different location on the Metro South Station site. Warner noted that staff had determined that relocation of the facility would substantially reduce the potential for flooding, provide a safer, state of the art facility, and increase storage space.

Councilor McLain asked if staff had determined whether the proposed construction would be in compliance with the provisions of proposed Title 3 ( which would regulate construction near waterways) of the Regional Framework Plan. Warner responded that compliance issues had not been addressed. McLain requested that REM staff work with Growth Management staff to determine if the proposed building was in compliance with Title 3. She requested a response prior to consideration of the resolution by the full Council. She was particular interested in whether the site had flooded in 1996 and whether it was within the 100 year flood plain.

Chair Morissette indicated that his interpretation of the standards in proposed Title 3 would be that the proposed building would be considered new construction and therefore could not be built.

***Agenda Item Number 8.1***

**Resolution No. 98-2611, For the Purpose of Authorizing an Exemption from the Competitive Bid Process and Authorizing Issuance of RFP #98R-5-REM for the Replacement of Compaction Systems at Metro South Station.**

***Contract Review Board***

**Metro Council Meeting  
Thursday, February 26, 1998  
Council Chamber**

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION ) RESOLUTION NO. 98-2611  
FROM THE COMPETITIVE BID PROCESS AND )  
AUTHORIZING ISSUANCE OF RFP #98R-5-REM FOR ) INTRODUCED BY:  
THE REPLACEMENT OF COMPACTION SYSTEMS AT ) MIKE BURTON,  
METRO SOUTH STATION ) EXECUTIVE OFFICER

WHEREAS, The compaction systems at Metro South Station are in need of replacement as described in the accompanying staff report; and

WHEREAS, Staff has prepared the request for proposals is attached as EXHIBIT "A"; and

WHEREAS, The use of this procurement process requires an exemption from the competitive bid process; and

WHEREAS, Metro Code Section 2.04.054 (c) authorizes the Metro Contract Review Board, where appropriate, to exempt a public contract from competitive bidding, subject to the requirements that the exemption will not encourage favoritism or substantially diminish competition for public contracts, and that such an exemption will result in substantial cost savings; and

WHEREAS, EXHIBIT "B" to this resolution contains findings which satisfy the requirements for such an exemption; and

WHEREAS, The resolution was submitted to the Executive Officer for consideration and was forwarded to the Contract Review Board for approval; now therefore,

BE IT RESOLVED,

1. That the Metro Contract Review Board adopts as findings the information and reasoning contained in EXHIBIT "B," made part of this resolution by reference, and concludes that:
  - a) It is unlikely that exempting the replacement of compaction systems at Metro South Station from the competitive bid process

will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and

b) The exemption will result in substantial cost savings to Metro; and

Therefore, exempts the contract to be solicited through RFP #98R-5-REM from competitive bidding requirements.

2. That the Metro Council authorizes issuance of RFP #98-5-REM, attached as EXHIBIT "A".
3. That the Metro Council, pursuant to Section 2.04.026(b) of the Metro Code, authorizes the Executive Officer to execute a contract with the most qualified proposer.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
John Kvistad, Presiding Officer

Approved as to Form:

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

**EXHIBIT "A"**

**REQUEST FOR PROPOSALS  
for  
REPLACEMENT OF THE SOLID WASTE COMPACTION SYSTEMS  
at the  
METRO SOUTH TRANSFER STATION**

**RFP #98R-5-REM**

**Metro  
Regional Environmental Management  
600 NE Grand Avenue  
Portland, OR 97232**

**REQUEST FOR PROPOSALS**  
for  
**REPLACEMENT OF THE SOLID WASTE COMPACTION SYSTEM**  
at the  
**METRO SOUTH TRANSFER STATION**

**I. INTRODUCTION**

The Regional Environmental Management Department of Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, is requesting proposals for replacement of two solid waste compaction systems at its Metro South Transfer Station. Proposals will be due no later than \_\_\_ p.m., \_\_\_, 1998 in Metro's business offices at 600 NE Grand Avenue, Portland, OR 97232-2736. Details concerning the project and proposal process are contained in this document.

**II. BACKGROUND/HISTORY OF PROJECT**

Metro owns the Metro South Station (MSS) located at 2001 Washington St. in Oregon City, Oregon. MSS is a solid waste transfer station that receives waste from both commercial haulers and the general public. MSS is operated by Browning-Ferris Industries that compacts the waste into loads (also referred to as bales) for transport. Jack Gray Transport, Inc transports the loads of waste 150 miles one-way. Waste Management Inc. provides disposal at its Columbia Ridge Regional Landfill, located in Gilliam County, Oregon. All three firms have contracts with Metro.

Types of wastes received at MSS are those appropriate for disposal at a sanitary landfill. Commercial collection firms serving the residential and business communities deliver the majority of waste. The MSS operator is responsible for ensuring that only "Acceptable Waste" is received and loaded into the compactors. A definition of acceptable waste is contained in the Appendix, as is the relevant portions of the transfer station operations' contract dealing with compactor operation. MSS will receive approximately 378,000 tons of waste in 1998 for disposal that will result in the transport of over 13,000 loads.

Waste received at the facility is unloaded into a pit in the center of the station. It is then broken up and moved to one end of the pit by a Caterpillar 973-track loader. The dozer operator pushes waste through openings in the pit floor to load one of two compactors. Utilizing remote controls, the dozer operator builds a bale of waste in the compactor to desired specifications. The compactor operator, who extrudes the completed load into a transfer trailer, assists the dozer operator in building optimal loads. They are in radio contact during this process.



Optimal loads are loads that approach 32 tons while being road legal. The transfer station operator's contract with Metro contains a monetary incentive to maximize payloads. The contract also contains a monetary disincentive for overloads as determined by axle weights taken at an onsite scale. In order to maximize payloads the operator must take into consideration the mix of garbage in the pit, the weight of the bale throughout its length as it is being built, as well as its placement in the transfer trailer. Details concerning the transfer trailer are provided in the Appendix.

There are two compactors at MSS. One is a single bale Amfab TRANS-PAK 500 installed in late 1989. The second is a SSI two-bale compactor, model 4000 that began operation in the spring of 1991. Both units are supplied with 400-amp service and have built-in scales for determining the weight of the load as it is being built. Metro will make available 500-amp service at the control panel located in the room above the compactors, if requested by the successful proposer. Drawings of the area housing the compactors, including the locations of support pilings, are included in the Appendix. Details concerning the specifics of the units are available upon request.

Transfer trailers attach to the compactor when receiving a load of waste. The load is then extruded into the trailer so that it does not reach the front of the trailer. Any debris that falls onto the back deck of the trailer after extrusion is removed, the doors are closed and a sealed installed. The trailer is then shuttled up an incline to a parking lot located in the northwest corner of the site (see the Appendix for a site drawing) after weighing at an onsite scale. Tractors then pickup loaded trailers and transport them to the disposal site.

### **III. SCOPE OF WORK/SCHEDULE**

**A. General.** Metro is seeking proposals from qualified firms to perform the following services and to deliver the following products to the MSS.

- Design and manufacture of two solid waste compaction systems (compactors, HPUs, loading hoppers, etc.),
- Removal and sale of existing compaction systems (proceeds are to be kept by the contractor and factored into the proposal),
- Installation and shakedown of new units,
- Successful completion of acceptance testing,
- Provision of goods and services as specified in the warranty,
- Ongoing support during the life of the equipment.

**B. Performance Specifications.** This portion of the Scope of Work contains technical and performance requirements as well as items to be addressed in proposals submitted.

#### **1. Bale Characteristics, Compaction and Extrusion**

- Bales must be compatible with Transport Contractor's trailers (see Appendix)
- Ability to construct a single 32 ton, road legal bale, from solid waste received at the facility
- Bale should not abrade or exert forces on trailer sidewalls or roof
- Bale should maintain its integrity so that only negligible amounts of material falls back after extrusion into the trailer
- Ability to prepare four road legal loads, averaging 30 tons, per hour
- Minimum 7 foot extrusion distance into trailer
- Ability to manipulate compaction to maximize payload and density while constructing the load

## 2. CONTROLS/OPERATION

- a. Provide remote control for loader operator to operate compaction system
  - Must have sufficient range for use at back of pit in dusty conditions.
  - Include buttons for clear hopper and return home, compaction stroke and return home, stop stroke, return home, and bale done.
  - Need permanent bracket for remote from which remote can be easily removed and used.
  - NEMA-4 Enclosure minimum
- b. Tipping Floor Display for Loader Operator
  - Large display, able to be seen display from rear of pit in dusty conditions.
  - Minimum of 6" high numbers indicating operational parameters
  - Provide visual display of length during compaction.
  - Provide visual display of weight at all times.
  - Provide run light, bale done light, and error lights
  - Display must be sealed for protection from dust and moisture, and have a self cleaning mechanism such as a wiper (NEMA-4 Enclosure, minimum)
- c. Compactor Operator / Main Control Panel (to be located next to compactor)
  - Programmable, with password protection.
  - Ability to automate bale building program with consistent density feature
  - Ability to change weight, length and compaction sequence goals at any time by operator.
  - Ability to know where cylinder and platen are located at all times through display.
  - Ability for remote programming by manufacturer (through modem)
  - Display indicating operational parameters including modes and diagnostics
  - Manual bale discharge

- NEMA-4 Enclosure minimum
- Recording of data such as number of loads and weights
- Port for transmission of data to portable computer system
- Display pressure of all pumps (also at tank)
- Diagnostics: Built in trouble shooting capabilities.
- Oil working temperature display (also at tank)

### 3. MISCELLANEOUS SYSTEM CHARACTERISTICS

#### a. Maintenance Friendly

- All points of adjustment and maintenance should be easily accessible
- Displays, such as hydraulic gauges, should be provided at key locations
- Simplified power unit with adequate cooling system and NEMA 4 enclosures
- Catwalk along top of unit
- Ease of adjusting platen, knives etc.
- Ease of replacing major components
- Ease of routine maintenance

#### b. Environmental Controls

- Designed to minimize dust and noise
- Spill prevention and containment features

#### c. Unit Construction

- Compaction system should be constructed to withstand the harsh working environment associated with a solid waste transfer station.
- Major components such as cylinders and platens should be designed to maximize their useful life and minimize breakdowns.
- A means of securing trailers during loading should be provided, as well as alignment mechanisms such as wheel guides.
- Unit shall include all loading systems (such as hoppers) required to get waste from the pit into the unit.

d. Power. As stated above, 400-amp service is utilized by the current compaction systems. Metro will make available 500-amp service at the control panel (including breakers). Proposals should provide the cost to connect the compaction systems to the 500-amp service at the control panel if 500-amp service is to be utilized.

### **C. Removal / Installation**

Contractor is responsible for the removal of existing, and installation of the new compaction systems, and all associated costs. Contractor is responsible for obtaining any necessary permits/regulatory approvals. Contractor shall be responsible for all maintenance and repairs of the new compaction systems during this period. Installation of new units, including successful completion of acceptance testing shall not exceed 6 months from the date a contract has been signed for this project.

Removal of existing compaction systems and installation of the new ones shall be coordinated with the MSS operator and Metro. During removal and installation, contractor shall not interfere with the onsite activities and shall take direction from Metro or the station operator when onsite.

Prior to any installation activities the contractor shall submit to Metro a detailed plan for approval. The plan shall describe the timing of activities and the roles of the parties involved. In particular the plan shall contain procedures and schedules for the shakedown and acceptance test phases.

The plan shall contain the following requirements:

- Approval from Metro prior to the start of the removal and installation activities.
- Contractor shall seal the opening to the compaction system from the pit prior to removal.
- Contractor shall remove an existing system (Metro shall designate first unit), install a new compaction system, and pass the acceptance test prior to installing the second system.
- Physical removal of the existing units from and installation of new units (including loading hoppers) into the compactor area shall be done after transfer operations have ceased (generally this will be after 9 p.m.), to minimize disruption to onsite operations.
- Spill containment and cleanup procedures.

### **D. Shakedown**

After installation of a new system, the Contractor shall conduct a shakedown of the system. The shakedown period is the Contractor's opportunity to test the system and correct any deficiencies found, prior to performance of the acceptance test. The Contractor shall be responsible for operation of the system during this period, and shall minimize interference with the daily operations. The Contractor shall permit monitoring of its efforts during this period by both Metro, and the station operator, in order to gain a greater working knowledge of the system.

The transfer station operator will be responsible for loading waste into the compaction system per the Contractor's direction. The transport contractor will be responsible for providing transport vehicles for receiving loads per the Contractor's direction.

Contractor shall pay for any extraordinary costs incurred by Metro due to system shakedown, including, but not limited to, equipment or facility damage. Contractor shall be responsible for all maintenance and repairs of the new compaction system during this period, including spill cleanups. Contractor shall be responsible for damage to the vehicles or equipment of Metro customers or contractors.

#### **E. Acceptance Testing**

Contractor shall indicate in writing to Metro that the shakedown is complete and that the system is ready for acceptance testing. All permanent system components must be in place before requesting the acceptance test, including successful shakedown of the control system and accessing of stored data through its computer port. Any exceptions to this requirement are contingent upon the prior approval of Metro.

Metro shall conduct the acceptance test of the system to determine whether it meets the specifications contained herein. Contractor shall be responsible for providing the equipment operators for the test, with the exception of the loader operator and shuttle drivers for the transfer vehicles. It is the responsibility of the Contractor to provide adequate training to the loader operator and shuttle drivers. Metro reserves the right to determine the specific dates and time of the test in order to ensure sufficient waste, equipment and personnel are available. If such a determination results in a delay of the acceptance test, an extension of the time limits included under the "Payment" section of this RFP shall be granted.

Generally, the test parameters for acceptance are compliance with the technical specifications. A Metro representative will conduct the test by having the Contractor demonstrate the following specific actions:

1. Compact and load into transfer trailers, four loads per hour for two consecutive hours. Metro shall ensure that a transfer trailer is in position to receive a load once ready for extrusion. Any delay in the provision of a trailer shall act as an extension of the two-hour time period.
2. The average payload during this period shall be 30 tons.
3. Overloads shall not be counted for either item 1 or 2, nor will an extension of time be granted to compensate for overloads. Both 1 and 2 shall be determined at the onsite scale.

4. The bale must maintain its integrity and not abrade or bulge against the sides or the top of the trailer during extrusion into the trailer. Excessive sloughing out the rear of the trailer shall not occur. Compliance with this standard will be determined by a visual inspection of the onsite Metro representative whose determination shall be final.

5. Achieve the parameters in items 1 through 4 while producing road legal weights for the transfer vehicle.

6. Metro shall conduct a visual inspection of the system prior to, and at the conclusion of the testing with the Contractor, noting any obvious leaks, equipment failures/damage or abnormal wear and tear, as determined at the sole discretion of Metro. Contractor shall repair such leaks, damage or wear. If Metro concludes that such leaks, equipment failure/damage or wear are of a reoccurring nature, Metro, in its sole discretion, may declare that the system has failed the acceptance test.

If, in Metro's sole opinion, the Contractor does not pass the acceptance test, Metro reserves the right to allow the Contractor to retake the acceptance test at a later date, or to waive any minor irregularity that occurs during the test. Metro will not unreasonably deny the Contractor's request for a second acceptance test.

In addition to the specific actions contained in items 1 through 6 above, Metro may require the Contractor to demonstrate the compaction system's ability to comply with any of the parameters contained in Performance Specifications portion of the Scope of Work.

**F. Product Support.** Metro desires a high level of product support for the compaction systems ultimately purchased under this procurement. Below are elements that will be incorporated into any final agreement and that should be addressed in proposals submitted.

- **300-Hour Unconditional Warranty.** For the first 300 hours of operation of each compaction system after successful completion of the acceptance test, Contractor shall provide an unconditional warranty on the entire compaction system. Contractor shall provide onsite troubleshooting within two hours of notice by Metro, or its station operator that the system is malfunctioning. Contractor shall fix any problems and replace any malfunctioning parts at its expense within 24 hours during this period. In addition, Contractor shall, at 75-hour intervals, take an oil sample of the system. Each such sample shall be acceptable per the manufacturer's manual, or the Contractor shall remedy the cause of the contamination until two successive sampling intervals render such

acceptable tests. If necessary, the terms of this 300-hour unconditional warranty shall be extended until such two successive interval tests are acceptable.

- **Standard and Extended Warranties.** Proposals should include copies of warranties available and associated costs, as well as an understandable explanation of each.
- **Parts.** List the parts that are stocked locally and where. List those parts recommended for onsite storage. List availability of all other system components including cylinders. Metro will require that the Contractor be able to produce replacement cylinders within three weeks of failure for the life of the compaction system. Initial purchase price should include recommended onsite parts.
- **Service.** Describe in this section of your proposal what service support is available, the qualifications of the positions and where it is located. Also list the unit costs of such support and how much of each is included in the proposed warranties.

**G. Training, Manuals, Drawings.** Contractor shall provide thorough training to the transfer station operator in the operation of the system and general training to Metro personnel. Contractor shall provide five (5) sets of operations manuals. Contractor shall provide two (2) sets of as-built drawings of the equipment in sufficient detail to identify all components of the system.

**H. Bonds/Insurance.** Contractor shall provide Performance and Labor and Materials Bonds on the enclosed forms, or substitutes acceptable to Metro, in amounts equal to 100% of the contract amount. Said bonds shall be submitted with an executed Contract and have a term of one year.

**I. Payment.** Payments to the successful proposer shall be made as follows in accordance with Metro billing procedures:

1. **Payment for Compaction Systems**
  - 25% upon execution of a contract by both parties.
  - Progress payments based on the completion of work less Metro's initial payment
  - Last 10% of contract amount upon completion of 300-hour unconditional warranty period.

2. Incentive Payments / Liquidated Damages for Installation<sup>1</sup>
  - Incentives are set at five thousand dollars (\$5,000) per day, and will be awarded for every calendar day left in the allowed installation period after successful completion of the acceptance test.
  - Liquidated damages are set at five thousand dollars (\$5,000) per day, and will be assessed for every calendar day past the allowed installation period after successful completion of the acceptance test.
  - For purposes of this section, the allowed installation period shall be 10 calendar days and shall begin once the unit to be replaced has been disabled<sup>2</sup>. The determination of time limits under this section shall be at determined in the sole opinion of Metro.
  
3. Liquidated Damages for Delay of Project Completion
  - Liquidated damages are set at five thousand dollars (\$5,000) per day, and will be assessed for every calendar day past the allowed project period.
  - For purposes of this section, the project period (exclusive of the unconditional warranty period) shall be 180 calendar days from the date of the signing of a contract.

#### IV. QUALIFICATIONS/EXPERIENCE

Proposers shall have the following experience:

- Manufactured systems of a similar nature, for similar applications, in the past.

#### V. PROPOSAL INSTRUCTIONS

A. **Submission of Proposals.** Five (5) copies of the proposal shall be furnished to Metro, addressed to:

Metro  
Regional Environmental Management Department  
Attn: Chuck Geyer  
600 NE Grand Avenue  
Portland, OR 97232-2736

B. **Deadline.** Proposals will not be considered if received after \_\_\_\_ p.m., \_\_\_\_, 199\_.

C. **RFP as Basis for Proposals.** This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which

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<sup>1</sup> If the acceptance test is completed on day 10 of the installation period, neither incentives nor liquidated damages will apply.

<sup>2</sup> This period includes "Removal / Installation" and "Shakedown" periods and activities.



Proposals are to be based. Any verbal information, which is not addressed in this RFP, will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to Chuck Geyer at (503) 797-1691. Any questions, which in the opinion of Metro warrant a written reply or RFP amendment, will be furnished to all parties receiving this RFP. Metro will not respond to questions received after \_\_\_\_\_.

**D. Information Release.** All proposers are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all proposers agree to such activity and release Metro from all claims arising from such activity.

**E. Minority and Women-Owned Business Program.** In the event that any subcontracts are to be utilized in the performance of this agreement, the proposer's attention is directed to Metro Code provisions 2.04.100. Copies of that document are available from the Risk and Contracts Management Division of Administrative Services, Metro, Metro Center, 600 NE Grand Avenue, Portland, OR 97232 or call (503) 797-1717.

## **VI. PROPOSAL CONTENTS**

The proposal should contain not more than 20 pages of written material (excluding biographies, brochures and drawings, which may be included in an appendix), describing the ability of the proposing firm to perform the work requested, as outlined below. The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

The proposal should be organized into the following sections, clearly marked as such, addressing the subjects referenced.

**A. Transmittal Letter.** Indicate who will be the project manager, who will sign the contract, and that the proposal will be valid for ninety (90) days.

**B. Performance Specifications.** Describe how the proposed systems comply with this section of the Scope of Work. Provide detailed drawings and specifications. Provide a project schedule. List the personnel or subcontractors and the work they will perform and their qualifications. Also include any proposed modifications for supporting systems such as new footings.

**C. Product Support.** Propose how you will meet Metro's desired level of support as described in this section of the Scope of Work, organized by the subsection headings contained therein.

**D. Cost/Budget.** List the proposed cost of the project in sufficient detail to determine the major cost categories such as manufacture, removal and installation, by each compaction system, in sufficient detail for Metro to determine its potential payments schedule. List the cost to connect to control panel if utilizing 500 amps.

**E. Exceptions and Comments.** To facilitate evaluation of proposals, all responding firms will adhere to the format outlined within this RFP. Firms wishing to take exception to, or comment on, any specified requirements within this RFP are required to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized.

## **VII. GENERAL PROPOSAL/CONTRACT CONDITIONS**

**A. Limitation and Award.** This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as a result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.

**B. Billing Procedures.** Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Metro shall pay Contractor within 30 days of receipt of an approved invoice.

**C. Validity Period and Authority.** The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.

**D. Conflict of Interest.** A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

## **VIII. EVALUATION OF PROPOSALS**

**A. Evaluation Procedure.** Proposals received that conform to the request for proposals instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. Interviews may be requested prior to final selection of one firm.

**B. Evaluation Criteria.** This section provides a description of the criteria, which will be used in the evaluation of the proposals, submitted to accomplish the work defined in the RFP.

1. 35% Technical Qualities

- a. Ability of the proposed systems to meet performance requirements
- b. Ability of proposed systems to exceed performance requirements

2. 25% Product Support

- a. Warranties
- b. Parts Availability
- c. Service Availability

3. 40% Cost Proposal

Projected cost/benefit of proposal

**IX. NOTICE TO ALL PROPOSERS – STANDARD AGREEMENT**

Attached is a standard agreement approved for use by the Metro Office of General Counsel. This is the contract the successful proposer will enter into with Metro; it is included for your review prior to submitting a proposal. Any exceptions a proposer wishes to take with the terms of this agreement should be documented in the appropriate section of the proposal.

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**APPENDIX**  
Consisting of:

Relevant MSS Operations Contract Definitions  
MSS Operations Contract Language on Compactor Operation  
Standard Contract  
Bond Forms  
Drawings

## Definitions from MSS Operations Contract

### **Article 1 – Definitions**

For the purposes of this Contract, and each and every one of the Contract Documents, the following terms shall have the meanings hereinafter set forth:

**“Acceptable Waste”** means solid waste, as defined in ORS 459.005(24) except solid waste that is:

1. prohibited from disposal at a sanitary landfill by state, local or federal law;
2. Hazardous Waste;
3. Special Waste without a Metro approved special waste permit;
4. Infectious Medical Waste; or
5. Conditionally Exempt Generator Waste.

Latex paints are an Acceptable Waste if they are completely dried out and solidified with lids off. Caulk, construction putty and other construction adhesives must be dry to be Acceptable Waste.

**“Conditionally Exempt Generator Waste”** means waste as defined in 40 CFR 261.5, as amended or replaced, such waste to be handled by Contractor as if it were a fully regulated Hazardous Waste.

**“Hazardous Waste”** means any waste (even though it may be part of a delivered load of waste) which:

1. is required to be accompanied by a written manifest or shipping document describing the waste as 'hazardous waste,' pursuant to any state or federal law, including, but not limited to the Resource Conservation and Recovery Act, 42 USC 9601, et seq. as amended and the regulations promulgated thereunder;
2. contains polychlorinated biphenyl or any other substance whose storage, treatment or disposal is subject to regulation under the Toxic Substance Control Act, 15 USC 2601, et seq. as amended and the regulations promulgated thereunder;
3. contains a 'reportable quantity' of one or more 'hazardous substances' (typically identified by the nine hazard classes labeled as explosives, non-flammable gas, flammable, flammable solid, oxidizer, poison, corrosive, radioactive, or dangerous), as identified in the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601, et seq. as amended and the regulations promulgated thereunder and as defined under Oregon Law, ORS 466.605 et seq. and the regulations promulgated thereunder;
4. contains a radioactive material the storage or disposal of which is subject to state or federal regulation; or
5. is otherwise classified as hazardous pursuant to federal or Oregon law, rule or regulation.

**“Infectious Medical Waste”** means waste resulting from medical procedures which may cause or is capable of causing disease, such as:

1. biological waste, including blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that can not be directly discarded into a municipal

sewer system, including solid or liquid waste from renal dialysis and waste materials reasonably contaminated with blood or body fluids;

2. cultures and stocks of etiological agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures; wastes from production of biologicals; and serums and discarded live and attenuated vaccines (cultures under this subsection do not include throat and urine cultures);
3. pathological waste, including biopsy materials and all human tissues and anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures; animal carcasses exposed to pathogens in research; and the bedding of the animals and other waste from such animals (pathological waste does not include formaldehyde and other such preservative agents); or
4. sharps including needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes.

**“Special Waste” shall have the meaning set forth for that term in Metro Code Section 5.02.015.**

## Compactor Operation Specifications from MSS Operations Contract

### 7.0 COMPACTOR OPERATIONS – GENERAL

#### 7.1 SAFETY

It is the Contractor's responsibility to assure that personnel are in a safe location relative to the compactor at all times, including but not limited to, start-up, operation, and maintenance. The machine shall not be worked on unless the power to the unit is locked out. The Contractor is also responsible to provide initial and ongoing training (including manufacturer's certification) for all operators and maintenance personnel of the compactor. The Contractor shall maintain all warnings and decals attached to the machine. The contractor shall maintain a written lock-out tagout program for each compactor and provide certification of employee training.

Contractor shall ensure that all hazards in the compactor area are clearly marked. Contractor shall equip the contractor area with drain covers and adequate absorbent to contain spillage of 300 gallons of hydraulic fluid and prevent contamination from entering sanitary or storm sewers. Immediate actions to take in the event of a hydraulic fluid release from the compactor shall be posted in the compactor area.

#### 7.2 START-UP PROCEDURE.

The Contractor is responsible to follow the compactor start-up procedures listed in the operator's manual.

#### 7.3 LOADING THE COMPACTOR.

- A. Building the Bale. Steps for building the bale, described in the operator's manual, should be followed.
- B. Material Limitations. It is the responsibility of the Contractor to load the compactor so it will function properly without jamming, puncturing the compactor or container walls, causing fire, explosion, or any other damage. In general, materials of concern such as those listed below should either make up a minimal portion and be placed in the middle of the load or be excluded/ removed, to avoid problems.
  - (1) Construction debris (large structural timber or steel), engine parts, car axles and other materials may puncture the walls of the container or compactor. Concrete or rock (greater than 3 feet in diameter) or large stumps.
  - (2) Sheetrock and cement in large quantities.
- C. Consistent Length and Weight of Payload. Waste loaded into the compactors should be well mixed such that consistent density and lengths of maximized payloads are produced. This includes mixing dry garbage with very wet loads to avoid short dense payloads. Loosely packed garbage loads which may produce underloads should also be avoided.

#### 7.4 COMPACTION STROKES

It is the responsibility of the Contractor to use the appropriate number of compaction strokes with each type of load in an attempt to achieve consistent, cost effective road legal payloads (with balanced axle weights).

## **7.5 ROAD LEGAL PAYLOADS**

Total weight of payloads can be determined from the compactor scale readout. It is the responsibility of the Contractor to monitor the scale weight and to not exceed the maximum legal transport weight or axle weight. If an overload does occur, based on either total weight or unbalanced axles, the Contractor must reduce the bale weight such that the Transporter will be road legal.

## **7.6 EJECTING THE BALE**

The Contractor should follow steps for the compactor unloading procedures indicated in the operator's manual.

## **7.7 SHUTDOWN**

Shutdown procedure should be carried out as indicated in the operator's manual. Every day after shutdown, the machine shall be checked for hydraulic leaks at the power unit and field plumbing.

## **7.8 SPILLAGE**

The compactor shall be operated in such a manner as to reduce spillage of garbage and moisture when ejecting the bale. All waste spilled must be cleaned up after each bale is ejected.

## **7.9 OVERLOADS DUE TO COMPACTOR LOAD CELLS NOT FUNCTIONING**

It is the responsibility of the Contractor to check and maintain each of the compactor load cells, such that overloads do not occur. Checking and maintenance of the load cells includes a weekly comparison with weighing system certified scales. In the event that an overload does occur due to a malfunctioning load cell, the Contractor must reduce the weight such that the Transporter's bale will be road legal. It is the Contractor's responsibility to repair the load cell as soon as possible in order to continue operating without overloads.



**SAMPLE - STANDARD PUBLIC CONTRACT**

CONTRACT NO. \_\_\_\_\_

**PUBLIC CONTRACT**

THIS Contract is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 N.E. Grand Avenue, Portland, Oregon 97232-2736, and

\_\_\_\_\_, whose address is \_\_\_\_\_ 97  
, hereinafter referred to as the "CONTRACTOR."

THE PARTIES AGREE AS FOLLOWS:

**ARTICLE I  
SCOPE OF WORK**

CONTRACTOR shall perform the work and/or deliver to METRO the goods described in the Scope of Work attached hereto as Attachment A. All services and goods shall be of good quality and, otherwise, in accordance with the Scope of Work.

**ARTICLE II  
TERM OF CONTRACT**

The term of this Contract shall be for the period commencing \_\_\_\_\_, 19\_\_\_\_ through and including \_\_\_\_\_, 19\_\_.

**ARTICLE III  
CONTRACT SUM AND TERMS OF PAYMENT**

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in the Scope of Work. METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in the Scope of Work.

**ARTICLE IV  
LIABILITY AND INDEMNITY**

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract, and shall indemnify, defend and hold harmless METRO, its agents and employees, from any and all claims, demands, damages, actions, losses, and expenses,

including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is solely responsible for paying CONTRACTOR's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and METRO.

#### ARTICLE V TERMINATION

METRO may terminate this Contract upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for work performed to the date of termination. METRO shall not be liable for indirect or consequential damages. Termination by METRO will not waive any claim or remedies it may have against CONTRACTOR.

#### ARTICLE VI INSURANCE

CONTRACTOR shall purchase and maintain at CONTRACTOR'S expense, the following types of insurance covering the CONTRACTOR, its employees and agents.

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

B. Automobile bodily injury and property damage liability insurance. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an aggregate limit, the aggregate limit shall not be less than \$1,000,000. METRO, its elected officials, departments, employees, and agents shall be named as an ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to METRO thirty (30) days prior to the change.

This insurance as well as all workers' compensation coverage for compliance with ORS 656.017 must cover CONTRACTOR'S operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them.

CONTRACTOR shall provide METRO with a certificate of insurance complying with this article and naming METRO as an additional insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

CONTRACTOR shall not be required to provide the liability insurance described in this Article only if an express exclusion relieving CONTRACTOR of this requirement is contained in the Scope of Work.

**ARTICLE VII  
PUBLIC CONTRACTS**

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including, but not limited to, ORS 279.310 to 279.320. Specifically, it is a condition of this contract that Contractor and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by 1989 Oregon Laws, Chapter 684.

For public work subject to ORS 279.348 to 279.365, the Contractor shall pay prevailing wages and shall pay an administrative fee to the Bureau of Labor and Industries pursuant to the administrative rules established by the Commissioner of the Bureau of Labor and Industries.

**ARTICLE VIII  
ATTORNEY'S FEES**

In the event of any litigation concerning this Contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to any appellate courts.

**ARTICLE IX  
QUALITY OF GOODS AND SERVICES**

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

**ARTICLE X  
OWNERSHIP OF DOCUMENTS**

All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by CONTRACTOR pursuant to this agreement are the property of METRO and it is agreed by the parties hereto that such documents are works made for hire. CONTRACTOR does hereby convey, transfer and grant to METRO all rights of reproduction and the copyright to all such documents.

**ARTICLE XI  
SUBCONTRACTORS**

CONTRACTOR shall contact METRO prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from METRO before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract.

METRO reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR's compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

**ARTICLE XII  
RIGHT TO WITHHOLD PAYMENTS**

METRO shall have the right to withhold from payments due CONTRACTOR such sums as necessary, in METRO's sole opinion, to protect METRO against any loss, damage or claim which may result from CONTRACTOR's performance or failure to perform under this agreement or the failure of CONTRACTOR to make proper payment to any suppliers or subcontractors.

If a liquidated damages provision is contained in the Scope of Work and if CONTRACTOR has, in METRO's opinion, violated that provision, METRO shall have the right to withhold from payments due CONTRACTOR such sums as shall satisfy that provision. All sums withheld by METRO under this Article shall become the property of METRO and CONTRACTOR shall have no right to such sums to the extent that CONTRACTOR has breached this Contract.

**ARTICLE XIII  
SAFETY**

If services of any nature are to be performed pursuant to this agreement, CONTRACTOR shall take all necessary precautions for the safety of employees and others in the vicinity of the services being performed and shall comply with all applicable provisions of federal, state and local safety laws and building codes, including the acquisition of any required permits.

**ARTICLE XIV  
INTEGRATION OF CONTRACT DOCUMENTS**

All of the provisions of any bidding documents including, but not limited to, the Advertisement for Bids, General and Special Instructions to Bidders, Proposal, Scope of Work, and Specifications which were utilized in conjunction with the bidding of this Contract are hereby expressly incorporated by reference. Otherwise, this Contract represents the entire and integrated agreement between METRO and CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both METRO and CONTRACTOR. The law of the state of Oregon shall govern the construction and interpretation of this Contract.

**ARTICLE XV  
COMPLIANCE**

CONTRACTOR shall comply with federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, non-discrimination, safety and health, environmental protection, waste reduction and recycling, fire protection, permits, fees and similar subjects.

**ARTICLE XVI  
ASSIGNMENT**

CONTRACTOR shall not assign any rights or obligations under or arising from this Contract without prior written consent from METRO.

CONTRACTOR NAME

METRO

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

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

## PERFORMANCE BOND

(NOTE: CONTRACTORS MUST USE THIS FORM, NOT A SURETY COMPANY FORM)

KNOW BY ALL MEN BY THESE PRESENTS:

We the undersigned \_\_\_\_\_ as PRINCIPAL (hereinafter called CONTRACTOR), and \_\_\_\_\_, a corporation organized and existing under and by virtue of the laws of the state of \_\_\_\_\_, duly authorized to do surety business in the state of Oregon and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, to pay to METRO as OBLIGEE (hereinafter called METRO), the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), in lawful money of the United States of America.

WHEREAS, the CONTRACTOR entered into a contract with METRO dated \_\_\_\_\_, 19\_\_\_\_, which Contract is hereunto annexed and made a part hereof, for accomplishment of the project described as follows: \_\_\_\_\_.

NOW, THEREFORE, the condition of this obligation is such that if the CONTRACTOR shall promptly, truly and faithfully perform all the undertakings, covenants, terms, conditions, and agreements of the aforesaid \_\_\_\_\_, METRO having performed its obligations thereunder, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Whenever CONTRACTOR shall be declared by METRO to be in default under the Contract Documents for the project described herein, the SURETY may promptly remedy the default, or shall promptly complete the \_\_\_\_\_ in accordance with the Contract Documents and the project Specifications. SURETY, for value received, further stipulates and agrees that all changes, extensions of time, alterations, or additions to the terms of the Contract or Specifications for \_\_\_\_\_ are within the scope of the SURETY's undertaking on this bond, and SURETY hereby waives notice of any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications shall automatically increase the obligation of the Surety hereunder in a like amount, provided that such increase shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the Surety.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted.

No right of action shall accrue on this bond to or for the use of any person or corporation other than METRO or its heirs, executors, administrators, successors or assigns.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for obligations on this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
SURETY

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

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

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
CONTRACTOR

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

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

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Phone Number

## LABOR AND MATERIALS PAYMENT BOND

(NOTE: CONTRACTOR MUST USE THIS FORM, NOT A SURETY COMPANY FORM)

KNOW ALL MEN BY THESE PRESENTS:

We the Undersigned \_\_\_\_\_ as PRINCIPAL and \_\_\_\_\_, a corporation organized and existing under and by virtue of the laws of the state of \_\_\_\_\_, and duly authorized to do surety business in the state of Oregon and named on the current list of approved surety companies acceptable on federal bonds and conforming with the underwriting limitations as published in the Federal Register by the audit staff of the Bureau of Accounts and the U.S. Treasury Department and which carries an "A" rating and is of the appropriate class for the bond amount as determined by Best's Rating System, as SURETY, hereby hold and firmly bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, unto METRO, as OBLIGEE, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States of America, for the payment of that sum for the use and benefit of claimants as defined below.

The condition of this obligation is such that whereas the PRINCIPAL entered into a contract with METRO dated \_\_\_\_\_, 19\_\_\_\_, which contract is hereunto annexed and made a part hereof, for accomplishment of the project described as follows: \_\_\_\_\_.

NOW THEREFORE, if the PRINCIPAL shall promptly make payments to all persons, firms, subcontractors, corporations and/or others furnishing materials for or performing labor in the prosecution of the Work provided for in the aforesaid \_\_\_\_\_, and any authorized extension or modification thereof, including all amounts due for materials, equipment, mechanical repairs, transportation, tools and services consumed or used in connection with the performance of such Work, and for all labor performed in connection with such Work whether by subcontractor or otherwise, and all other requirements imposed by law, then this obligation shall become null and void; otherwise this obligation shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is as specified in ORS 279.526. :
2. The above-named PRINCIPAL and SURETY hereby jointly and severally agree with the OBLIGEE and its assigns that every claimant as above-specified, who has not been paid in full, may sue on this bond for the use of such claimant, prosecute the suit to final judgment in accordance with ORS 279.536 for such sum or sums as may be justly due claimant, and have execution thereon. The OBLIGEE shall not be liable for the payment of any judgment, costs, expenses or attorneys' fees of any such suit.



PROVIDED, FURTHER, that SURETY for the value received, hereby stipulates and agrees that all changes, extensions of time, alterations to the terms of the \_\_\_\_\_ or to Work to be performed thereunder or the Specifications accompanying the same shall be within the scope of the SURETY's undertaking on this bond, and SURETY does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the \_\_\_\_\_ or to the Work or to the Specifications. Any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the Specifications shall automatically increase the obligation of the SURETY hereunder in a like amount, provided that the total of such increases shall not exceed twenty-five percent (25%) of the original amount of the obligation without the consent of the SURETY.

This obligation shall continue to bind the PRINCIPAL and SURETY, notwithstanding successive payments made hereunder, until the full amount of the obligation is exhausted, or if the full amount of the obligation is not exhausted and no claim is pending resolution, until such time as no further claims can be made pursuant to law with regard to the above-described project, by any claimant specified in ORS 279.526.

If more than one SURETY is on this bond, each SURETY hereby agrees that it is jointly and severally liable for all obligations of this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
SURETY

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

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

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
CONTRACTOR

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

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

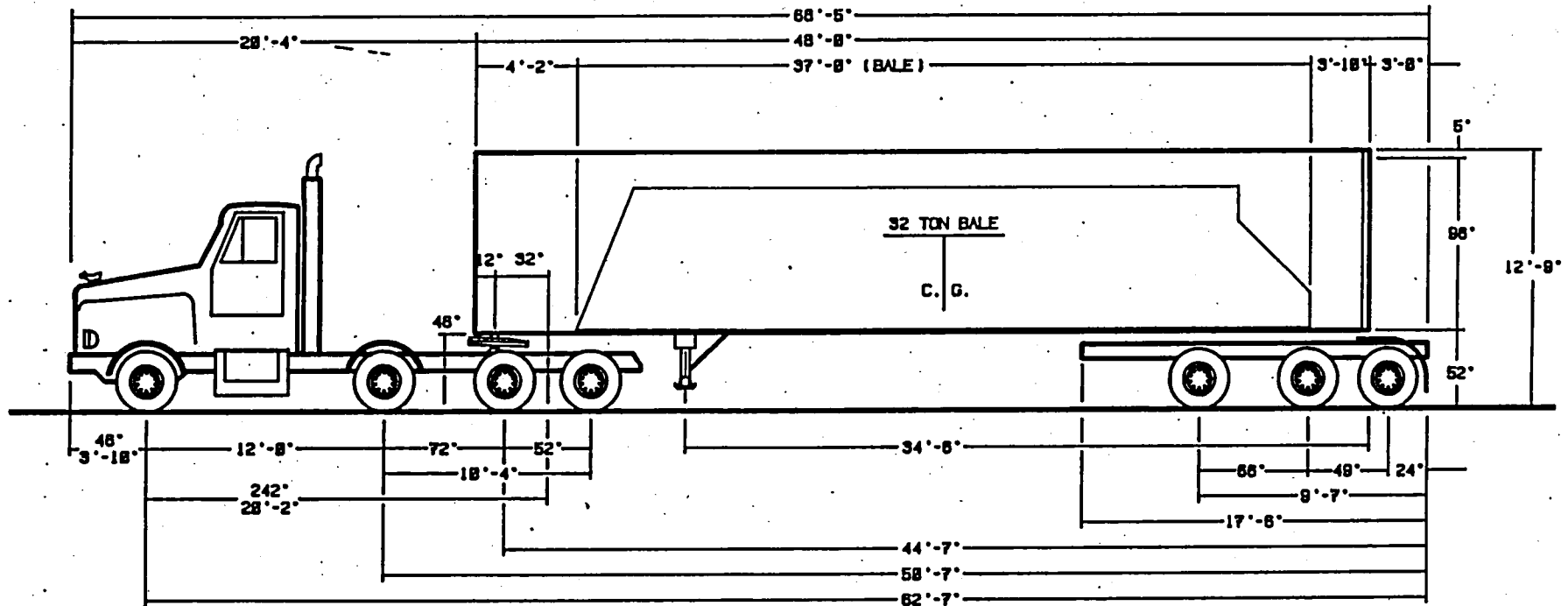
\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State ZIP

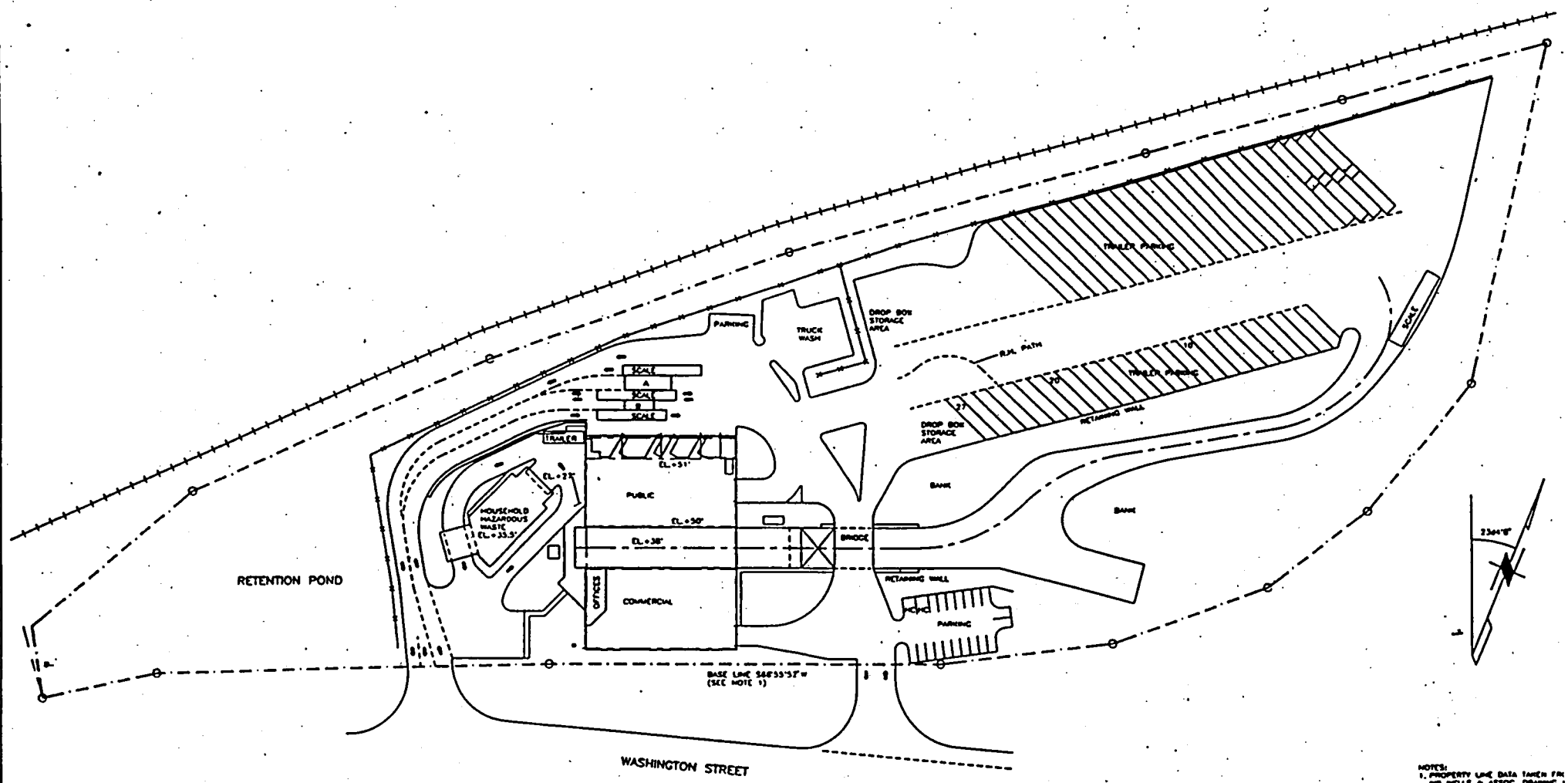


**Jaok Gray (45 ft. semitrailer)**

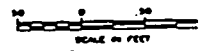
**APPROVED BY TOM BRADD FOR OVER-WEIGHT PERMIT ON JUNE 23, 1989**



8500	1500	6500	TRACTOR	17500		
300	1000	3700	TRAILER	14500	1500	8000
1700	6000	22000	PAYLOAD	64000	7500	26000
11500	8500	33000	GROSS	86000	8000	34000

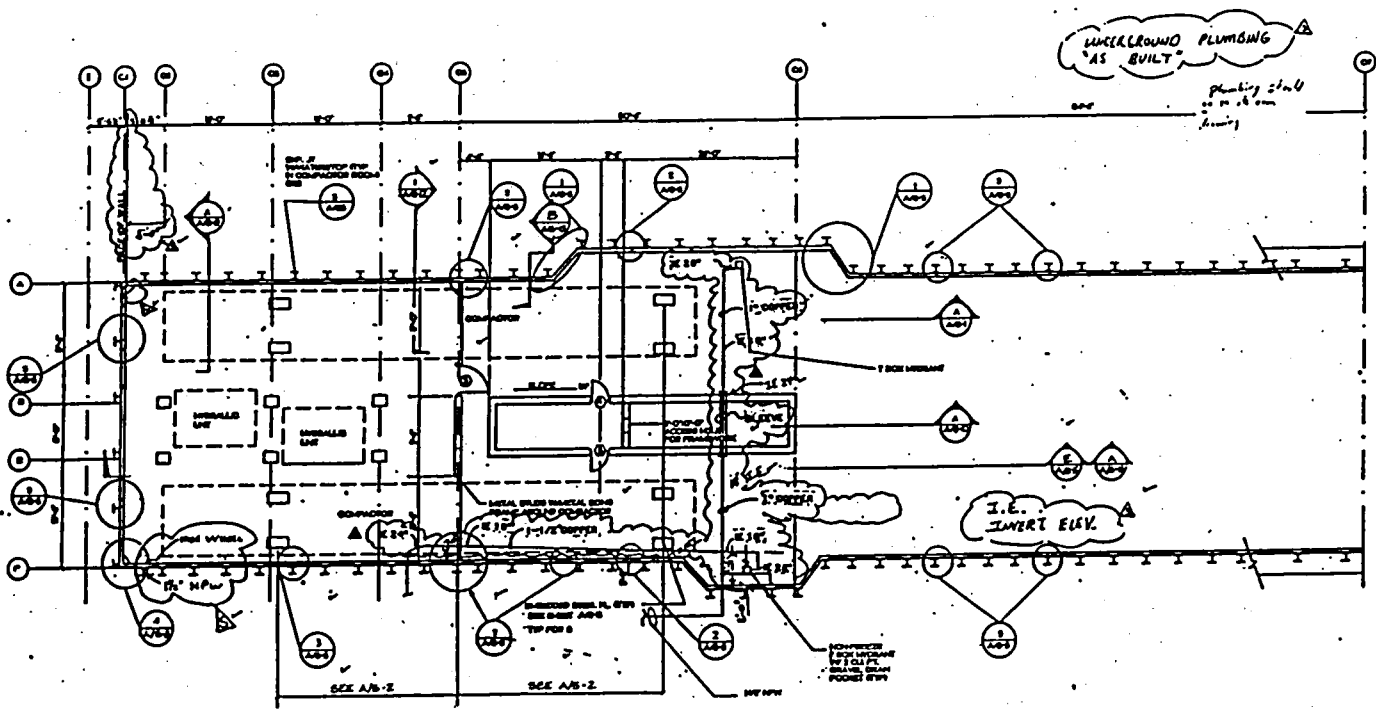


NOTES:  
 1. PROPERTY LINE DATA TAKEN FROM WELLS & ASSOC. DRAWING 1 90-187 DATED 8-9-91



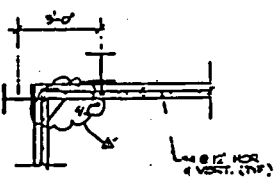
		JOB NO. 79926	DESIGNER VCH	PROJECT ENGINEER RWC		WESTERN REGION	METRO PORTLAND OREGON		METRO SOUTH STATION STATION IMPROVEMENTS EXISTING SITE PLAN		DATE
		SCALE: 1"=50'	DRAWN BY VCH	APPROVED BY		600 N.E. MULTNOMAH PORTLAND OREGON 97232	CAD FILE NUMBER		DRAWING NUMBER		REV. A
			CHECKED BY	DATE 3/30/98			SITE		SITE		INT.

NOTES: ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED ARE IN FEET AND INCHES. THIS DRAWING IS THE PROPERTY OF SCS ENGINEERS AND ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR MODIFICATION WITHOUT THE WRITTEN CONSENT OF SCS ENGINEERS AND ARCHITECTS IS PROHIBITED. DATE: SEPTEMBER 27, 1990.

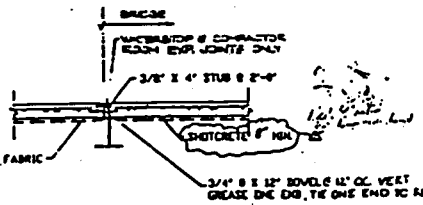


COMPACTOR ROOM LEVEL PLAN  
SCALE 1/8" = 1'-0"

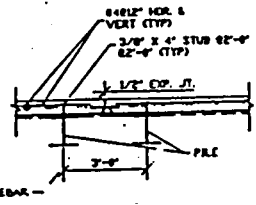
C-1 Slotted cover under from 6" to 7" from face of pile. No. 009 as shown



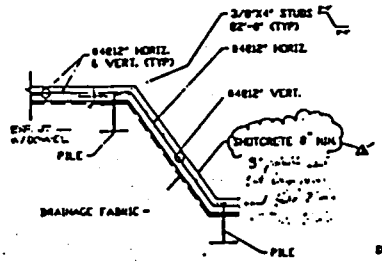
DETAIL 1  
SCALE 3/4" = 1'-0"



DETAIL 2  
SCALE 1/2" = 1'-0"



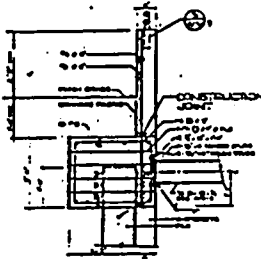
DETAIL 3  
SCALE 1/2" = 1'-0"



DETAIL 4  
SCALE 1/2" = 1'-0"

REISSUED 27 NOV 90  
CONSTRUCTION SET  
ISSUED 30 JULY 90

AS BUILT DRAWING  
SCS ENGINEERS  
17100 E. SHERIDAN AVE. SUITE 100  
DENVER, CO 80238  
TEL: 303-751-1000  
FAX: 303-751-1001



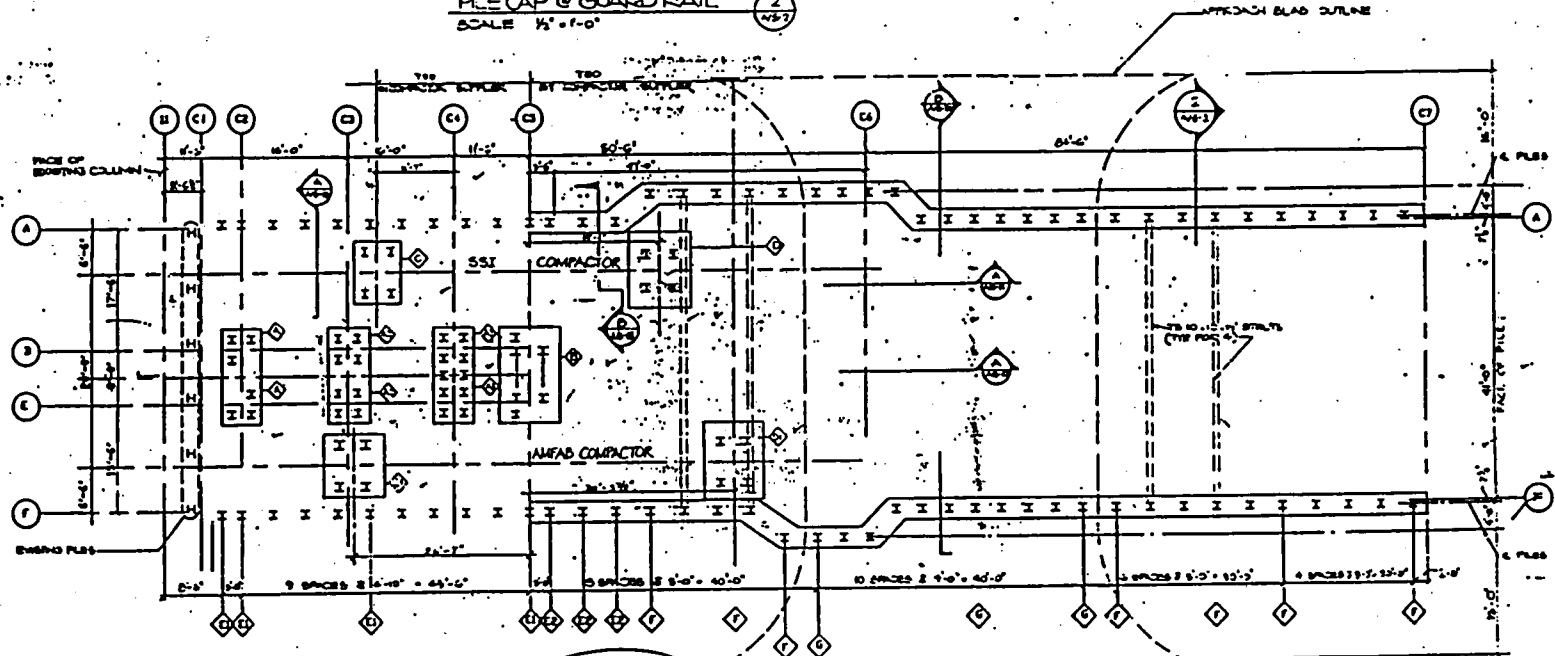
PILE CAP @ GUARD RAIL  
SCALE 1/2" = 1'-0" (2)

FILES (IFED APPROVALS)

FILE	CAP DETAIL	TOP OF PILE	BOTTOM OF PILE	SIZE	REMARKS
A	21-A8-15	15.14	EL-48.0	SP 15.74	
AD	21-A8-16	15.04	EL-48.0	SP 15.74	
AD	21-A8-16	15.13	EL-48.0	SP 15.74	
B	21-A8-16	15.07	EL-48.0	SP 15.74	
C	21-A8-16	15.07	EL-48.0	SP 15.74	UPLIFT
D	21-A8-16	15.13	EL-48.0	SP 15.74	UPLIFT
E1	21-A8-13	14.96	EL-48.0	W 16x8	
E2	21-A8-13	14.92	EL-48.0	W 16x8	
F	21-A8-2	14.86	EL-48.0	W 16x8	
G	21-A8-2	14.87	EL-48.0	W 16x8	
C-1	21-A8-4	15.17	EL-50.0	SP 15.74	UPLIFT
D-1	21-A8-4	15.13	EL-50.0	SP 15.74	UPLIFT

\* WILL VERIFY BASED ON GEOTECH. PILE CAP ELEVATION SHEETS

NOTE:  
VERIFY ALL TOP OF PILE ELEVATIONS OF ADJACENT LEVELS A, B, C, D, E, F, G, H BY SURVEY DURING PILE AND PILECAP INSTALLATION. DATA TO BE REPORTED TO THE ENGINEER PER TO SURVEY.



PILE & PILECAP PLAN  
SCALE 1/2" = 1'-0" (3)

SEE SHEET A9/2A

SCS ENGINEERS  
PLANNING, ENGINEERING AND ARCHITECTURE  
CORPORATION  
1000 WEST 10TH AVENUE, SUITE 1000  
DENVER, COLORADO 80202  
TELEPHONE: 333-1111  
FACSIMILE: 333-1111

ISSUED 27 NOV 80  
CONSTRUCTION SET  
METRO SOUTH  
STATION MODIFICATIONS  
ISSUED 30 JULY 85

SCALE AS NOTED

AS-BUILT DRAWING A/S-21

## EXHIBIT "B"

### FINDINGS FOR EXEMPTION FROM COMPETITIVE BID PROCESS FOR REPLACEMENT OF COMPACTION SYSTEMS AT METRO SOUTH TRANSFER STATION

1. The Metro Contract Review Board finds that exempting the project from the competitive bid process is unlikely to encourage favoritism because:

A. Both of the two existing manufacturers for the solicited equipment will be invited to submit proposals, which will be evaluated on objective criteria stated in the RFP; and

B. Both of the existing manufacturers for the solicited equipment have reviewed draft evaluation criteria and have not objected to the draft proposal on any ground, including the ground that the criteria favor a potential proposer.

2. The Metro Contract Review Board finds that exempting the project from the competitive bid process is unlikely to substantially diminish competition because only two manufacturers exist for the production of the equipment being solicited, both have reviewed the proposed request for proposals and both have indicated that they intend to submit proposals for the procurement.

3. The Metro Contract Review Board finds that exempting the project from the competitive bid process will result in substantial cost savings because:

A. It allows proposers to submit innovative designs to maximize the cost savings that are available to Metro under its Waste Transport Services contract by reducing the number of loads that are transported to the Columbia Ridge Landfill. Each additional ton of waste per load is worth approximately \$14, with approximately 13,000 loads a year from Metro South Transfer Station. Half of these savings are paid to the station operator as an incentive to maximize loads, and the remainder accrues to Metro. A one ton average increase in payloads would be worth about \$90,000 (\$7 x 13,000) annually to Metro.

B. It allows vendors to submit state-of-the-art equipment design proposals, which minimize maintenance cost and parts replacement, and offer improved warranties, all to the benefit of Metro. Because Metro shares in the cost of repair of the compaction system, and is responsible for the majority of costs to replace the systems once they have reached the end of their useful life, exemption from competitive bidding will allow Metro to capture significant repair and replacement cost savings.

**EXECUTIVE SUMMARY**  
**RESOLUTION 98-2611**  
**COMPACTOR REPLACEMENT AT METRO SOUTH TRANSFER STATION**

**PROPOSED ACTION**

- Adopt Resolution No. 98-2611, which authorizes release of RFP #98R-5-REM and authorizes the Executive Officer to execute a contract for the replacement of existing compactors at the Metro South Transfer Station.

**WHY NECESSARY**

- There are two compactors at Metro South. The single-bale Amfab was installed in 1989. The two-bale SSI compactor was installed in 1991.
- Metro has spent approximately \$300,000 in extraordinary repair costs for the compactors in the last two fiscal years in order to keep the units operational.
- Even with these expenditures, the decreased efficiency of these compactors in compressing waste has caused the average weight of loads at Metro South to decline. A decline in per load weight increases Metro's costs since it must pay for the transport of more loads of waste to the landfill.
- One compactor was off-line for 3 weeks in 1997, leaving the remaining compactor to process the entire station's waste flow.
- The probability that one of these aging units could function alone for an extended period of time in the future is low. Replacement of the two systems now will hopefully avoid the potential for a simultaneous failure of both of these systems in the future.

**ISSUES/CONCERNS**

- Use of a proposal process requires an exemption from the competitive bid process. However, the use of a proposal process also allows Metro to maximize potential savings by balancing the cost of the systems with increased payloads, which produce transport savings and lower maintenance costs.

**BUDGET/FINANCIAL IMPACTS**

- This project was budgeted in FY1998-99 at \$1.5 million, however it is anticipated that partial payment will be due in the current fiscal year. These payments will be made from the Renewal & Replacement Account, which has sufficient funds to cover this expense.

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 98-2611 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION FROM THE COMPETITIVE BID PROCESS AND AUTHORIZING ISSUANCE OF RFP #98R-5-REM FOR THE REPLACEMENT OF COMPACTION SYSTEMS AT METRO SOUTH STATION

Date: January 27, 1998

Presented by: Bruce Warner,  
Chuck Geyer

## PROPOSED ACTION

Adopt Resolution No. 98-2611, which authorizes release of RFP #98-5-REM and authorizes the Executive Officer to execute a contract for the replacement of existing compactors at the Metro South Transfer Station.

## FACTUAL BACKGROUND AND ANALYSIS

Metro South Station (MSS) is a solid waste transfer station that receives waste from both commercial haulers and the general public. The station operator compacts the waste into loads (also referred to as bales) for transport 150 miles one-way to the Columbia Ridge Regional Landfill, located in Gilliam County, Oregon. The waste is compacted to minimize the number of trips to the landfill. In 1998, MSS will receive approximately 378,000 tons of waste for disposal resulting in the transport of over 13,000 loads.

Waste received at the facility is unloaded into a pit in the center of the station. It is then broken up and moved to one end of the pit by a Caterpillar 973 track loader bulldozer. The dozer operator pushes waste through openings in the pit floor to load one of two compactors. Utilizing remote controls, the dozer operator builds a bale of waste in the compactor to desired specifications. The compactor operator, who extrudes the completed load into a transfer trailer, assists the dozer operator in building optimal loads. They are in radio contact during this process.

Optimal loads are loads that approach 32 tons while being road legal. The transfer station operator's contract with Metro contains a monetary incentive to maximize payloads. The contract also contains a monetary disincentive for overloads as determined by axle weights taken at an on-site scale. In order to maximize payloads, the operator must take into consideration the mix of garbage in the pit, the weight of the bale throughout its length as it is being built, and its placement in the transfer trailer.

### *The Existing Compactors*

There are two compactors at MSS. One is a single-bale Amfab TRANS-PAK 500 installed in late 1989. The second is a SSI two-bale compactor, model 4000 that began operation in the spring of 1991. Both units are considered to be "first generation" products in that when they were purchased, neither design had been on the market long enough to fully establish the life cycle. In the case of the SSI compactor, it was the first unit the firm had designed.



Both units have reached the point where maintenance and repair costs, as well as decreasing performance, warrant their replacement. Metro has spent approximately \$300,000 in extraordinary repair costs for the compactors in the last two fiscal years in order to keep the units operational. Even with these expenditures, the average weight of loads at MSS has declined from the previous fiscal year, and is consistently less than the weight of loads at Metro Central Station. A decline in per load weight increases Metro's costs since it must pay for the transport of more loads.

#### *Safeguarding Operational Capacity*

In addition to the increase in costs due to maintenance and declining payloads, Metro also faces an increased risk of station closure. This situation could occur if both units failed simultaneously. One compactor was offline for 3 weeks in 1997, leaving the remaining compactor to process the entire station's waste flow. The probability that one of these aging units could function alone for an extended period of time in the future is low.

#### *RFP Process*

A request for proposals process was chosen over a request for bids process for the reasons discussed in the "findings" attached to the authorizing resolution. The main reason for choosing the RFP process was that by allowing vendors to propose features that increase payloads, Metro will be able to evaluate such costs against the savings in transport and maintenance costs. Both manufacturers of this equipment in the United States have reviewed the RFP, and have no objections to use of this process.

#### BUDGET IMPACT

This project was budgeted in FY1998-99 at \$1.5 million, however it is anticipated that partial payment will be due in the current fiscal year. These payments will be made from the Renewal & Replacement Account, which has sufficient funds.

#### EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 98-2611.

## **REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT**

### **CONSIDERATION OF RESOLUTION NO. 98-2611, FOR THE PURPOSE OF AUTHORIZING THE RELEASE OF RFP #98R-5-REM FOR THE REPLACEMENT OF COMPACTION SYSTEMS AT METRO SOUTH STATION**

-----  
Date: February 17, 1998      Presented by: Councilor McFarland

**Committee Recommendation:** At its February 17 meeting, the Committee considered Resolution No. 98-2611 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors McFarland, Washington and Chair Morissette.

#### **Background**

Metro uses two compactors at the Metro South Station. As the name implies, these machines compact the waste dumped in the pit and pushes it into truck trailers that are hauled by STS to the Columbia Ridge Landfill. The current compactors are seven and eight years old, respectively, and are beginning to require extensive and more frequent repairs. Recently, one of the machines was "down" for an extended period. If the other machine had malfunctioned during this period, Metro would have had to haul the waste from the South Station to the Central Station for compaction prior to hauling it to the Columbia Ridge, or required all waste to be dumped directly at Metro Central.

As the current compactors have aged, their ability to densely compact the waste has been reduced, thus requiring additional loads of waste to be trucked to Columbia Ridge. In addition, newer model compactors require less maintenance.

**Committee Issues/Discussion:** Bruce Warner, Regional Environmental Management Director, presented the staff report. Warner explained that the purpose of the resolution was to issue an RFP to procure two new compactors for the Metro South Station. He noted that the current compactors had required \$300,000 in maintenance during the past two years. In addition, he noted that Metro is allowed to transport loads up to 32 tons to Columbia Ridge, but the present old compactors operate at a rate of only 29.2 tons per load. The replacement of the compactors has been included in the adopted Capital Improvement Plan for FY 1998-99, and the estimated cost of \$1.5 million is included in the proposed 1998-99 budget. Staff estimates that a down payment may need to be made prior to the end of the current fiscal year, but that adequate funds are available in the renewal and replacement account for this purpose.

Councilor McFarland expressed concern about the continuing number of requests for exemptions from competitive bidding to conduct the agency's contracting work, but indicated that she would support the resolution. The committee members had no other questions or comments.

*Agenda Item Number 9.1*

**Draft Stream and Flood Plan Protection Plan.**

***Public Hearing***

**Metro Council Meeting  
Thursday, February 26, 1998  
Council Chamber**

**DISCUSSION DRAFT**

**BEFORE THE METRO COUNCIL**

FOR THE PURPOSE OF AMENDING ) ORDINANCE NO 98-\_\_\_\_  
ORDINANCES NO. 96-647C AND NO. )  
97-715B, TO AMEND TITLE 3 OF THE ) Introduced by Growth Management Committee  
URBAN GROWTH MANAGEMENT )  
FUNCTIONAL PLAN, AND AMEND )  
THE REGIONAL FRAMEWORK PLAN, )  
APPENDIX A, AND ADOPT THE )  
MODEL ORDINANCE AND MAP )

WHEREAS, the Regional Growth Goals and Objectives - Objective 12 identifies the need to manage watersheds to protect, restore and ensure to the maximum extent practicable the integrity of streams, wetlands, and floodplains.

WHEREAS, Ordinance No. 96-647C, the Urban Growth Management Functional Plan (UGMFP), adopted November 21, 1996, delayed implementation of Title 3 of the UGMFP until Metro adopted a Model Ordinance to demonstrate one method of implementing Title 3, and Water Quality and Flood Management Area maps.

WHEREAS, Ordinance No. 97-715B, the Regional Framework Plan, adopted, December 18, 1997, incorporates the UGMFP at Appendix A. The Regional Framework Plan is awaiting acknowledgment before the Land Conservation and Development Commission.

WHEREAS, the Water Resources Policy Advisory Committee (WRPAC), during 1997, drafted a Model Ordinance and maps to comply with Title 3, Section 6 of the UGMFP. WRPAC released a preliminary draft of the proposed Model Ordinance and maps in August 1997, and a revised draft on September 4, 1997. The proposed Model Ordinance was then forwarded to the Metro Policy Advisory Committee (MPAC) and the Metro Technical Advisory Committee (MTAC) for review.

WHEREAS, WRPAC and MTAC formed a joint subcommittee to further refine the Model Ordinance and maps and consider amendments to the UGMFP, Title 3, Sections 1-4. The joint subcommittee met twice per month beginning September 26, 1997 and ending December 19, 1997. The joint subcommittee forwarded proposed amendments to Title 3, dated December 30, 1997, to WRPAC and MTAC. The same proposed amendments were released for public comment prior to Metro's Stream and Floodplain Protection Plan workshops which began January 17, 1998.

WHEREAS, MTAC reviewed the 12/30/97 proposed amendments to Title 3 at its January 8 and 22, 1998, and February 5, 1998 meetings.

WHEREAS, WRPAC reviewed the 12/30/97 proposed amendments to Title 3 at its January 26, 1998, and February 9, 1998, meetings.

WHEREAS, the Metro Growth Management staff gave a presentation on Metro's "Stream and Floodplain Protection Plan" (Title 3) to MPAC at its February 11, 1998 meeting. MPAC also received a copy of the 12/30/97 proposed Title 3 amendments.

WHEREAS, concurrently with WRPAC and MTAC's review of the 12/30/97 proposed amendments to Title 3, Metro held Stream and Floodplain Protection Plan workshops on January 17, 20, 27 and 31, 1998. Copies of the 12/30/97 proposed amendments to Title 3, the September 4, 1997, draft Model Ordinance and Title 3 maps were available for public review and comment.

WHEREAS, the Growth Management Committee considered proposed amendments to Title 3, the Model Ordinance and maps at a work session held on February 17, 1998.

WHEREAS, the Metro Council considered proposed amendments to Title 3, the Model Ordinance and maps at public hearings held on February 26 and \_\_\_\_\_ 1998.

WHEREAS, the amendments to Title 3 of the UGMFP Plan and the Regional Framework Plan, Appendix A are attached and incorporated as Exhibit A.

WHEREAS, the Title 3 Model Ordinance is attached and incorporated as Exhibit B.

WHEREAS, the Title 3 maps are attached and incorporated as Exhibit C.

WHEREAS, Title 3 of the UGMFP as adopted 11/21/96, has a different effective date and compliance date than the UGMFP generally. The UGMFP has an effective date of 2/19/97 with compliance required by 2/19/99. Originally, Sections 1-4 of Title 3 were not effective until 24 months after the Metro Council adopted a Model Code and map addressing Title 3 because it was anticipated that drafting the Model Ordinance would take three to four months. That drafting process took one year.

WHEREAS, the proposed amendments to the Title 3 of the UGMFP do not include any changes to Title 3, Section 5 - Fish and Wildlife Habitat Conservation Area.

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Ordinances No. 96-647C and No. 97-715B, Appendix A are hereby amended to read as shown in Exhibit A which is attached and incorporated by reference into this ordinance.

Section 2. Ordinances No. 96-647C and No. 97-715B, Appendix A are hereby amended to read as shown in Exhibit B which is attached and incorporated by reference into this ordinance.

Section 3. As required by Ordinances No. 96-647C and No. 97-715B, Appendix A, as amended, the Model Ordinance at Exhibit C, and the Water Quality and Flood Management Area maps at Exhibit D are hereby adopted to implement Title 3 of the Urban Growth Mangement Functional Plan.

Section 4. In accordance with Title 8, Section 3 of the Urban Growth Management Functional Plan, Ordinances No. 96-647C and No. 97-715B, Appendix A, any amendment of city or county comprehensive plans or implementing ordinances shall be consistent with Title 3, Sections 1-4 of the Metro Urban Growth Management Functional Plan after the date this ordinance becomes effective.

Section 5. Cities and counties are hereby required to comply with Title 3, Sections 1-4 of the Urban Growth Management Functional Plan, as amended herein, within \_\_\_ months of the adoption of this ordinance.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 1998.

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

////

////

ATTEST:

Approved as to Form:

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

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

ATTACHMENT 2



**METRO**

# Adopted Performance Standards

Stream and Floodplain  
Protection Plan

November 1996

343 **TITLE 3: WATER QUALITY AND FLOOD MANAGEMENT CONSERVATION**

344 **Section 1. Intent**

345 To protect the beneficial uses and functional values of resources within the Water Quality and  
346 Flood Management Areas by limiting or mitigating the impact on these areas from development  
347 activities.

348 **Section 2. Requirement**

349 Cities and counties shall ensure that their comprehensive plans and implementing regulations  
350 protect Water Quality and Flood Management Areas pursuant to Section 4. Exceptions to this  
351 requirement will be considered under the provisions of Section 7.

352 **Section 3. Implementation Process for Cities and Counties**

353 Cities and counties are hereby required to amend their plans and implementing ordinances, if  
354 necessary, to ensure that they comply with this Title in one of the following ways:

355 A. Either adopt the relevant provisions of the Metro Water Quality and Flood Management  
356 model ordinance and map entitled Metro Water Quality and Flood Management  
357 Conservation Area Map; or

358 B. Demonstrate that the plans and implementing ordinances substantially comply with the  
359 performance standards, including the map, contained in Section 4. In this case, the  
360 purpose of this map is to provide a performance standard for evaluation of substantial  
361 compliance for those jurisdictions who choose to develop their own map of water quality  
362 and flood management areas ; or

363 C. Any combination of A and B above that substantially complies with all performance  
364 standards in Section 4.

365 **Section 4. Performance Standards**

366 A. **Flood Mitigation.** The purpose of these standards is to protect against flooding, and  
367 prevent or reduce risk to human life and properties, by allowing for the storage and  
368 conveyance of stream flows through these natural systems.

369 The plans and implementing ordinances of cities and counties shall be in substantial compliance  
370 with the following performance standards:

371 1. Prohibit development within the water quality and flood management area; or

372 2. Limit development in a manner that requires balanced cut and fill; unless the  
373 project is demonstrated, by an engineering study, that there is no rise in flood  
374 elevation or that it will have a net beneficial effect on flood mitigation.



315 3. Cities and counties shall establish an administrative or public hearing  
316 process for considering ratios for individual or joint developments to allow  
317 a variance for parking when a development application is received which  
318 may result in approval of construction of parking spaces either in excess of  
319 the maximum parking ratios; or less than the minimum parking ratios.

320 Cities and counties may grant a variance from any maximum parking ratios through a  
321 variance process.

322 B. Free surface parking spaces shall be subject to the regional parking maximums provided  
323 for Zone A and Zone B. Parking spaces in parking structures, fleet parking, parking  
324 for vehicles that are for sale, lease, or rent, employee car pool parking spaces,  
325 dedicated valet parking spaces, spaces that are user paid, market rate parking or other  
326 high-efficiency parking management alternatives may be exempted from maximum  
327 parking standards by cities and counties. Sites that are proposed for redevelopment  
328 may be allowed to phase in reductions as a local option. Where mixed land uses are  
329 proposed, cities and counties shall provide for blended parking rates. It is  
330 recommended that cities and counties count adjacent on-street parking spaces, nearby  
331 public parking and shared parking toward required parking minimum standards.

332 C. Cities and counties may use categories or measurement standards other than those in the  
333 Regional Parking Ratios Table, but must provide findings that the effect of the local  
334 regulations will be substantially the same as the application of the Regional Parking  
335 Ratios.

336 D. Cities and counties shall monitor and provide the following data to Metro on an annual  
337 basis:

- 338 1. the number and location of newly developed parking spaces, and
- 339 2. demonstration of compliance with the minimum and maximum parking  
340 standards, including the application of any variances to the regional standards  
341 in this Title. Coordination with Metro collection of other building data should  
342 be encouraged.

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3. Require minimum finished floor elevations at least one foot above the design flood height or other applicable flood hazard standard for new habitable structures in the Water Quality and Flood Management Area.

378

4. Require that temporary fills permitted during construction shall be removed.

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B. Water Quality. The purpose of these standards is to protect and allow for enhancement of water quality associated with beneficial uses as defined by the Oregon Water Resources Department and the Oregon Department of Environmental Quality.

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The plans and implementing ordinances of cities and counties shall be in substantial compliance with the following performance standards:

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1. Require erosion and sediment control for all new development within the Metro boundary as contained in the Metro Water Quality and Flood Management model ordinance.

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2. Require to the maximum extent practicable that native vegetation cover is maintained or re-established during development, and that trees and shrubs in the Water Quality and Flood Management Area are maintained. The vegetative cover required pursuant to these provisions shall not allow the use of "Prohibited Plants for Stream Corridors and Wetlands" contained in the Water Quality and Flood Management Model Code adopted by the Metro Council.

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3. Prohibit new uses of uncontained areas of hazardous materials as defined by DEQ in the Water Quality and Flood Management Areas; and

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C. Protect the long term regional continuity and integrity of Water Quality and Flood Management Areas

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Standards: Local jurisdictions shall establish or adopt transfer of density within ownership to mitigate the effects of development in Water Quality and Flood Management Areas, or through Transferable Development Rights (TDRs), which have substantially equivalent effect as the Metro Water Quality and Flood Management Model Ordinance.

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Metro encourages local government to require that approvals of applications for partitions, subdivisions and design review actions must be conditioned with protecting Water Quality and Flood Management Areas with a conservation easement, platted as a common open space, or through purchase or donation of fee simple ownership to public agencies or private non-profits for preservation where feasible. Metro and cities and counties shall recognize that applications involving pre-existing development within the Water Quality and Flood Management Areas shall be exempted from the provisions concerning conservation easements and purchase or donation of fee simple ownership to public agencies or private non-profits for preservation.

411 Section 5. Fish and Wildlife Habitat Conservation Area

412 A. The purpose of these standards is to conserve, protect, and enhance fish and wildlife  
413 habitat within the fish and wildlife habitat conservation areas identified on the water  
414 quality and flood management area map by establishing performance standards and  
415 promoting coordination by Metro of regional urban water sheds.

416 B. Fish and Wildlife Habitat Conservation Area Recommendations

417 These areas shall be shown on the Water Quality and Flood Management Area Map.  
418 Fish and Wildlife Habitat Conservation Areas generally include and/or go beyond  
419 the Water Quality and Flood Management Areas. These areas shown on the map are  
420 Metro's initial inventory of significant fish and wildlife habitat conservation areas. Metro  
421 hereby recommends that local jurisdictions adopt the following temporary standards:

- 422 1. Prohibit development in the Fish and Wildlife Conservation Areas that adversely  
423 impacts fish and wildlife habitat.

424 Exceptions: It is recognized that urban development will, at times, necessitate  
425 development activities within or adjacent to Fish and Wildlife Habitat  
426 Conservation Areas. The following Fish and Wildlife Habitat Conservation  
427 Mitigation Policy, except for emergency situations, applies to all the following  
428 exceptions:

429 A project alternatives analysis, where public need for the project has been  
430 established, will be required for any of the exceptions listed below. The  
431 alternatives analysis must seek to avoid adverse environmental impacts by  
432 demonstrating there are no practicable, less environmentally damaging  
433 alternatives available. In those cases where there are no practicable, less  
434 environmentally damaging alternatives, the project proponent will seek  
435 alternatives which reduce or minimize adverse environmental impacts. Where  
436 impacts are unavoidable, compensation, by complete replacement of the impacted  
437 site's ecological attributes or, where appropriate, substitute resources of equal or  
438 greater value will be provided in accordance with the Metro Water Quality and  
439 Flood Management model ordinance.

- 440 a. Utility construction within a maximum construction zone width  
441 established by cities and counties.  
442 b. Overhead or underground electric power, telecommunications and cable  
443 television lines within a sewer or stormwater right-of-way or within a  
444 maximum construction zone width established by cities and counties.  
445 c. Trails, boardwalks and viewing areas construction.  
446 d. Transportation crossings and widenings. Transportation crossings and  
447 widenings shall be designed to minimize disturbance, allow for fish and

wildlife passage and crossings should be preferably at right angles to the stream channel.

2. Limit the clearing or removal of native vegetation from the Fish and Wildlife Habitat Conservation Area to ensure its long term survival and health. Allow and encourage enhancement and restoration projects for the benefit of fish and wildlife.
3. Require the revegetation of disturbed areas with native plants to 90 percent cover within three years. Disturbed areas should be replanted with native plants on the Metro Plant List or an approved locally adopted plant list. Planting or propagation of plants listed on the Metro Prohibited Plant List within the Conservation Area shall be prohibited.
4. Require compliance with Oregon Department of Fish and Wildlife (ODFW) seasonal restrictions for in-stream work. Limit development activities that would impair fish and wildlife during key life-cycle events according to the guidelines contained in ODFW's "Oregon Guidelines for Timing of In-water Work to Protect Fish and Wildlife Resources."

#### C. Fish and Wildlife Habitat Protection

Within eighteen (18) months from the effective date of this functional plan, Metro shall complete the following regional coordination program by adoption of functional plan provisions.

1. Metro shall establish criteria to define and identify regionally significant fish and wildlife habitat areas.
2. Metro shall adopt a map of regionally significant fish and wildlife areas after (1) examining existing Goal 5 data, reports and regulation from cities and counties, and (2) holding public hearings.
3. Metro shall identify inadequate or inconsistent data and protection in existing Goal 5 data, reports and regulations on fish and wildlife habitat. City and county comprehensive plan provisions where inventories of significant resources were completed and accepted by a LCDC Periodic Review Order after January 1, 1993, shall not be required to comply until their next periodic review.
4. Metro shall complete Goal 5 economic, social, environmental and energy (ESEE) analyses for mapped regionally significant fish and wildlife habitat areas only for those areas where inadequate or inconsistent data or protection has been identified.

- 482 5. Metro shall establish performance standards for protection of regionally  
483 significant fish and wildlife habitat which must be met by the plans implementing  
484 ordinances of cities and counties.

485 **Section 6. Metro Model Ordinance Required**

486 Metro shall adopt a Water Quality and Flood Management Model Ordinance and map for use by  
487 local jurisdictions to comply with this section. Sections 1-4 of this title shall not become  
488 effective until 24 months after Metro Council has adopted a Model Code and map that addresses  
489 all of the provisions of this title. Metro may adopt a Model Code and map for protection of  
490 regionally significant fish and wildlife habitat. Section 5 of this title shall be implemented by  
491 adoption of new functional plan provisions.

492 **Section 7. Variances**

493 City and county comprehensive plans and implementing regulations are hereby required to  
494 include procedures to consider claims of map error and hardship variances to reduce or remove  
495 stream corridor protection for any property demonstrated to be converted to an unbuildable lot by  
496 application of stream corridor protections.

**1075 TITLE 10: DEFINITIONS**

**1076 Accessibility means the amount of time required to reach a given location or service by any**  
**1077 mode of travel.**

**1078 Alternative Modes means alternative methods of travel to the automobile, including public**  
**1079 transportation (light rail, bus and other forms of public transportation), bicycles and walking.**

**1080 Balanced cut and fill means no net increase in fill within the floodplain.**

**1081 Bikeway means separated bike paths, striped bike lanes, or wide outside lanes that**  
**1082 accommodate bicycles and motor vehicles.**

**1083 Boulevard Design means a design concept that emphasizes pedestrian travel, bicycling and the**  
**1084 use of public transportation, and accommodates motor vehicle travel.**

**1085 Calculated Capacity means the number of dwelling units and jobs that can be contained in an**  
**1086 area based on the calculation required by this functional plan.**

**1087 Capacity Expansion means constructed or operational improvements to the regional motor**  
**1088 vehicle system that increase the capacity of the system.**

**1089 Comprehensive plan means the all inclusive, generalized, coordinated land use map and policy**  
**1090 statement of cities and counties defined in ORS 197.015(5).**

**1091 Connectivity means the degree to which the local and regional street systems in a given area**  
**1092 are interconnected.**

**1093 Designated Beneficial Water Uses means the same as the term as defined by the Oregon**  
**1094 Department of Water Resources, which is: an instream public use of water for the benefit of an**  
**1095 appropriator for a purpose consistent with the laws and the economic and general welfare of the**  
**1096 people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation,**  
**1097 mining, municipal, pollution abatement, power development, recreation, stockwater and wildlife**  
**1098 uses.**

**1099 Design Type means the conceptual areas described in the Metro 2040 Growth Concept text and**  
**1100 map in Metro's regional goals and objectives, including central city, regional centers, town**  
**1101 centers, station communities, corridors, main streets, inner and outer neighborhoods, industrial**  
**1102 areas, and employment areas.**

**1103 Development means any manmade change defined as buildings or other structures, mining,**  
**1104 dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or**  
**1105 excavation. In addition, any other activity that results in the removal of more than 10% of the**  
**1106 existing vegetated area on the lot is defined as development, for the purposes of Title 3.**

.107 Exceptions:

- 1108 a. Stream enhancement or restoration projects approved by cities and counties.
- 1109 b. Agricultural activity.
- 1110 c. Replacement, additions, alterations and accessory uses for existing structures and
- 1111 development that do not encroach into the Water Quality and Flood Management
- 1112 Area more than the existing structure or development.

1113 Development Application means an application for a land use decision, limited land decision  
1114 including expedited land divisions, but excluding partitions as defined in ORS 92.010(7) and  
1115 ministerial decisions such as a building permit.

1116 DBH means the diameter of a tree measured at breast height.

1117 DLCD Goal 5 ESEE means a decision process local governments carry out under OAR 660-23-  
1118 040.

1119 Fish and Wildlife Habitat Conservation Area means the area defined on the Metro Water  
1120 Quality and Flood Management Area Map to be completed and attached hereto. These include  
1121 all Water Quality and Flood Management Areas that require regulation in order to protect fish  
1122 and wildlife habitat. This area has been mapped to generally include the area 200 feet from top  
1123 of bank of streams in undeveloped areas with less than 25% slope, and 100 feet from edge of  
1124 mapped wetland on undeveloped land.

1125 Floodplain means land subject to periodic flooding, including the 100-year floodplain as  
1126 mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events.

1127 Functions and Values of Stream Corridors means stream corridors have the following  
1128 functions and values: water quality retention and enhancement, flood attenuation, fish and  
1129 wildlife habitat, recreation, erosion control, education, aesthetic, open space and wildlife  
1130 corridor.

1131 Growth Concept Map means the conceptual map demonstrating the 2040 Growth Concept  
1132 design types attached to this plan in the Appendix.

1133 Hazardous materials means materials described as hazardous by Oregon Department of  
1134 Environmental Quality.

1135 Implementing Regulations means any city or county land use regulation as defined by  
1136 ORS 197.015(11) which includes zoning, land division or other ordinances which establish  
1137 standards for implementing a comprehensive plan.

1138 Landscape Strip means the portion of public right-of-way located between the sidewalk and  
1139 curb.

- 1140 Level-of-Service (LOS) means the ratio of the volume of motor vehicle demand to the capacity  
1141 of the motor vehicle system during a specific increment of time.
- 1142 Local Trip means a trip 2½ miles or less in length.
- 1143 Median means the center portion of public right-of-way, located between opposing directions  
1144 of motor vehicle travel lanes. A median is usually raised and may be landscaped, and usually  
1145 incorporates left turn lanes for motor vehicles at intersections and major access points.
- 1146 Metro means the regional government of the metropolitan area, the elected Metro Council as the  
1147 policy setting body of the government.
- 1148 Metro Boundary means the jurisdictional boundary of Metro, the elected regional government  
1149 of the metropolitan area.
- 1150 Metro Urban Growth Boundary means the urban growth boundary as adopted and amended by  
1151 the Metro Council, consistent with state law.
- 1152 Mixed Use means comprehensive plan or implementing regulations that permit a mixture of  
1153 commercial and residential development.
- 1154 Mobility means the speed at which a given mode of travel operates in a specific location.
- 1155 Mode-Split Target means the individual percentage of public transportation, pedestrian,  
1156 bicycle and shared-ride trips expressed as a share of total person-trips.
- 1157 Motor Vehicle means automobiles, vans, public and private buses, trucks and semi-trucks,  
1158 motorcycles and mopeds.
- 1159 Multi-Modal means transportation facilities or programs designed to serve many or all  
1160 methods of travel, including all forms of motor vehicles, public transportation, bicycles and  
1161 walking.
- 1162 Narrow Street Design means streets with less than 46 feet of total right-of-way and no more  
1163 than 28 feet of pavement width between curbs.
- 1164 Net Acre means an area measuring 43,560 square feet which excludes:
- 1165 (1) any developed road rights-of-way through or on the edge of the land; and
- 1166 (2) environmentally constrained areas, including any open water areas, floodplains,  
1167 natural resource areas protected under statewide planning Goal 5 in the  
1168 comprehensive plans of cities and counties in the region, slopes in excess of 25  
1169 percent and wetlands requiring a Federal fill and removal permit under Section  
1170 404 of the Clean Water Act. These excluded areas do not include lands for which



- 1171 the local zoning code provides a density bonus or other mechanism which allows  
 1172 the transfer of the allowable density or use to another area or to development  
 1173 elsewhere on the same site; and
- 1174 (3) all publicly-owned land designated for park and open spaces uses.
- 1175 Net Developed Acre consists of 43,560 square feet of land, after excluding present and future  
 1176 rights-of-way, school lands and other public uses.
- 1177 Perennial Streams means all primary and secondary perennial water ways as mapped by the  
 1178 U.S. Geological Survey.
- 1179 Performance Measure means a measurement derived from technical analysis aimed at  
 1180 determining whether a planning policy is achieving the expected outcome or intent associated  
 1181 with the policy.
- 1182 Persons Per Acre means the intensity of building development by combining residents per net  
 1183 acre and employees per net acre.
- 1184 Person-Trips means the total number of discrete trips by individuals using any mode of travel.
- 1185 Practicable means available and capable of being done after taking into consideration cost,  
 1186 existing technology, and logistics in light of overall project purpose.
- 1187 Primarily Developed means areas where less than 10% of parcels are either vacant or  
 1188 underdeveloped.
- 1189 Redevelopable Land means land on which development has already occurred which, due to  
 1190 present or expected market forces, there exists the strong likelihood that existing development  
 1191 will be converted to more intensive uses during the planning period.
- 1192 Regional Goals and Objectives are the land use goals and objectives that Metro is required to  
 1193 adopt under ORS 268.380(1).
- 1194 Retail means activities which include the sale, lease or rent of new or used products to the  
 1195 general public or the provision of product repair or services for consumer and business goods.  
 1196 Hotels or motels, restaurants or firms involved in the provision of personal services or office  
 1197 space are not considered retail uses.
- 1198 Riparian area means the water influenced area adjacent to a river, lake or stream consisting of  
 1199 the area of transition from an hydric ecosystem to a terrestrial ecosystem where the presence of  
 1200 water directly influences the soil-vegetation complex and the soil-vegetation complex directly  
 1201 influences the water body. It can be identified primarily by a combination of geomorphologic  
 1202 and ecologic characteristics.
- 1203 Single Occupancy Vehicle (SOV) means private passenger vehicles carrying one occupant.

- 1204 Shared-Ride means private passenger vehicles carrying more than one occupant.
- 1205 Straight-Line Distance means the shortest distance measured between two points.
- 1206 Target capacities means the capacities in Table 1. required to be demonstrated by cities and  
1207 counties for compliance with Title 1, Section 2.
- 1208 Target densities means the average combined household and employment densities established  
1209 for each design type in the RUGGO 2040 Growth Concept.
- 1210 Top of Bank means the same as "bankfull stage" defined in OAR 141-85-010(2).
- 1211 Traffic Calming means street design or operational features intended to maintain a given  
1212 motor vehicle travel speed.
- 1213 Underdeveloped Parcels means those parcels of land with less than 10% of the net acreage  
1214 developed with permanent structures.
- 1215 Vacant Land: Land identified in the Metro or local government inventory as undeveloped land.
- 1216 Variance means a discretionary decision to permit modification of the terms of an implementing  
1217 ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a  
1218 specific property.
- 1219 Water Quality and Flood Management Area means an area defined on the Metro Water  
1220 Quality and Flood Management Area Map, to be attached hereto. These are areas that require  
1221 regulation in order to mitigate flood hazards and to preserve and enhance water quality. This  
1222 area has been mapped to generally include the following: stream or river channels, known and  
1223 mapped wetlands, areas with floodprone soils adjacent to the stream, floodplains, and sensitive  
1224 water areas. The sensitive areas are generally defined as 50 feet from top of bank of streams for  
1225 areas of less than 25% slope, and 200 feet from top of bank on either side of the stream for areas  
1226 greater than 25% slope, and 50 feet from the edge of a mapped wetland.
- 1227 Zoned Capacity means the highest number of dwelling units or jobs that are allowed to be  
1228 contained in an area by zoning and other city or county jurisdiction regulations.

**DRAFT**

**TITLE 3: WATER QUALITY AND FLOOD MANAGEMENT CONSERVATION**

**Section 1. Intent**

To protect the beneficial uses and functional values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities, protecting life and property from dangers associated with flooding and working toward a regional coordination program of protection for Fish and Wildlife Habitat Areas.

**Section 2. ~~Requirement~~Applicability**

~~Cities and counties shall ensure that their comprehensive plans and implementing regulations protect Water Quality and Flood Management Areas pursuant to Section 4. Exceptions to this requirement will be considered under the provisions of Section 7.~~

This Title applies to:

- A. Development in Water Quality Resource and Flood Management Areas, and
- B. Development which may cause temporary or permanent erosion on any property within the Metro boundary.

**Section 3. ~~Implementation Process~~Alternatives For Cities and Counties**

~~Cities and counties are hereby required to amend their plans and implementing ordinances, if necessary, to ensure that they comply with this Title in one of the following ways:~~

- ~~A. Either adopt the relevant provisions of the Metro Water Quality and Flood Management model ordinance and map entitled Metro Water Quality and Flood Management Conservation Area Map; or~~
- ~~B. Demonstrate that the plans and implementing ordinances substantially comply with the performance standards, including the map, contained in Section 4. In this case, the purpose of this map is to provide a performance standard for evaluation of substantial compliance for those jurisdictions who choose to develop their own map of water quality and flood management areas; or~~

Cities and counties shall comply with this Title in one of the following ways:

- A. Amend their comprehensive plans and implementing ordinances to adopt all or part of the Title 3 Model Ordinance or code language that substantially complies with the performance standards in Section 4 and the intent of this Title, and adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map. Cities and counties may choose one of the following options for applying this section:

45 1. Adopt code language implementing this Title which prevails over the map and  
46 uses the map as reference; or

47  
48 2. Adopt a field verified city/county map implementing this Title.

49  
50 B. Demonstrate that existing city and county comprehensive plans and implementing  
51 ordinances substantially comply with the performance standards in Section 4 and the  
52 intent of this Title.

53  
54 C. Any combination of A and B above that substantially complies with all performance  
55 standards in Section 4.

56  
57 **Section 4. Performance Standards**

58  
59 ~~A. Flood Mitigation. The purpose of these standards is to protect against flooding, and~~  
60 ~~prevent or reduce risk to human life and properties, by allowing for the storage and~~  
61 ~~conveyance of stream flows through these natural systems.~~

62  
63 ~~The plans and implementing ordinances of cities and counties shall be in substantial compliance~~  
64 ~~with the following performance standards:~~

65  
66 ~~1. Prohibit development within the water quality and flood management area; or~~

67  
68 ~~2. Limit development in a manner that requires balanced cut and fill; unless the~~  
69 ~~project is demonstrated, by an engineering study, that there is no rise in flood~~  
70 ~~elevation or that it will have a net beneficial effect on flood mitigation.~~

71  
72 ~~3. Require minimum finished floor elevations at least one foot above the design~~  
73 ~~flood height or other applicable flood hazard standard for new habitable structures~~  
74 ~~in the Water Quality and Flood Management Area.~~

75  
76 ~~4. Require that temporary fills permitted during construction shall be removed.~~

77 A. Flood Management Performance Standards.

78  
79 1. The purpose of these standards is to reduce the risk of flooding, prevent or reduce  
80 risk to human life and property, and maintain functions and values of floodplains  
81 such as allowing for the storage and conveyance of stream flows through existing  
82 and natural flood conveyance systems.

83  
84 2. All development, excavation and fill in the Flood Management Areas shall  
85 conform to the following performance standards:

86  
87 a. Development, excavation and fill shall be performed in a manner to  
88 maintain or increase flood storage and conveyance capacity and not  
89 increase design flood elevations.

91 b. All fill placed at or below the design flood elevation in Flood Management  
92 Areas shall be balanced with at least an equal amount of soil material  
93 removal.

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95 c. Excavation shall not be counted as compensating for fill if such areas will  
96 be filled with water in non-storm winter conditions.

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98 d. Minimum finished floor elevations for new habitable structures in the  
99 Flood Management Areas must be at least one foot above the design flood  
100 elevation.

101  
102 e. Temporary fills permitted during construction shall be removed.

103  
104 f. Uncontained areas of hazardous materials as defined by DEQ in the Flood  
105 Management Area shall be prohibited.

106  
107 3. The following uses and activities are not subject to the requirements of Subsection  
108 2:

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110 a. Excavation and fill necessary to plant new trees or vegetation.

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112 b. Excavation and fill required for the construction of detention facilities or  
113 structures and other facilities specifically designed to reduce or mitigate  
114 flood impacts.

115  
116 c. New culverts, stream crossings, and transportation projects may be  
117 permitted if designed as balanced cut and fill projects or designed to not  
118 significantly raise the design flood elevation. Such projects shall be  
119 designed to minimize the area of fill in Flood Management Areas and to  
120 minimize erosive velocities.

121  
122 ~~B. Water Quality. The purpose of these standards is to protect and allow for enhancement~~  
123 ~~of water quality associated with beneficial uses as defined by the Oregon Water~~  
124 ~~Resources Department and the Oregon Department of Environmental Quality.~~

125  
126 ~~The plans and implementing ordinances of cities and counties shall be in substantial~~  
127 ~~compliance with the following performance standards:~~

128  
129 ~~1. Require erosion and sediment control for all new development within the Metro~~  
130 ~~boundary as contained in the Metro Water Quality and Flood Management model~~  
131 ~~ordinance.~~

132  
133 ~~2. Require to the maximum extent practicable that native vegetation cover is~~  
134 ~~maintained or re-established during development, and that trees and shrubs in the~~  
135 ~~Water Quality and Flood Management Area are maintained. The vegetative cover~~  
136 ~~required pursuant to these provisions shall not allow the use of "Prohibited Plants~~

137 ~~for Stream Corridors and Wetlands” contained in the Water Quality and Flood~~  
138 ~~Management Model Code adopted by the Metro Council.~~

139  
140 3. ~~Prohibit new uses of uncontained areas of hazardous materials as defined by DEQ~~  
141 ~~in the Water Quality and Flood Management Areas; and~~

142 B. Water Quality Performance Standards

143  
144 1. The purpose of these standards is to: 1) protect and improve water quality to  
145 support the designated beneficial water uses as defined by the Oregon Water  
146 Resources Department and the Oregon Department of Environmental Quality, and  
147 2) protect the functions and values of the Water Quality Resource Area which  
148 include, but are not limited to:

149  
150 a. providing a vegetated corridor to separate Protected Water Features from  
151 development;

152  
153 b. maintaining or reducing stream temperatures;

154  
155 c. maintaining natural stream corridors;

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157 d. minimizing erosion, nutrient and pollutant loading into water;

158  
159 e. filtering, infiltration and natural water purification.

160  
161 2. All development in Water Quality Resource Areas shall conform to the following  
162 performance standards:

163  
164 a. The Water Quality Resource Area is the vegetated corridor and the  
165 Protected Water Feature. The width of the vegetated corridor is specified  
166 in the table below.

<u>Drainage Area</u>	<u>Slope to Protected Water Feature</u>	<u>Top of Bank</u>	<u>Width of Vegetated Corridor from Top of Bank</u>
<u>50 - 100 acres</u>	<u>&lt;25%</u>	<u>edge of bankful flow or 2 year storm level</u>	<u>15 feet</u>
<u>50 - 100 acres</u>	<u>&gt;25%</u>	<u>edge of bankful flow or 2 year storm level</u>	<u>50 feet</u>

<u>&gt; 100 acres</u>	<u>&lt; 25%</u>	<u>edge of bankful flow or 2 year storm level</u>	<u>50 feet</u>
<u>&gt; 100 acres</u>	<u>&gt; 25 % for 200 feet or more</u>	<u>edge of bankful flow or 2 year storm level</u>	<u>200 feet</u>
<u>&gt; 100 acres</u>	<u>&gt; 25% for less than 200 feet</u>	<u>*Top of ravine (25% slope break)</u>	<u>**50 feet</u>
<u>Wetlands</u>	<u>&lt; 25%</u>	<u>delineated edge</u>	<u>50 feet</u>
<u>Wetlands</u>	<u>&gt; 25%</u>	<u>delineated edge</u>	<u>200 feet</u>

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\* Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the 25% slope break.

\*\* Width of vegetated corridor may be reduced if geotechnical report demonstrates that slope is stable. In any case, the vegetated corridor shall not be greater than 200 feet from the edge of bankful flow or 2-year storm level.

- b. Water Quality Resource Areas shall be protected, maintained, enhanced or restored except as specified in 2f.
- c. Prohibit development that will have a significant negative impact on the functions and values of the Water Quality Resource Area.
- d. Vegetative cover native to the Portland metropolitan region shall be maintained, enhanced or restored, if disturbed, in the Water Quality Resource Area. Invasive non-native vegetation may be removed from the Water Quality Resource Area and replaced with native cover. Only native vegetation shall be used to enhance or restore the Water Quality Resource Area.
- e. Uncontained areas of hazardous materials as defined by DEQ in the Water Quality Resource Area shall be prohibited.
- f. Prior to allowing encroachments into Water Quality Resource Areas the governing body, or its designate, shall implement procedures which:

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1. Consider whether alternatives to the requested encroachment could reasonably be implemented which would not require disturbance of the Water Quality Resource Area; and
2. If there is no practicable alternative, limit the encroachment to reduce the impact associated with the proposed use; and
3. Where the encroachment occurs, require mitigation to ensure that the functions and values of the Water Quality Resource Area are restored.

3. For lots or parcels which are fully or predominantly within the Water Quality Resource Area and are demonstrated to be unbuildable by the vegetative corridor regulations, cities and counties shall reduce or remove vegetative corridor regulations to assure the lot or parcel will be buildable while still providing the maximum vegetated corridor practicable.

C. Erosion and Sediment Control

1. The purpose of this section is to require erosion prevention measures and sediment control practices during and after construction to prevent the discharge of sediments.
2. Erosion prevention techniques shall be designed to prevent visible and measurable erosion as defined in Title 10.
3. To the extent erosion cannot be completely prevented, sediment control measures shall be designed to capture, and retain on-site, soil particles that have become dislodged by erosion.

~~C. Protect the long term regional continuity and integrity of Water Quality and Flood Management Areas.~~

D. Implementation Tools to protect Water Quality and Flood Management Areas

~~Standards: 1. Cities and Counties Local jurisdictions shall either establish or adopt land use regulations which authorize transfer of permitted units and floor area density within the same ownership to mitigate the effects of development restrictions in Water Quality and Flood Management Areas, or through adopt other measures which mitigate the effects of development restrictions. Transferable Development Rights (TDRs), which have substantially equivalent effect as the Metro Water Quality and Flood Management Model Ordinance.~~

2. Metro encourages local government to require that approvals of applications for partitions, subdivisions and design review actions must be conditioned upon one of the following:



244           a.          with protecting protection of Water Quality and Flood Management Areas  
245 with a conservation easement,

246  
247           b.          plating Water Quality and Flood Management Areas ~~platted as a~~  
248 common open space, or

249  
250           c.          through purchase or donation of fee simple ownership to public agencies  
251 or private non-profits for preservation where feasible.

252  
253 Development applications involving pre-existing Metro and cities and counties  
254 shall recognize that applications involving pre-existing development within the  
255 Water Quality and Flood Management Areas shall be exempted from the  
256 provisions concerning conservation easements and purchase or donation of fee  
257 simple ownership to public agencies or private non-profits for preservation.

258  
259 3. Repairs, additions, alterations to, or replacement of structures, roadways,  
260 driveways, accessory uses for existing structures and development in the Water  
261 Quality and Flood Management Area shall be permitted, provided that such  
262 development is not inconsistent with applicable city and county regulations, and  
263 the repair, addition, alteration or replacement does not encroach closer to the  
264 Protected Water Feature than the existing structures, roadways, driveways or  
265 accessory uses of existing structures and development.

266  
267 4. Metro encourages cities and counties to require restoration and enhancement of  
268 degraded Water Quality Resource Areas through conditions of approval when  
269 development is proposed on property containing Water Quality Resource Areas.

270  
271 **Section 5. Fish and Wildlife Habitat Conservation Area**

272  
273 **A. The purpose of these standards is to conserve, protect, and enhance fish and wildlife**  
274 **habitat within the fish and wildlife habitat conservation areas identified on the water**  
275 **quality and flood management area map by establishing performance standards and**  
276 **promoting coordination by Metro of regional urban water sheds.**

277  
278 **B. Fish and Wildlife Habitat Conservation Area Recommendations**

279  
280 **These areas shall be shown on the Water Quality and Flood Management Area Map. Fish**  
281 **and Wildlife Habitat Conservation Habitat Areas generally include and/or go beyond the**  
282 **Water Quality and Flood Management Areas. These areas shown on the map are Metro's**  
283 **initial inventory of significant fish and wildlife habitat conservation areas. Metro hereby**  
284 **recommends that local jurisdictions adopt the following temporary standards:**

285  
286 **1. Prohibit development in the Fish and Wildlife Conservation Areas that adversely**  
287 **impacts fish and wildlife habitat.**

288 Exceptions: It is recognized that urban development will, at times, necessitate  
289 development activities within or adjacent to Fish and Wildlife Habitat  
290 Conservation Areas. The following Fish and Wildlife Habitat Conservation  
291 Mitigation Policy, except for emergency situations, applies to all the following  
292 exceptions:  
293

294 A project alternatives analysis, where public need for the project has been  
295 established, will be required for any of the exceptions listed below. The  
296 alternatives analysis must seek to avoid adverse environmental impacts by  
297 demonstrating there are no practicable, less environmentally damaging  
298 alternatives available. In those cases where there are no practicable, less  
299 environmentally damaging alternatives, the project proponent will seek  
300 alternatives which reduce or minimize adverse environmental impacts. Where  
301 impacts are unavoidable, compensation, by complete replacement of the impacted  
302 site's ecological attributes or, where appropriate, substitute resources of equal or  
303 greater value will be provided in accordance with the Metro Water Quality and  
304 Flood Management model ordinance.  
305

- 306 a. Utility construction within a maximum construction zone width  
307 established by cities and counties.  
308
  - 309 b. Overhead or underground electric power, telecommunications and cable  
310 television lines within a sewer or stormwater right-of-way or within a  
311 maximum construction zone width established by cities and counties.  
312
  - 313 c. Trails, boardwalks and viewing areas construction.  
314
  - 315 d. Transportation crossings and widenings. Transportation crossings and  
316 widenings shall be designed to minimize disturbance, allow for fish and  
317 wildlife passage and crossings should be preferably at right angles to the  
318 stream channel.  
319
- 320 2. Limit the clearing or removal of native vegetation from the Fish and Wildlife  
321 Habitat Conservation Area to ensure its long term survival and health. Allow and  
322 encourage enhancement and restoration projects for the benefit of fish and  
323 wildlife.  
324
  - 325 3. Require the revegetation of disturbed areas with native plants to 90 percent cover  
326 within three years. Disturbed areas should be replanted with native plants on the  
327 Metro Plant List or an approved locally adopted plant list. Planting or  
328 propagation of plants listed on the Metro Prohibited Plant List within the  
329 Conservation Area shall be prohibited.  
330
  - 331 4. Require compliance with Oregon Department of Fish and Wildlife (ODFW)  
332 seasonal restrictions for in-stream work. Limit development activities that would  
333 impair fish and wildlife during key life-cycle events according to the guidelines

334 contained in ODFW's "Oregon Guidelines for Timing of In-water Work to  
335 Protect Fish and Wildlife Resources."  
336

337 C. Fish and Wildlife Habitat Protection  
338

339 Within eighteen (18) months from the effective date of this functional plan, Metro shall  
340 complete the following regional coordination program by adoption of functional plan  
341 provisions.  
342

- 343 1. Metro shall establish criteria to define and identify regionally significant fish and  
344 wildlife habitat areas.  
345
- 346 2. Metro shall adopt a map of regionally significant fish and wildlife areas after (1)  
347 examining existing Goal 5 data, reports and regulation from cities and counties,  
348 and (2) holding public hearings.  
349
- 350 3. Metro shall identify inadequate or inconsistent data and protection in existing  
351 Goal 5 data, reports and regulations on fish and wildlife habitat. City and county  
352 comprehensive plan provisions where inventories of significant resources were  
353 completed and accepted by a LCDC Periodic Review Order after January 1, 1993,  
354 shall not be required to comply until their next periodic review.  
355
- 356 4. Metro shall complete Goal 5 economic, social, environmental and energy (ESEE)  
357 analyses for mapped regionally significant fish and wildlife habitat areas only for  
358 those areas where inadequate or inconsistent data or protection has been  
359 identified.  
360
- 361 5. Metro shall establish performance standards for protection of regionally  
362 significant fish and wildlife habitat which must be met by the plans implementing  
363 ordinances of cities and counties.  
364

365 Section 6. Metro Model Ordinance Required  
366

367 Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance, ~~and map for~~  
368 ~~use by local jurisdictions to comply with this section.~~ The Model Ordinance shall represent one  
369 method of complying with this Title. The Model Ordinance shall be advisory, and cities and  
370 counties are not required to adopt the Model Ordinance, or any part thereof, to substantially  
371 comply with this Title. However, cities and counties which fully adopt the Model Ordinance  
372 and a Water Quality and Flood Management Areas Map shall be deemed to have substantially  
373 complied with the requirements of this Title.  
374

375 Sections 1-4 of this Title shall not become effective until 24 months after the Metro Council has  
376 adopted a Model Code, the Model Ordinance and map Water Quality and Flood Management  
377 Areas Map that addresses all of the provisions of this title. Section 5 of this Title shall be  
378 implemented by adoption of new functional plan provisions. -The Metro Council may adopt a  
379 Model Code and Fish and Wildlife Habitat Conservation Areas Model Ordinance and a Map for

380 protection of regionally significant fish and wildlife habitat. ~~Section 5 of this title shall be~~  
381 ~~implemented by adoption of new functional plan provisions.~~

382  
383 **Section 7. ~~Variance~~Map Adjustments**

384  
385 ~~City and county comprehensive plans and implementing regulations are hereby required to~~  
386 ~~include procedures to consider claims of map error and hardship variances to reduce or remove~~  
387 ~~stream corridor protection for any property demonstrated to be converted to an unbuildable lot by~~  
388 ~~application of stream corridor protections.~~

389 Cities and counties shall amend their comprehensive plans and implementing ordinances to  
390 include procedures to allow:

391  
392 A. Amendments to the Water Quality and Flood Management Area Map to correct map  
393 error.

394  
395 B. Modification of the Water Quality Resource Area upon demonstration and evidence  
396 provided by - \_\_\_\_\_ that the modification will offer the same or better protection  
397 of water quality, the Water Quality and Flood Management Area and Protected Water  
398 Feature.

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EXHIBIT A



**METRO**

**Draft**  
**Revised Performance**  
**Standards**

**Stream and Floodplain**  
**Protection Plan**

**December 1997**

**DRAFT**

**TITLE 3: WATER QUALITY AND FLOOD MANAGEMENT CONSERVATION**

**Section 1. Intent**

To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities, protecting life and property from dangers associated with flooding and working toward a regional coordination program of protection for Fish and Wildlife Habitat Areas.

**Section 2. Applicability**

This Title applies to:

- A. Development in Water Quality Resource and Flood Management Areas, and
- B. Development which may cause temporary or permanent erosion on any property within the Metro boundary.

**Section 3. Implementation Alternatives for Cities and Counties**

Cities and counties shall comply with this Title in one of the following ways:

- A. Amend their comprehensive plans and implementing ordinances to adopt all or part of the Title 3 Model Ordinance or code language that substantially complies with the performance standards in Section 4 and the intent of this Title, and adopt either the Metro Water Quality and Flood Management Area Map or a map which substantially complies with the Metro map. Cities and counties may choose one of the following options for applying this section:
  - 1. Adopt code language implementing this Title which prevails over the map and uses the map as reference; or
  - 2. Adopt a field verified city/county map implementing this Title.
- B. Demonstrate that existing city and county comprehensive plans and implementing ordinances substantially comply with the performance standards in Section 4 and the intent of this Title.
- C. Any combination of A and B above that substantially complies with all performance standards in Section 4.

36 Section 4. Performance Standards

37 A. Flood Management Performance Standards.

- 38
- 39 1. The purpose of these standards is to reduce the risk of flooding, prevent or
- 40 reduce risk to human life and property, and maintain functions and values
- 41 of floodplains such as allowing for the storage and conveyance of stream
- 42 flows through existing and natural flood conveyance systems.
- 43
- 44 2. All development, excavation and fill in the Flood Management Areas shall
- 45 conform to the following performance standards:
- 46
- 47 a. Development, excavation and fill shall be performed in a manner to
- 48 maintain or increase flood storage and conveyance capacity and not
- 49 increase design flood elevations.
- 50
- 51 b. All fill placed at or below the design flood elevation in Flood
- 52 Management Areas shall be balanced with at least an equal amount
- 53 of soil material removal.
- 54
- 55 c. Excavation shall not be counted as compensating for fill if such
- 56 areas will be filled with water in non-storm winter conditions.
- 57
- 58 d. Minimum finished floor elevations for new habitable structures in
- 59 the Flood Management Areas must be at least one foot above the
- 60 design flood elevation.
- 61
- 62 e. Temporary fills permitted during construction shall be removed.
- 63
- 64 f. Uncontained areas of hazardous materials as defined by DEQ in the
- 65 Flood Management Area shall be prohibited.
- 66
- 67 3. The following uses and activities are not subject to the requirements of
- 68 Subsection 2:
- 69
- 70 a. Excavation and fill necessary to plant new trees or vegetation.
- 71
- 72 b. Excavation and fill required for the construction of detention
- 73 facilities or structures and other facilities specifically designed to
- 74 reduce or mitigate flood impacts.
- 75
- 76 c. New culverts, stream crossings, and transportation projects may be
- 77 permitted if designed as balanced cut and fill projects or designed to
- 78 not significantly raise the design flood elevation. Such projects
- 79 shall be designed to minimize the area of fill in Flood Management
- 80 Areas and to minimize erosive velocities.

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**B. Water Quality Performance Standards**

1. The purpose of these standards is to: 1) protect and improve water quality to support the designated beneficial water uses as defined by the Oregon Water Resources Department and the Oregon Department of Environmental Quality, and 2) protect the functions and values of the Water Quality Resource Area which include, but are not limited to:
  - a. providing a vegetated corridor to separate Protected Water Features from development;
  - b. maintaining or reducing stream temperatures;
  - c. maintaining natural stream corridors;
  - d. minimizing erosion, nutrient and pollutant loading into water;
  - e. filtering, infiltration and natural water purification.
  
2. All development in Water Quality Resource Areas shall conform to the following performance standards:
  - a. The Water Quality Resource Area is the vegetated corridor and the Protected Water Feature. The width of the vegetated corridor is specified in the table below.

<b>Drainage Area</b>	<b>Slope to Protected Water Feature</b>	<b>Top of Bank</b>	<b>Width of Vegetated Corridor from Top of Bank</b>
50 - 100 acres	< 25%	edge of bankful flow or 2 year storm level	15 feet
50 - 100 acres	≥ 25%	edge of bankful flow or 2 year storm level	50 feet
> 100 acres	< 25%	edge of bankful flow or 2 year storm level	50 feet



> 100 acres	≥ 25 % for 200 feet or more	edge of bankful flow or 2 year storm level	200 feet
> 100 acres	> 25% for less than 200 feet	*Top of ravine (25% slope break)	**50 feet
Wetlands	< 25%	delineated edge	50 feet
Wetlands	≥ 25%	delineated edge	200 feet

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\* Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the 25% slope break.

\*\* Width of vegetated corridor may be reduced if geotechnical report demonstrates that slope is stable. In any case, the vegetated corridor shall not be greater than 200 feet from the edge of bankful flow or 2-year storm level.

- b. Water Quality Resource Areas shall be protected, maintained, enhanced or restored except as specified in 2 f.
- c. Prohibit development that will have a significant negative impact on the functions and values of the Water Quality Resource Area.
- d. Vegetative cover native to the Portland metropolitan region shall be maintained, enhanced or restored, if disturbed, in the Water Quality Resource Area. Invasive non-native vegetation may be removed from the Water Quality Resource Area and replaced with native cover. Only native vegetation shall be used to enhance or restore the Water Quality Resource Area.
- e. Uncontained areas of hazardous materials as defined by DEQ in the Water Quality Resource Area shall be prohibited.
- f. Prior to allowing encroachments into Water Quality Resource Areas the governing body, or its designate, shall implement procedures which:
  1. Consider whether alternatives to the requested encroachment could reasonably be implemented which would not require disturbance of the Water Quality Resource Area; and
  2. If there is no practicable alternative, limit the encroachment to reduce the impact associated with the proposed use; and

145 3. Where the encroachment occurs, require mitigation to ensure  
146 that the functions and values of the Water Quality Resource  
147 Area are restored.

148  
149 3. For lots or parcels which are fully or predominantly within the Water Quality  
150 Resource Area and are demonstrated to be unbuildable by the vegetative corridor  
151 regulations, cities and counties shall reduce or remove vegetative corridor  
152 regulations to assure the lot or parcel will be buildable while still providing the  
153 maximum vegetated corridor practicable.

154  
155 **C. Erosion and Sediment Control**

156  
157 1. The purpose of this section is to require erosion prevention measures and sediment  
158 control practices during and after construction to prevent the discharge of  
159 sediments.

160  
161 2. Erosion prevention techniques shall be designed to prevent visible and measurable  
162 erosion as defined in Title 10.

163  
164 3. To the extent erosion cannot be completely prevented, sediment control measures  
165 shall be designed to capture, and retain on-site, soil particles that have become  
166 dislodged by erosion.

167 **D. Implementation Tools to protect Water Quality and Flood Management Areas**

168 1. Cities and counties shall either adopt land use regulations which authorize transfer  
169 of permitted units and floor area within the same ownership to mitigate the effects  
170 of development restrictions in Water Quality and Flood Management Areas, or  
171 adopt other measures which mitigate the effects of development restrictions.

172 2. Metro encourages local governments to require that approvals of applications for  
173 partitions, subdivisions and design review actions must be conditioned upon one of  
174 the following:

175 a. protection of Water Quality and Flood Management Areas with a  
176 conservation easement;

177 b. platting Water Quality and Flood Management Areas as common open  
178 space; or

179 c. purchase or donation of fee simple ownership to public agencies or private  
180 non-profits for preservation where feasible.

181  
182 Development applications involving pre-existing development within the Water  
183 Quality and Flood Management Areas shall be exempted from the provisions  
184 concerning conservation easements and purchase or donation of fee simple  
185 ownership to public agencies or private non-profits for preservation.  
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188

3. Repairs, additions, alterations to, or replacement of structures, roadways, driveways, accessory uses for existing structures and development in the Water Quality and Flood Management Area shall be permitted, provided that such development is not inconsistent with applicable city and county regulations, and the repair, addition, alteration or replacement does not encroach closer to the Protected Water Feature than the existing structures, roadways, driveways or accessory uses of existing structures and development.
4. Metro encourages cities and counties to require restoration and enhancement of degraded Water Quality Resource Areas through conditions of approval when development is proposed on property containing Water Quality Resource Areas.

190 Section 5. Fish and Wildlife Habitat Conservation Area

191 A. The purpose of these standards is to conserve, protect, and enhance fish and wildlife  
 192 habitat within the fish and wildlife habitat conservation areas identified on the water  
 193 quality and flood management area map by establishing performance standards and  
 194 promoting coordination by Metro of regional urban water sheds.

195 B. Fish and Wildlife Habitat Conservation Area Recommendations

196 These areas shall be shown on the Water Quality and Flood Management Area Map. Fish  
 197 and Wildlife Habitat Conservation Habitat Areas generally include and/or go beyond the  
 198 Water Quality and Flood Management Areas. These areas shown on the map are Metro's  
 199 initial inventory of significant fish and wildlife habitat conservation areas. Metro hereby  
 200 recommends that local jurisdictions adopt the following temporary standards:

- 201 1. Prohibit development in the Fish and Wildlife Conservation Areas that adversely  
 202 impacts fish and wildlife habitat.

203 Exceptions: It is recognized that urban development will, at times, necessitate  
 204 development activities within or adjacent to Fish and Wildlife Habitat Conservation  
 205 Areas. The following Fish and Wildlife Habitat Conservation Mitigation Policy,  
 206 except for emergency situations, applies to all the following exceptions:

207 A project alternatives analysis, where public need for the project has been  
 208 established, will be required for any of the exceptions listed below. The  
 209 alternatives analysis must seek to avoid adverse environmental impacts by  
 210 demonstrating there are no practicable, less environmentally damaging alternatives  
 211 available. In those cases where there are no practicable, less environmentally  
 212 damaging alternatives, the project proponent will seek alternatives which reduce or  
 213 minimize adverse environmental impacts. Where impacts are unavoidable,  
 214 compensation, by complete replacement of the impacted site's ecological attributes  
 215 or, where appropriate, substitute resources of equal or greater value will be  
 216 provided in accordance with the Metro Water Quality and Flood Management  
 217 model ordinance.

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- a. Utility construction within a maximum construction zone width established by cities and counties.
- b. Overhead or underground electric power, telecommunications and cable television lines within a sewer or stormwater right-of-way or within a maximum construction zone width established by cities and counties.
- c. Trails, boardwalks and viewing areas construction.
- d. Transportation crossings and widenings. Transportation crossings and widenings shall be designed to minimize disturbance, allow for fish and wildlife passage and crossings should be preferably at right angles to the stream channel.

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2. Limit the clearing or removal of native vegetation from the Fish and Wildlife Habitat Conservation Area to ensure its long term survival and health. Allow and encourage enhancement and restoration projects for the benefit of fish and wildlife.

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3. Require the revegetation of disturbed areas with native plants to 90 percent cover within three years. Disturbed areas should be replanted with native plants on the Metro Plant List or an approved locally adopted plant list. Planting or propagation of plants listed on the Metro Prohibited Plant List within the Conservation Area shall be prohibited.

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4. Require compliance with Oregon Department of Fish and Wildlife (ODFW) seasonal restrictions for in-stream work. Limit development activities that would impair fish and wildlife during key life-cycle events according to the guidelines contained in ODFW's "Oregon Guidelines for Timing of In-water Work to Protect Fish and Wildlife Resources."

244

**C. Fish and Wildlife Habitat Protection**

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Within eighteen (18) months from the effective date of this functional plan, Metro shall complete the following regional coordination program by adoption of functional plan provisions.

248  
249

1. Metro shall establish criteria to define and identify regionally significant fish and wildlife habitat areas.

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2. Metro shall adopt a map of regionally significant fish and wildlife areas after (1) examining existing Goal 5 data, reports and regulation from cities and counties, and (2) holding public hearings.

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3. Metro shall identify inadequate or inconsistent data and protection in existing Goal 5 data, reports and regulations on fish and wildlife habitat. City and county comprehensive plan provisions where inventories of significant resources were

completed and accepted by a LCDC Periodic Review Order after January 1, 1993, shall not be required to comply until their next periodic review.

- 4. Metro shall complete Goal 5 economic, social, environmental and energy (ESEE) analyses for mapped regionally significant fish and wildlife habitat areas only for those areas where inadequate or inconsistent data or protection has been identified.
- 5. Metro shall establish performance standards for protection of regionally significant fish and wildlife habitat which must be met by the plans implementing ordinances of cities and counties.

**Section 6. Metro Model Ordinance**

Metro shall adopt a Water Quality and Flood Management Areas Model Ordinance. The Model Ordinance shall represent one method of complying with this Title. The Model Ordinance shall be advisory, and cities and counties are not required to adopt the Model Ordinance, or any part thereof, to substantially comply with this Title. However, cities and counties which fully adopt the Model Ordinance and a Water Quality and Flood Management Areas Map shall be deemed to have substantially complied with the requirements of this Title.

Sections 1-4 of this Title shall not become effective until 24 months after the Metro Council has adopted the Model Ordinance and Water Quality and Flood Management Areas Map. Section 5 of this Title shall be implemented by adoption of new functional plan provisions. The Metro Council may adopt a Fish and Wildlife Habitat Conservation Areas Model Ordinance and Map for protection of regionally significant fish and wildlife habitat.

**Section 7. Map Adjustments**

Cities and counties shall amend their comprehensive plans and implementing ordinances to include procedures to allow:

- A. Amendments to the Water Quality and Flood Management Area Map to correct map error.
- B. Modification of the Water Quality Resource Area upon demonstration and evidence provided by - \_\_\_\_\_ that the modification will offer the same or better protection of water quality, the Water Quality and Flood Management Area and Protected Water Feature.

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**NEW DEFINITIONS: To be added to Title 10 and they would apply to the Title 3 Performance Standards in the Urban Growth Management Functional Plan**

**Design Flood Elevation** The elevation of the 100-year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped flood-prone soils or similar methodologies.

**Development** means any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10% of the existing vegetated area on the lot is defined as development, for the purpose of Title 3. Development does not include the following: a) Stream enhancement or restoration projects approved by cities and counties; b) agricultural activity.

**Fill** Any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.

**Flood Management Areas** All lands contained within the 100-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps. In addition, all lands which have documented evidence of flooding and all lands within 25-year recurrence flood area in stream corridors with 100 acres or more drainage area.

**Flood-prone Soil** Soil that is characterized by occasional flooding, which is the temporary covering of the soil with water from overflowing streams and runoff from adjacent slopes. This flooding occurs on an average of once or less in two years.

**Invasive Non-native or Noxious Vegetation** Any vegetation not on the Metro Native Plant List.

**Mitigation** The reduction of adverse effects of a proposed project by considering, in the order: a) avoiding the impact all together by not taking a certain action or parts of an action; b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; c) rectifying the impact by repairing, rehabilitating or restoring the effected environment; d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and e) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

**Stream** A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

**Substantial Compliance** means that city and county comprehensive plans and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan. Any failure to meet individual performance standard requirements is not significant or is minor in nature.

**Water Quality Resource Areas** are the vegetated corridors and the adjacent water feature. Water features include rivers, streams, wetlands and springs. For streams draining 100 acres and more, these vegetated corridors are 50 feet from top of bank on both sides of streams for areas less than 25 percent slope and for all wetlands, and 200 feet from top of bank on either side of the stream and for wetlands for areas greater than 25 percent slope. For streams draining 50 -

100 acres, these vegetated corridors have 15 feet vegetated corridors on either side of the stream: for areas less than 25 percent slope, and 50 feet on either side of the stream for areas greater than 25 percent slope.

Wetlands are any wetland shown on the Metro Water Quality and Flood Management Area Map. These are wetlands of regional significance that also meet the definition wetlands as defined by Oregon Division of State Lands.

EXHIBIT C



**METRO**

# Draft Model Ordinance

## Stream and Floodplain Protection Plan

September 1997





METRO

DATE: September 5, 1997

✓ TO: Rosemary Furfey  
Long Range Planning

CC: Larry Shaw

FROM: Ken Helm *Ken Helm*  
Office of General Counsel

SUBJECT: Title 3 - Model Ordinance - Outstanding Work

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Draft versions of the amendments to Title 3 of the Urban Growth Management Functional Plan and the Water Quality and Floodplain Management Model Ordinance were submitted to MTAC on September 4, 1997, and to WRPAC with the packet for their upcoming meeting. The proposed revisions to the Model Ordinance are intended to work toward a more usable and consistent overlay ordinance for local zoning codes. The current version of the Model Ordinance should be viewed as a basic framework for further specific revisions. We have provided this framework to allow WRPAC, and the joint subcommittee of WRPAC and MTAC to review and consider changes and additions to the ordinance over the next few months. During part of that time, OGC input may be limited due to the upcoming appeal of the Metro Council's urban reserve decision which is pending at the Land Use Board of Appeals.

To move forward on the Model Ordinance will require additional information and some decisions on specific provisions of the ordinance. Some of the information needed is as follows:

1. The Native Plants List - which explains which species of plants are permitted in the Water Quality Resource Areas.
2. The Erosion Prevention and Sediment Control Plans, Technical Guidance Handbook.

WRPAC and the joint subcommittee need to consider the following issues:

1. Whether the intent statements for Flood Management Areas at lines 121 - 134 are sufficient to reflect the value of such areas.

2. Whether additional explanatory language is needed to supplement Table 1 which provides the guidelines for assessing, maintaining and restoring the Water Quality Resource Areas.

3. To what size areas will one percent slopes be allowed under the excavation grade design standards at lines 563 -567. The previous version of the ordinance stated that one percent slopes will be allowed in "small areas." Such a standard is too vague to enforce uniformly.

4. In what form to adopt DEQ's turbidity standards for Erosion and Sediment Control Plans at lines 675 - 682.

5. Revisions to Section 7 - Variances. The variance standards are very important to provide hardship relief and avoid takings claims. We are conducting further research on how to best structure the variance section to accomplish both purposes.

6. Section 8 - Map Errors. This section needs to offer local jurisdictions some standards as to what Metro deems to be a sufficient review process for correcting potential map errors. The standards are necessary to give local jurisdictions some guidance and to help Metro determine substantial compliance.

7. Section 10 - Definitions. There are several terms left undefined. Some of these terms may not need a definition and others need substantial work in making the definition specific enough to function properly as part of the ordinance.

8. Whether further work is necessary to address activities on property to which the overlay zone applies but which do not meet the definition of "development" and could have an impact on the WQRA. That situation is currently addressed in Section 3 (F)(2).

Other issues will undoubtedly arise as work progresses. However, resolving the issues listed above provides a good starting point for the next phase of work on the Model Ordinance.

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## **Annotations for Revisions to the Water Quality and Floodplain Management Model Ordinance**

These annotations explain the proposed revisions made to each section of the Model Ordinance. Most of the revisions were made to organize and consolidate the requirements and standards to group similar issues together. The goal was to preserve the substance of each provision even though the provision may have been edited or relocated.

### **Section 1. Intent**

A. The word "resources" was deleted to reduce the scope of the intent section because of potential overlap with Goal 5. Since this part of Title 3 and the model ordinance are based on Goals 6 and 7, the intent should focus on air and water issues and prevention of natural disasters and flood hazard. Other mechanisms are, or will be, available to protect other resources such as fish habitat.

B. This section was moved from the Water Quality Resource Area Design section because it provides an excellent description of what the Water Quality Resource Area (WQRA) should do.

C. This provision was added to provide a statement on Flood Management Areas similar to the functional description of WQRAs.

D. This provision was added to alert the ordinance user that the requirements of the ordinance will be imposed through an overlay zone.

### **Section 2. Applicability**

A. This provision was modified to explain the relationship between the overlay zone and the base zone. The definition of "redevelopment" has been moved to the definition section.

B. This provision was added to explain the separate applicability of the Erosion and Sediment Control section.

E. This provision was added to alert ordinance users that they must comply with the ordinance.

### **Section 3. Water Quality Resource Areas**

D. The definitions of Primary Protected Water Feature and Secondary Protected Water Feature have been moved to the definition section.

The description of how the Water Quality Resource Areas are calculated for both Primary and Secondary Protected Water Features was consolidated so ordinance users understand the relationship between the Model Ordinance and the Water Quality and Flood Management Area Map.

The exclusion provisions of prior Section 3 (A)(6) have been deleted in favor of a "grandfather rights" provision in revised Section 3 (E)(8). There is a significant difference between excluding existing structures and driveways from the overlay zone and allowing such uses to remain as nonconforming uses. If the area occupied by existing development is excluded from the overlay zone, then future development of those areas is governed only by the base zone restrictions. This means that new structures which would otherwise be prohibited by the overlay zone would be allowed if the existing structures were removed. An example might be where the owner of a parking lot immediately adjacent to Fanno Creek wants to build apartments where the parking lot is located. If the overlay zone is not applied to the parking lot, the owner would be allowed to do anything permitted by the base zone - and the limitations of the WQRA would be compromised. A better approach is to apply the overlay zone to all areas and allow the existing uses to become nonconforming - which allows those uses to remain with some limitations.

E. This provision was moved from prior Section 3 (C)(3). It was moved to make the ordinance look more like other zoning ordinances. Typically, a zoning ordinance will identify the zone and then describe the permitted and conditional uses allowed in the zone. Revised Sections 3 (E, F & G) make the model ordinance look more like what planners and ordinance users are accustomed to seeing in a zoning ordinance.

F. This section blends the requirements of prior Section 3 (C)(2) with the minimum application and permit requirements of prior Section 10 (C). By combining the two sections and reorganizing prior Section 3 (C)(2), the ordinance states what information an applicant must provide about the proposed development and what information is required to delineate the WQRA. The standards of prior Section (3)(C)(2) have been retained in a slightly different form which tells the ordinance user what the development plan must show to be approved. Thus, subsections F (1)(a-d) tell the applicant what information is required in the application, and subsection F (1)(e) explains what the development plan must accomplish.

Section 3 (F)(2) was added to provide for the situation addressed by prior Section 10 (A) which contemplates allowing a ministerial decision for applications which propose an activity on a property subject to the Water Quality and Flood Management Overlay Zone but which don't quite meet the definition of "development," or do not require any other planning action.

G. This provision has been relocated from prior Section 3 (C)(3). It was moved to improve the follow of the model ordinance by stating what is permitted outright in the overlay zone. This subsection has been reorganized to separate required application information from the standards for a development plan. Although some of the approval criteria are implied from the development standards, WRPAC may wish to create some specific approval standards for development on sites containing WQRAs. Some other revisions to this subsection reflect a consolidation of requirements for similar topics such as revegetation.

H. The Mitigation Standards of prior Section 3 (C)(4) were moved to be located near revised Section 3 (C)(G) which outlines the uses allowed in the WQRA. The mitigation provisions have been reorganized because some of the components of a WQRA mitigation plan demand information necessary to process an application, and other components relate to the standards for approving the plan. Thus, the "components" part of prior Section 3 (C)(4) has simply been divided into subsections.

#### Table 1

Table 1 has been partially revised and edited to improve clarity. The phrase "Inventory and remove inappropriate materials, debris and noxious materials" has been removed from the "Existing WQRA Condition" column. The ordinance only requires such an inventory if development action is proposed. In addition, the term "inappropriate" has been deleted throughout Table 1 because it is too vague and is redundant of the terms "debris" and "noxious materials." If specific "inappropriate materials" were intended, then those materials should be listed in the table or the phrase should be defined in Section 10.

The table is a good mechanism for explaining the various levels of remediation. However, the table should read more like a mini ordinance so that requirements are certain.

#### Section 4. Flood Management Area

- D. This subsection groups the balanced cut and fill standards together.
- E. This subsection groups the excavation grade standards together.

H. This section revises prior Section 4 (J) which included a provision relating to fish passage. Since protecting fish and wildlife is outside to scope and intent of Statewide Planning Goals 6 and 7, it is inadvisable to include references to fish passage. Fish habitat protection will be addressed in the Goal 5 program.

#### Section 5. Density Transfers

C. This subsection is revised to omit the requirement that a covenant be placed on the area from which the density is transferred. A deed restriction is unnecessary because the overlay zone will continue to prevent development in the WQRA. In addition, such a restriction could impede future planning should the jurisdiction or Metro wish to change its strategy for protecting the flood area.

The provision for setback adjustments in prior Section 5(C) was relocated to Section 3 (F)(1)(b)(4) which addresses lot configuration.

## **Section 6. Erosion Prevention and Sediment Control**

- B. The prior Scope, Purpose, and Intent subsections have been combined.**
- C. This subsection is added to alert ordinance users that an Erosion and Sediment Control Permit is required for all new development. The "contemporaneous with" language was added to accommodate a state requirement that local governments provide a consolidated application procedure which allows an applicant to request all necessary approvals at one time.**

Prior Section 6 (H) has been dismantled and its components placed in the requirements for an Erosion and Sediment Control Plan. The same is true for prior Section 6 (J).

References throughout this section to enforcement authority have been consolidated in revised Section 6 (C). As a practical matter, it is unnecessary to state each instance where failure to follow the ordinance is a violation. The local jurisdictions have general authority under Section 9 and their zoning ordinances to address any actions they deem to violate their local ordinances.

- E. DEQ's turbidity standard has been added to this section. WRPAC needs to decide whether to adopt the language of DEQ's present rule, or whether to reference the departments' administrative rules.**

## **Section 7. Variances**

There are no major changes to this section. Further research on takings rules will continue with the goal of developing additional variance language that is sufficiently tied to case law to discourage illconceived claims that the Model Ordinance will operate to take private property without compensation.

- C. This section was moved from prior Section 3 (C)(4) to increase the scope of protection, and because it is a condition to be applied with variances rather than a mitigation standard.**

## **Section 9. Enforcement**

- A. This subsection was added to provide a statement of what is prohibited by the model ordinance. The subsection also contains a statement that if a use or activity isn't specifically allowed by the ordinance, then it is prohibited. This is a standard gap-filling measure.**

- C. This subsection was taken from prior Section 9 (C)(2) to give the city or county interim enforcement authority at times other than when a stop work order is issued.**

## **Prior Section 10.**

Prior Section 10 has been absorbed into Section 3. The "Limitations" and "Fees" subsections were deleted because local jurisdictions will already have these type of provisions in their zoning ordinances.

The "Mitigation" subsection is already addressed by Section 3 (H).

## **Section 10. Definitions**

The definitions have not been revised. The term "development site" is suggested for definition because it may be confusing for some ordinance users to differentiate between the development site and the entire property upon which the development site is located. WRPAC may wish to develop a definition to address this potential confusion. Some preexisting terms are currently undefined. Additional policy review will be needed to develop appropriate definitions for these terms.

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1 REVISED DRAFT 9/4/97 - THE GOAL OF THIS FIRST REVISED DRAFT OF THE  
2 MODEL ORDINANCE IS TO PROVIDE AN ORDINANCE FORMAT THAT IS  
3 EASY TO USE AND THAT WILL BE CONSISTENT WITH THE PRIMARY ZONES  
4 TO WHICH THE WATER QUALITY AND FLOOD MANAGEMENT OVERLAY  
5 ZONE WILL APPLY.

6  
7 **DRAFT**

8  
9 **Metro Water Quality and Flood Management Area Model Ordinance**

10  
11  
12 **Introduction**

13 Attached is the model ordinance required by Title 3, Section 6 of Metro's *Urban Growth*  
14 *Management Functional Plan*.

15  
16 The purpose of this model ordinance is to provide a specific example of provisions  
17 approved by the Metro Council that can be used by a city or county to comply with the  
18 performance standards for *Title 3: Water Quality and Flood Management Conservation*  
19 described in the *Metro Urban Growth Management Functional Plan*. Title 3 describes  
20 specific performance standards and practices for floodplain and water quality protection.  
21 It also requires that Metro adopt a Water Quality and Flood Management Model  
22 Ordinance and map for use by local jurisdictions to comply with Title 3. This model  
23 ordinance fulfills this Title 3 requirement. It is also consistent with Metro's policies in  
24 the 1995 *Future Vision Report*, in the 1995 *Regional Urban Growth Goals and*  
25 *Objectives* (RUGGOs) and the 1992 *Greenspaces Master Plan*.

26  
27 The purpose of Title 3 is to protect water quality and floodplain areas. Floodplains protect  
28 the region's health and public safety by reducing flood and landslide hazards and  
29 pollution of the region's waterways. This purpose is addressed by this Model Ordinance  
30 and Map. Another purpose of Title 3 is to protect fish and wildlife habitat. Statewide  
31 land use Goal 5 measures which include fish and wildlife habitat protection will be  
32 addressed in the study Metro will conduct within the next 18 months. As additional issues  
33 are addressed, further regulations may be imposed on areas contained within or outside  
34 of the Water Quality and Floodplain Management Overlay Zone addressed in this Model  
35 Ordinance.

36  
37 The Metro *Future Vision*, *Greenspaces Master Plan* and *Regional Urban Growth Goals*  
38 *and Objectives* (RUGGOs) identify water quality protection, floodplain management,  
39 fish and wildlife habitat protection, development of recreational trails, acquisition of  
40 open space and maintenance of biodiversity as critical elements of maintaining healthy,  
41 livable communities.

42  
43 This Model Ordinance, however, only provides specific examples of local ordinance  
44 provisions for a portion of the issues identified in Title 3: protection of the region's  
45 floodplains, water quality and reduction of flood hazards and the implementation of



46 erosion control practices throughout the Portland metropolitan region. Other issues  
47 including fish and wildlife habitat, watershed-wide stormwater management, steep  
48 slopes, landslide hazards and biodiversity will be addressed by December 1997 in the  
49 Metro Regional Framework Plan.

50  
51 The approach in Sections 2, 3 and 4 of Title 3 is to implement Oregon Statewide Goal 6  
52 and Goal 7. *Goal 6: Air, Water and Land Resources Quality* and *Goal 7: Areas*  
53 *Subject to Natural Disasters and Hazards* are addressed by protecting streams, rivers,  
54 wetlands, and areas with adjacent to streams and floodplains within the Water Quality  
55 Resource Area and Flood Management Area.

56  
57 Cities and counties are required to amend their plans and implementing ordinances, if  
58 necessary, to ensure that they comply with Title 3 in one of the following ways:

- 59  
60 A. Either adopt the applicable provisions of the Metro Water Quality Resource Area and  
61 Flood Management Area model ordinance and map entitled Metro Water Quality  
62 Resource Area and Flood Management Area Map; or  
63  
64 B. Adopt plans and implementing ordinances and maps which substantially comply with  
65 the performance standards of Title 3.  
66  
67 C. Any combination of A and B above that substantially complies with all  
68 performance standards in Title 3, Section 4 ( see Title 3, Section 3).

69  
70 The purpose of the map adopted by Metro is to provide the performance standard for the  
71 location of Water Quality Resource Areas and Flood Management Areas. Therefore the  
72 map is the basis for evaluation of substantial compliance of local maps for those  
73 jurisdictions who choose to develop their own map of Water Quality Resource Areas and  
74 Flood Management Areas. "Substantial compliance" means that the ordinances and  
75 regulations, on the whole, conform with the purposes of the performance standards in  
76 the functional plan and any failure to meet individual performance standard requirements  
77 is technical or minor in nature (see ORS 197.747).

78  
79 Local jurisdictions have two options with regard to their adoption of code language and a  
80 map (either the Metro Water Quality Resource Area and Flood Management Area Map or  
81 a local map which substantially complies with the Metro map):

- 82  
83 1) the code language which describes the affected area prevails and the map is a  
84 reference; or  
85 2) the map prevails and the descriptive code language is used to correct map errors when  
86 they are discovered and for delineating and marking the overlay zone boundary in the  
87 field.

88  
89 The advantage of the latter approach is that the final boundary is determined at the time  
90 of the development application, based on a detailed survey of the site. If a large scale,

91 precise boundary can be mapped, the official map should prevail. This method allows for  
92 a more efficient permit process, and more certainty for the property owner. In this case,  
93 the language is used to correct mapping errors when they are discovered. A map,  
94 however, should only be used if it has a level of detail and clarity equal to or better than  
95 1" = 300 feet, and has been field-checked for accuracy.

96  
97 **Water Quality and Flood Management Area Model Ordinance**  
98

99 The (City Council or Board of Commissioners of (jurisdiction) find that:  
100

101 **Section 1. Intent**  
102

103 A. To protect the beneficial water uses and functions and values of Protected  
104 Water Features, Water Quality Resource Areas and Flood Management Areas by  
105 limiting or mitigating the impacts on these areas from development activities.  
106

107 B. To protect existing and establish new Water Quality Resource Areas  
108 which provide the following functions:  
109

110 1. To act as a physical buffer separating development and human  
111 activities which damage Protected Water Features;  
112

113 2. To protect the water quality of the Protected Water Features;  
114

115 3. To protect the natural water purification function of the Water  
116 Quality Resource Area;  
117

118 4. To provide filtering and infiltration of local stormwater runoff  
119 before it enters the Protected Water Features.  
120

121 C. To protect Flood Management Areas which provide the following  
122 functions:  
123

124 1. Protect life and property from dangers associated with flooding.  
125

126 2. Flood storage, reduction of flood velocities, reduction of flood  
127 peak flows and reduction of wind and wave impacts.  
128

129 3. Maintain water quality by reducing and sorting sediment loads,  
130 processing chemical and organic wastes and reducing nutrients.  
131

132 4. Recharge, store and discharge groundwater.  
133

134 5. Provide plant and animal habitat, and support riparian ecosystems.  
135

136 D. To establish an overlay zone for Water Quality Resource Areas and Flood  
137 Management Areas which operates contemporaneously with the base zone and  
138 implements the performance standards of Title 3 of the Urban Growth  
139 Management Functional Plan.  
140

141 **Section 2. Applicability**

142

143 A. This ordinance applies to new development and redevelopment in the  
144 Water Quality and Flood Plain Management Overlay Zone. The overlay zone  
145 restricts the primary uses that are allowed in the base zone by right, with  
146 limitations, or as conditional uses.

147

148 B. This ordinance applies to all development and redevelopment both inside  
149 and outside the overlay zone which requires an Erosion and Sediment Control  
150 Permit.

151

152 C. This ordinance does not apply to emergency procedures necessary to  
153 protect existing development including emergency maintenance, repair, and  
154 replacement of existing structures, exterior improvements, roads and utilities.

155

156 D. This ordinance does not apply to development applications already  
157 deemed complete as of the effective date of this ordinance. *(Note: This restates*  
158 *existing Oregon law, see ORS 227.178(3) and 215.428(3)).*

159

160 E. Failure to comply with Sections 3-6 of this ordinance will result in a  
161 denial of the development application.

162

163 **Section 3. Water Quality Resource Areas**

164

165 A. This section applies to Water Quality Resource Areas which are part of the  
166 Water Quality and Flood Plain Management Area Overlay Zone as delineated on  
167 the Water Quality and Flood Management Areas Map attached and incorporated  
168 by reference as part of this ordinance.

169

170 B. The purpose of this section is to protect and enhance the beneficial water  
171 uses and functions and values of Protected Water Features by maintaining and  
172 restoring Water Quality Resource Areas.

173

174 *(Note: If it has been determined during local public review that the code language*  
175 *is to prevail, adoption of these standards as written is appropriate. If a map is to*  
176 *prevail, this section should be used for map correction and interpretation, and the*  
177 *definition of areas should be by adopting an official map by reference)*

178

179

180 C. Water Quality Resource Areas are areas adjacent to either Primary  
181 Protected Water Features or Secondary Protected Water Features.

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183 D. The Water Quality Resource Areas shown on the Water Quality and Flood  
184 Management Areas Map are based on the following standards:

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1. **Primary Protected Water Features:**
  - (a) For rivers and streams in areas of less than 25 percent slope, 50 feet horizontally on either side of the top of bank.
  - (b) For rivers and streams in areas of 25 percent or greater slope, 200 feet horizontally on either side of the top of bank.
  - (c) For wetlands and springs in areas of less than 25 percent slope, 50 feet horizontally measured from the delineated boundary of the water quality resource area.
  - (d) For wetlands and springs in areas of 25 percent or greater slope, 200 feet horizontally measured from the delineated boundary of the water quality resource area.

2. **Secondary Protected Water Features:**
  - (a) For all Secondary Protected Water Features in areas of less than 25 percent slope, 15 feet horizontally on either side from top of bank, or 30 feet wide, centered on the stream meander centerline, but in no case less than 10 feet from the top of bank.
  - (b) For all Secondary Protected Water Features in areas of 25 percent or greater slope; 50 feet wide horizontally on either side from top of bank.

3. Slope, as used in this ordinance, is the vertical change in elevation divided by the horizontal distance of the vertical change. Slope is measured along lines extending two hundred (200) feet perpendicular to the centerline of the stream at least every 100 feet, or more frequently as required, for the length of the parcel proposed for development. These measurements should be taken at intervals that include unusual features within the Water Quality Resource Area. At least three slope measurements shall be made for each site, regardless of size.

*(Note: For the purposes of substantial compliance, a jurisdiction can meet the performance standards in Title 3 by applying the following method to the water quality resource area: for areas with zero slope (as measured parallel to the ground) the buffer will be 50 feet from top of waterway bank, but for every one percent (1%) slope after that point, add six (6) feet.)*

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E. No structures, new development, construction activities, gardens, lawns, dumping of any materials of any kind, or activities other than those listed in Subsection G are allowed in the Water Quality Resource Area.

F. Water Quality Resource Areas shall be protected, maintained, enhanced and restored on new development sites which contain Water Quality Resource Areas.

1. Applicants for development permits on property which is fully or partially subject to the Water Quality and Flood Management Area Overlay Zone must provide the following information:

(a) To the extent that the application criteria for the base zone do not require it, a site plan which includes the following information:

- (1) Project name.
- (2) Vicinity map.
- (3) Scale (the scale shall be at least one (1) inch equals fifty (50) feet or larger).
- (4) North arrow.
- (5) Date.
- (6) Street names and locations of all existing and proposed streets within or on the boundary of the proposed development.
- (7) Lot layout with dimensions for all lot lines.
- (8) Location and use of all proposed and existing buildings, fences and structures within the proposed development. Indicate which buildings are to remain and which are to be removed.
- (9) Location and size of all public utility facilities affected by the proposed development.
- (10) Location of drainage ways or public utility easements in and adjacent to the proposed development.
- (11) A topographic map of the site at a contour interval of five (5) feet or less.

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(12) Location of all parking areas and spaces, ingress and egress on the site, and on-site circulation.

(13) Locations of all existing natural features including, but not limited to, all trees of a caliper greater than six (6) inches DBH, natural drainages on the site, springs, seeps and outcroppings of rocks, or boulders. Indicate any contemplated modifications to a natural features.

(14) Building envelopes for all existing and proposed new parcels that contain only buildable area.

(15) Location of all existing wells on the subject property.

(16) Inventory and location of existing debris and noxious materials.

(b) In addition to the information required on the site plan, the following information:

(1) A delineation of the Water Quality Resource Area. Identify the Protected Water Features and Water Quality Resource Areas located on the subject property that are both: 1) included in the City/County map, and 2) meet the definition of Protected Water Feature and Water Quality Resource Areas which are not included on the map;

(2) The location of trees within the Water Quality Resource Area showing, approximate heights, types, and diameter at breast height (DBH).

(3) Location of wetlands. Where potential wetlands are identified, the applicant shall follow the Division of State Lands recommended wetlands assessment process. Descriptions and assessments required in this section shall be prepared by a party trained in wetland/riparian area delineation, and are subject to City/County approval;

(4) Lot configuration which shows the following:

(i) For any partition or subdivision, the Water Quality Resource Area shall be contained in a

319 separate tract, and shall not be a part of any parcel  
320 to be used for the construction of a dwelling unit.  
321 The City/County may seek a dedication to the  
322 City/County, or with approval, a dedication to other  
323 governmental units, or an easement conveying  
324 storm and surface water management rights to the  
325 City/County and preventing the owner of the tract  
326 from activities and uses inconsistent with the  
327 purpose of this ordinance; or

328  
329 (ii) For multi-Family, commercial, or industrial  
330 developments, the Water Quality Resource Area  
331 shall be contained in a separate tract, and the city or  
332 county may seek a dedication, easement or any  
333 combination of the two of the Water Quality  
334 Resource Area to the city or county or other  
335 governmental unit;

336  
337 (iii) Where a separate parcel is dedicated  
338 containing the Water Quality Resource Area,  
339 development shall be subject to a maximum 3 foot  
340 setback from the Water Quality Resource Area.

341  
342 (c) An assessment of the existing condition of the Water  
343 Quality Resource Area in accordance with Table 1.

344  
345 (d) An inventory of vegetation by type, including percentage  
346 ground and canopy coverage.

347  
348 (e) A development plan which demonstrates:

349  
350 (1) The Water Quality Resource Area will be restored  
351 and maintained in accordance with the specifications in  
352 Table 1.

353  
354 (2) To the extent practicable, existing vegetation will be  
355 protected and left in place. Work areas will be carefully  
356 located and marked to reduce potential damage to the  
357 Water Quality Resource Area. Trees in the Water Quality  
358 Resource Area shall not be used as anchors for stabilizing  
359 construction equipment.

360  
361 (3) Where existing vegetation has been removed, or the  
362 original land contours disturbed, the site shall be  
363 revegetated, and the vegetation shall be established as soon



364 as practicable. Nuisance plants, as identified in the Metro  
365 Native Plant List attached as \_\_\_\_\_, may be removed at any  
366 time. Interim erosion control measures such as mulching  
367 should be used to avoid erosion on bare areas. Nuisance  
368 plants shall be replaced with non-nuisance plants by the  
369 next growing season.

370  
371 (4) Prior to construction, the Water Quality Resource  
372 Area will be flagged, fenced or otherwise marked and will  
373 remain undisturbed except as allowed in Subsection E and  
374 F. Such markings will be maintained until construction is  
375 complete.  
376

377 2. If an application for proposed improvements does not meet the  
378 definition of development or redevelopment in Section 10, or does not  
379 require any other planning action, the Director shall approve the  
380 application after receiving the information required in Subsection F 1 (a)  
381 and F 1 (b)(1) and finding the application complete.  
382

383 G. The following uses and activities are allowed in the Water Quality  
384 Resource Area subject to the Mitigation Standards of Subsection H.  
385

- 386 1. Roads to provide access to Protected Water Features or necessary  
387 ingress and egress across Water Quality Resource Areas;  
388  
389 2. Public or private utility construction;  
390  
391 3. Walkways and bike paths not exceeding 10 feet in width subject to  
392 the following restrictions:

393 (a) A gravel walkway or bike path may not be constructed  
394 closer than 10 feet from the boundary of the Protected Water  
395 Feature, unless approved by the city or county. Walkways and  
396 bike paths shall be constructed so as to minimize disturbance to  
397 existing vegetation. Where practicable, a maximum of 10% of the  
398 trail may be within 30 feet of the Protected Water Feature.  
399

400 (b) A paved walkway or bike path may not be constructed  
401 closer than 10 feet from the boundary of the Protected Water  
402 Feature, unless approved by the city or county. For any paved  
403 walkway or bike path, the width of the Water Quality Resource  
404 Area must be increased by a distance equal to the width of the  
405 path. Walkways and bike paths shall be constructed so as to  
406 minimize disturbance to existing vegetation. Where practicable, a  
407

408 maximum of 10% of the trail may be within 30 feet of the  
409 Protected Water Feature.

410  
411 4. Measures to remove or abate nuisances, or any other violation of  
412 state statute, administrative agency rule or city or county ordinance.

413  
414 5. New stormwater pre-treatment facilities subject to the following  
415 restrictions:

416  
417 (a) The stormwater pre-treatment facility may only encroach a  
418 maximum of 25 feet into the Water Quality Resource Area from its  
419 outside boundary;

420  
421 (b) The city or county must approve the site design;

422  
423 (c) The area of encroachment must be replaced with an equal  
424 area within the Water Quality Resource Area on the subject  
425 property.

426  
427 6. Widening an existing road adjacent to or running parallel to a  
428 Water Quality Resource Area.

429  
430 7. Stream, wetland, riparian and upland enhancement or restoration  
431 projects.

432  
433 8. Replacement, additions or alterations to existing structures that are  
434 reasonably necessary to continue the use and do not result in a net loss of  
435 the Water Quality Resource Area.

436  
437 H. A Water Quality Resource Area Mitigation Plan is required for all  
438 development listed in Subsection G. Mitigation may be allowed only when there  
439 is no practicable method of avoiding modification of the Water Quality Resource  
440 Area.

441  
442 1. Water Quality Resource Area mitigation projects shall be located  
443 as follows:

444  
445 (a) As close to the development as is practicable above the  
446 confluence of the next downstream tributary, or if this is not  
447 practicable;

448  
449 (b) Within the watershed where the development will take  
450 place or as otherwise specified by the city or county in an approved  
451 Wetland Mitigation Bank.

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2. A Water Quality Resource Area Mitigation Plan application shall contain the following information:

(a) A description of adverse impacts that will be caused as a result of development;

(b) A description of at least two mitigation alternatives;

(c) An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized;

(d) A list of all responsible parties including, but not limited to the owner, applicant, contractor or other persons responsible for work on the development site;

(e) A Water Quality Resource Area Mitigation Plan which includes the following:

(1) A map showing where the specific mitigation activities will occur;

(2) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All instream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife instream timing schedule.

(3) Proof that a deed restriction has been placed on the property where the mitigation is to occur which ensures that the mitigation area will be protected in perpetuity.

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Table 1

WATER QUALITY RESOURCE AREA REQUIREMENTS

EXISTING CONDITION OF WATER QUALITY RESOURCE AREA	REQUIREMENTS IF WATER QUALITY RESOURCE AREA REMAINS UNDISTURBED DURING CONSTRUCTION	REQUIREMENTS IF WATER QUALITY RESOURCE AREA IS DISTURBED DURING CONSTRUCTION
<p><u>Good Existing Corridor:</u> Combination of trees, shrubs and groundcover are 80% present, and there is more than 50 percent tree canopy coverage in the vegetated corridor or existing native wetland system.</p>	<p>Provide certification by registered professional engineer, landscape architect, or biologist or other person trained or certified in riparian or wetland delineation that vegetated corridor meets the standards of this ordinance.</p> <p>Inventory and remove debris and noxious materials.</p>	<p>Prior to construction, a biologist or landscape architect shall prepare and submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to:</p> <ul style="list-style-type: none"><li>• development (e.g. sediments, temperature and nutrients),</li><li>• sediment control</li><li>• temperature control</li><li>• or addressing any other condition that may have caused the Protected Water Feature to be listed on DEQ's 303 (d) list.</li></ul> <p>Inventory and remove debris and noxious materials.</p>

**Marginal Existing Vegetated Corridor:**

Combination of trees, shrubs and groundcover are 80% present, and 25-50 percent canopy coverage in the vegetated corridor.

Provide certification by registered professional engineer, landscape architect, or biologist or other person trained or certified in riparian or wetland delineation that vegetated corridor meets the standards of this ordinance.

Inventory and remove debris and noxious materials.

Vegetate disturbed and bare areas with, non-nuisance plantings from Native Plants List.

Inventory and remove debris and noxious materials.

Revegetate with native species using a City/County approved plan developed to represent the vegetative composition which would naturally occur on the site. Seeding may be required prior to establishing plants for site stabilization.

Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants which do not survive is required until vegetation representative of natural conditions is established on the site.

Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List.

Inventory and remove debris and noxious materials.

**Degraded Existing Vegetated Corridor:**

Less vegetation and canopy coverage than Marginal Vegetated Corridors, and/or greater than 10 percent surface coverage of any non-native species.

Vegetate bare areas with plantings from approved Native Plant List.

Remove non-native species and revegetate with plantings from approved Native Plants List.

Inventory and remove debris and noxious materials.

Vegetate disturbed and bare areas with appropriate plants from Native Plants List.

Remove non-native species and revegetate with non-nuisance plantings from Native Plants List.

Plant and seed to provide 100 percent surface coverage.

Restore and mitigate according to approved plan using non-nuisance plantings from Native Plants List.

Inventory and remove debris and noxious materials.

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**Section 4. Flood Management**

*(Note: The City or County's existing Flood Plain Ordinances should be included in this section. Careful redrafting should be employed to insure that there are no conflicts, and that the stricter language prevails. Some cities will want to exclude some flood plains from the stricter requirements of this ordinance, for example, where the downtown area encompasses a flood plain. Minimum Federal Emergency Management Agency (FEMA) standards allow unrestricted fill and development as long as the area is elevated or floodproofed. In some limited cases, the more lax FEMA standards should apply to those areas that are in the flood plain, but where development and fill will be unrestricted. Depending on the type of ordinance existing, some of these sections may be redundant. Local jurisdictions should use FEMA floodway standards or adopt them into their code if it is not currently being used.)*

A. This Section applies to Flood Management Areas which are part of the Water Quality and Flood Management Area Overlay Zone as delineated on the Water Quality and Flood Management Area Map attached and incorporated by reference as a part of this ordinance. This Section applies in addition to the rules regulating the Water Quality Resource Areas in Section 3.

B. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain the functions and values of floodplains such as allowing for the storage and conveyance of stream flows through their natural systems.

C. The Floodplain Management Areas regulated by this ordinance are:

1. All land contained within the 100 year Floodplain as shown on the official Federal Emergency Management Agency maps;
2. All land within the area shown as Flood Area on the official Federal Emergency Management Agency maps;
3. All lands which have physical or documented evidence of flooding within recorded history. Jurisdictions shall use the most recent and technically accurate information available to determine the historical flood area such as the aerial photographs of the 1996 flooding and digitized flood elevation maps; and
4. All lands in the floodway as shown on the official Federal Emergency Management Agency maps.

539 D. All development, excavation and fill in the Floodplain shall conform to the  
540 following balanced cut and fill standards:

- 541
- 542 1. No net fill in any floodplain is allowed. All fill placed in a  
543 floodplain shall be balanced with an equal amount of soil material  
544 removal;
- 545
- 546 2. Excavation areas shall not exceed fill areas by more than 50  
547 percent of the square footage;
- 548
- 549 3. Any excavation below bankful stage, shall not count toward  
550 compensating for fill since these areas would be full of water in the winter  
551 and not available to hold stormwater;
- 552
- 553 4. Excavation to balance a fill shall be located on the same parcel as  
554 the fill unless it is not reasonable or practicable to do so. In such cases,  
555 the excavation shall be located in the same drainage basin and as close as  
556 possible to the fill site, so long as the proposed excavation and fill will not  
557 increase flood impacts for surrounding properties as determined through  
558 hydrologic and hydraulic analysis.

559

560 E. The excavated area must meet the following excavation grade design  
561 standards:

- 562
- 563 1. For excavated areas identified by the city or county to remain dry  
564 in the summer, such as parks or mowed areas, the lowest elevation shall be  
565 at least 6 inches above the winter "low water" elevation, and sloped at a  
566 minimum of two percent towards the Protected Water Feature. One  
567 percent slopes will be allowed in areas of \_\_\_ acres or less;
- 568
- 569 2. For excavated areas identified by the city or county to remain wet  
570 in the summer, such as a constructed wetland, the grade shall be designed  
571 not to drain into the Protected Water Feature.

572

573 F. Minimum finished floor elevations must be at least one foot above the  
574 design flood height or highest flood of record, whichever is higher, for new  
575 habitable structures in the Flood Area.

576

577 G. Short-term parking in the floodplain may be located at an elevation of no  
578 more than one foot below the ten-year floodplain. Long-term parking in the flood  
579 plain may be located at an elevation of no more than one foot below the 100-year  
580 floodplain so long as the parking facilities do not occur in a Water Quality  
581 Resource Area.

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H. New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to raise the floodplain. All culvert crossings shall be oriented at 30 degrees of perpendicular to a Protected Water Feature. Bridges shall be used instead of culverts wherever practicable.

I. The following uses and activities are not subject to the balanced cut and fill standards of Subsection D:

1. Excavation and fill required to plant any new trees or vegetation;
2. Excavation and fill required for the construction of structures and other facilities specifically designed to reduce or mitigate flood impacts and improve water quality;
3. Restoration or enhancement of flood plains, riparian areas, wetland, upland and streams that meet federal and state standards. These activities are exempt from all provisions of Section 4.

#### Section 5. Density Transfers

A. The purpose of this section is to allow density accruing to portions of a property within the Water Quality and Flood Management Area Overlay Zone to be transferred to other portions of the property outside the overlay zone.

B. Development applications which request a density transfer must provide the following information:

1. A map showing the net buildable area to which the density will be transferred.
2. Calculations justifying the requested density increase.

C. Density transfers shall be allowed if the applicant demonstrates compliance with the following standards:

1. The density of the buildable area is not increased to more than two (2) times the permitted density of the underlying zone. Fractional units shall be rounded down to the next whole number.
2. Minimum density standards will not increase due to the density transfers.

626 D. The area of land contained in a Water Quality Resource Area and  
627 Protected Water Feature may be excluded from the calculations for determining  
628 compliance with minimum density requirements of the zoning code.  
629

630 **Section 6. Erosion Prevention and Sediment Control**  
631

632 A. The requirements of this Section shall be carried out by the  
633 (Bureau/Department/Director).  
634

635 B. The purpose of this section is to require erosion prevention measures and  
636 sediment control practices for all development inside and outside the Water  
637 Quality and Flood Plain Management Area Overlay Zone during construction to  
638 prevent and restrict the discharge of sediments, and to require final permanent  
639 erosion prevention measures that may include landscaping after development is  
640 completed. Erosion prevention techniques shall be designed to protect soil  
641 particles from the force of water and wind so that they will not be transported  
642 from the site. Sediment control measures shall be designed to capture soil  
643 particles after they have become dislodged by erosion and attempt to retain the  
644 soil particles on site.  
645

646 C. Prior to, or contemporaneous with, approval of an application that may  
647 cause temporary or permanent erosion on a development site, the applicant must  
648 obtain an Erosion and Sediment Control Permit.  
649

650 D. Erosion which occurs on a development site which does not have an  
651 Erosion and Sediment Control Permit or which results from a failure to comply  
652 with the terms of such a Permit constitutes a violation of this ordinance.  
653

654 E. An application for an Erosion and Sediment Control Permit shall include  
655 an Erosion and Sediment Control Plan which contains methods and interim  
656 measures to be used during and following construction to prevent or control  
657 erosion. The plan shall demonstrate the following:  
658

659 1. The Erosion and Sediment Control Plan meets the requirements of  
660 the *Erosion Prevention and Sediment Control Plans, Technical Guidance*  
661 *Handbook (Handbook)* attached and incorporated by reference as part of  
662 this ordinance;  
663

664 2. The Erosion and Sediment Control Plan will:  
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666 (a) Prevent erosion by employing prevention practices such as  
667 non-disturbance, construction schedules, erosion blankets and  
668 mulch covers; or  
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(b) Where erosion cannot be completely avoided, the sediment control measures will be adequate to prevent erosion from entering the public stormwater system, surface water system, Protected Water Features and Water Quality Resource Areas; and

(c) Will allow no more than a ten percent cumulative increase in natural stream turbidities, as measured relative to a control point immediately upstream of the turbidity causing activity. However, limited duration activities necessary to address an emergency or to accommodate essential dredging, construction or other legitimate activities and which cause the standard to be exceeded may be authorized provided all practicable turbidity control techniques have been applied. OAR 340-41-205 and 340-41-445.

3. The applicant will actively manage and maintain erosion control measures and utilize techniques described in the Permit to prevent or control erosion during and following development. Erosion and sediment control measures required by the Permit shall remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures;

4. No mud, dirt, rock or other debris will be deposited upon a public street or any part of the public stormwater system, surfacewater system, Protected Water Feature or Water Quality Resource Area, or any part of a private stormwater system or surfacewater system which drains or connects to the public stormwater or surfacewater system.

F. The city or county may inspect the development site to determine compliance with the Erosion and Sediment Control Plan and Permit.

G. If the Director finds that the facilities and techniques approved in an Erosion and Sediment Control Plan and Permit are not sufficient to prevent erosion, the Director shall notify the permittee. Upon receiving notice, the permittee shall immediately install interim erosion and sediment control measures as specified in the *Handbook*. Within three days from the date of notice, the permittee shall submit a revised Erosion and Sediment Control Plan to the city or county. Upon approval of the revised plan and issuance of an amended Permit, the permittee shall immediately implement the revised plan.

**Section 7. Variances**

A. The purpose of this Section is to ensure that compliance with this ordinance does not cause unreasonable hardship. To avoid such instances, the requirements of this ordinance may be varied. Variances are also allowed when strict application of this ordinance would deprive an owner of all economically

715 viable use of land. This Section applies in addition to the standards governing  
716 proposals to vary the requirements of the base zone.

717  
718 B. To vary from the requirements of Sections 3-6 the applicant must  
719 demonstrate the following:

720  
721 1. The variance is the minimum necessary to allow the proposed use  
722 or activity;

723  
724 2. The variance does not increase danger to life and property due to  
725 flooding or erosion;

726  
727 3. The impact of the increase in flood hazard which will result from  
728 the variance will not prevent the city or county from meeting the  
729 requirement of this ordinance. In support of this criteria the applicant  
730 shall have a qualified professional engineer document the expected  
731 height, velocity and duration of flood waters, and estimate the rate of  
732 increase in sediment transport of the flood waters expected both  
733 downstream and upstream as a result of the variance;

734  
735 4. The variance will not increase the cost of providing and  
736 maintaining public services during and after flood conditions so as to  
737 unduly burden public agencies and taxpayers;

738  
739 5. Without the variance, the applicant would be denied all  
740 economically viable use of the subject property.

741  
742 C. If a variance is granted to reduce the width of a portion of the Water  
743 Quality Resource Area, the variance shall conform to the following:

744  
745 1. The maximum allowable encroachment shall be 15 feet on each  
746 side of a Primary Protected Water Feature, except as allowed in Section 3  
747 F;

748  
749 2. No more than 25 percent of the length of the Water Quality  
750 Resource Area within a development site can be less than 30 feet in width;

751  
752 3. In either case, the average width of the Water Quality Resource  
753 Area shall be a minimum of 30 feet for Secondary Protected Water  
754 Features, a minimum of 50 feet for Primary Protected Water Features; or  
755 200 feet in areas with slopes greater than 25%. The stream shall be  
756 allowed to meander within this area, but in no case shall the stream be less  
757 than 10 feet from the outer boundary of the Water Quality Resource Area.  
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*(Note: this was an advisory vote by the Water Resources Policy Advisory Committee and will be discussed further).*

**Section 8. Map Errors**

*(Note: It is recognized that there will be mapping errors in the Title 3 map. Whether these are errors of omission or errors where the map shows a resource where a resource does not exist, the jurisdiction shall develop and implement a public process whereby property owners, local stream groups, watershed councils and the affected public may submit suggested mapping corrections through a full and open public process. Process for correction of map errors should be included unless the general map error provision of the zoning code is sufficient)*

**Section 9. Enforcement**

A. No person shall engage in or cause to occur any development, use or activity which fails to meet the standards and requirements of this ordinance. Development, uses or activities which are not specifically allowed within the Water Quality Resource Area are prohibited. All activities which may cause temporary or permanent erosion from a property or site proposed for development are prohibited prior to the applicant obtaining an Erosion and Sediment Control Permit.

B. In addition to other powers the city or county may exercise to enforce this ordinance, the city or county may:

1. Establish a cooperative agreement between the (enforcement authority) and the applicant (or responsible party).
2. Issue a stop work order.
3. Issue a code violation citation to the permittee, contractor or person responsible for carrying out development work, subject to a civil penalty for each citation issued and providing for administrative review and appeal.
4. Cause an action to be instituted in a court of competent jurisdiction.
5. Authorize summary abatement and subsequent recovery of costs incurred by the city or county.

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C. Upon notification by the city or county of any violation of this ordinance the applicant, permittee, contractor or person responsible for carrying out development work may be required to immediately install emergency erosion and sediment control measures which comply with Section 6.

808 **Section 10. Definitions**

809  
810 **Definitions.** Unless specifically defined below, words or phrases used in this section  
811 shall be interpreted to give them the same meaning as they have in common usage and to  
812 give this classification its most reasonable application.

813  
814 **Architect -** An architect licensed by the State of Oregon.

815  
816 **Bankful Stage -** Defined in OAR 141-85-010 (definitions for Removal/Fill Permits) as  
817 the stage or elevation at which water overflows the natural banks of a stream or other  
818 waters of the state and begin to inundate upland areas. In the absence of physical  
819 evidence, the two-year recurrent flood elevation may be used to approximate the bankful  
820 stage.

821  
822 **Created Wetlands -** Those wetlands developed in an area previously identified as a non-  
823 wetland to replace, or mitigate wetland destruction or displacement. A created wetland  
824 shall be regulated and managed the same as an existing wetland.

825  
826 **Constructed Wetlands -** Those wetlands developed as a water quality or quantity  
827 facility, subject to change and maintenance as such. These areas must be clearly defined  
828 and/or separated from naturally occurring or created wetlands.

829  
830 **Department of Environmental Quality (DEQ) Water Quality Standards -** The  
831 numerical criteria or narrative condition needed in order to protect an identified beneficial  
832 use.

833  
834 **Development -** Alteration of the land surface by:

- 835  
836 1. Grading, filling, cutting or other earth-moving activity involving more  
837 than fifty (50) cubic yards on any lot;  
838  
839 2. The removal of three or more living trees of over six (6) inches  
840 diameter at breast height (DBH), or the removal of five percent (5%)  
841 of the total number of living (or dead trees) over six (6) inches DBH,  
842 whichever is greater, on any lot within any one (1) calendar year, or  
843 any form of commercial logging;  
844  
845 3. Construction of a building, road, driveway, parking area, or other  
846 structure;  
847  
848 4. Culverting of any stream;  
849  
850 5. Development does not include any activity in the protected water  
851 feature below ordinary mean low water.  
852

853 Development Site - [       ]  
854  
855 Division of State Lands Wetland Determinations - As defined in OAR 141-86-200  
856 (definitions for Local Wetland Inventory Standards and Guidelines), "wetland  
857 determination" means identifying an area as wetland or non-wetland.  
858  
859 Emergency Activities - Those activities that are needed to respond to an unexpected  
860 situation or sudden occurrence of a serious and urgent nature that demands immediate  
861 action, such as a burst sewer line.  
862  
863 Engineer - A registered professional engineer licensed by the State of Oregon.  
864  
865 Engineering Geologist - A registered professional engineering geologist licensed by the  
866 State of Oregon.  
867  
868 Erosion - Erosion is the movement of soil particles resulting from actions of water or  
869 wind.  
870  
871 Floodway Fringe - The area of the floodplain, lying outside the floodway, which does  
872 not contribute appreciably to the passage of flood water, but serves as a retention area.  
873  
874 Floodplain - The land area identified and designated by the United States Army Corps  
875 of Engineers, the Oregon Division of State Lands, FEMA, or (identify name)  
876 county/city that has been or may be covered temporarily by water as a result of a storm  
877 event of identified frequency. It is usually the flat area of land adjacent to a stream or  
878 river formed by floods.  
879  
880 Floodway - The portion of a watercourse required for the passage or conveyance of a  
881 given storm event as identified and designated by the (identify name) City/County  
882 pursuant to this Ordinance. The floodway shall include the channel of the watercourse  
883 and the adjacent floodplain that must be reserved in an unobstructed condition in order to  
884 discharge the base flood without flood levels by more than one foot.  
885  
886 Long-term Parking - [       ]  
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888 Lot - Lot means a single unit of land that is created by a subdivision of land. (ORS  
889 92.010(3)).  
890  
891 ODFW Construction Standards - Oregon Department of Fish and Wildlife construction  
892 guidelines for building roads, bridges and culverts or any transportation structure within  
893 a waterway.  
894  
895 Open Space - Land that is undeveloped and that is planned to remain so indefinitely.  
896 The term encompasses parks, forests and farm land. It may also refer only to land zoned  
897 as being available to the public, including playgrounds, watershed preserves and parks.



898  
899 **Ordinary Mean High Water Line - As defined in OAR 141-82-005 as the line on the**  
900 **bank or shore to which water ordinarily rises in season; synonymous with Mean High**  
901 **Water (OAR 274.005).**  
902  
903 **Ordinary Mean Low Water Line - As defined in OAR 141-82-005 as the line on the on**  
904 **the bank or shore to which water ordinarily recedes in season; synonymous with Mean**  
905 **Low Water (OAR 274.005).**  
906  
907 **Owner or Property Owner - The person who is the legal record owner of the land, or**  
908 **where there is a recorded land sale contract, the purchaser thereunder.**  
909  
910 **Parcel - Parcel means a single unit of land that is created by a partitioning of land. (ORS**  
911 **92.010(7)).**  
912  
913 **Plans - The drawings and designs which specify construction details as prepared by the**  
914 **Engineer.**  
915  
916 **Post-Construction Erosion Control - Consists of re-establishing ground cover or**  
917 **landscaping prior to the removal of temporary erosion control measures.**  
918  
919 **Protected Water Features -**  
920  
921 *Primary Protected Water Features shall include:*  
922  
923 a) wetlands; and  
924  
925 b) rivers, streams, and drainages downstream from the point at which 100  
926 acres or more are drained to that water feature (regardless of whether it carries  
927 year-round flow); and  
928  
929 c) streams carrying year-round flow; and  
930  
931 d) springs which feed streams and wetlands and have year-round flow.  
932  
933 *Secondary Protected Water Features shall include streams and seeps downstream*  
934 *of the point at which 50 acres are drained and upstream of the point at which 100*  
935 *acres are drained to that water feature (regardless of whether it carries year-round*  
936 *flow).*  
937  
938 **Redevelopment - Development in which the estimated value of the proposed**  
939 **improvements as shown on the building permit is more than fifty percent of the assessed**  
940 **value of the existing improvements on the property as shown in the County tax assessor**  
941 **records.**  
942

943 **“Resource” versus “Facility”** - The distinction being made is between a “resource”, a  
944 functioning natural system such as a wetland or stream; and a “facility” which refers to a  
945 created or constructed structure or drainage way that is designed, constructed and  
946 maintained to collect and filter, retain, or detain surface water run-off during and after a  
947 storm event for the purpose of water quality improvement.  
948  
949 **Riparian** - Those areas associated with streams, lakes and wetlands where vegetation  
950 communities are predominately influenced by their association with water.  
951  
952 **Set-back Adjustment** - The placement of a building a specified distance away from a  
953 road, property line or protected resource.  
954  
955 **Short-term Parking** - [       ]  
956  
957 **Statewide Planning Goal 5** - Oregon’s statewide planning goal that addresses open  
958 space, scenic and historic areas, and natural resources. The purpose of the goal is to  
959 conserve open space and protect natural and scenic resources.  
960  
961 **Statewide Planning Goal 6** - Oregon’s statewide planning goal that addresses air, water  
962 and land resources quality to “maintain and improve the quality of the air, water and land  
963 resources of the state” as implemented by the Land Conservation and Development  
964 Commission (LCDC).  
965  
966 **Statewide Planning Goal 7** - Oregon’s statewide planning goal that addresses areas  
967 subject to natural disasters and hazards to “protect life and property from natural disasters  
968 and hazards” as implemented by the Land Conservation and Development Commission  
969 (LCDC).  
970  
971 **Steep slopes** - Steep slopes are those slopes that are equal to or greater than 25%. Steep  
972 slopes have been removed from the “buildable lands” inventory and have not been used  
973 in calculations to determine the number of acres within the urban growth boundary which  
974 are available for development.  
975  
976 **Streams** - A river or creek that carries flowing surface water, including perennial stream  
977 and intermittent streams with defined channels. Streams do not include excluding  
978 manmade irrigation and drainage channels.  
979  
980 **Structure** - A building or other major improvement that is built, constructed or installed,  
981 not including minor improvements, such as fences, utility poles, flagpoles or irrigation  
982 system components, that are not customarily regulated through zoning codes.  
983  
984 **Top of Bank** - The same as “bankful stage” defined in OAR 141-85-010(2).  
985  
986 **Visible or Measurable Erosion** - Visible or measurable erosion includes, but is not  
987 limited to:

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- a. Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
- b. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
- c. Earth slides, mud flows, earth sloughing, or other earth movement which leaves the property.

**Water Quality and Floodplain Management Area - The area that identifies where the Water Quality and Floodplain Management Area Overlay Zone is applied.**

**Water Quality Facility - Any structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales, and ponds which are maintained as stormwater quality control facilities.**

**Watershed - A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.**

**Wetlands - Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions.**

**Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 1987.**

## STAFF REPORT

### INFORMATIONAL BRIEFING AND PRESENTATION OF ORDINANCE No. \_\_\_\_ TO AMEND TITLE 3 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN, AND AMEND THE REGIONAL FRAMEWORK PLAN, APPENDIX A, AND ADOPT THE MODEL ORDINANCE AND MAP

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Date: February 6, 1998

Presented by: Rosemary Furfey

#### PURPOSE OF THIS REPORT

- The purpose of this report is to present five products that the Metro Council requested to be produced in order for *Title 3: Water Quality and Floodplain Management Conservation* in the *Urban Growth Management Functional Plan (UGMFP)* to come into effect. (For the purposes of this report and Metro's public involvement activities, Title 3 is called the Stream and Floodplain Protection Plan.) This informational report describes each product, the process by which it was developed, and analyzes key policy issues related to each product. The following products will be discussed:
  - Attachment 1: Discussion Draft Ordinance No. \_\_\_\_
  - Attachment 2: Adopted Title 3 Performance Standards from UGMFP dated 11/96
  - Attachment 3: Strike Out Version of Revised Performance Standards
  - Exhibit A: Revised Stream and Floodplain Protection Plan Performance Standards
  - Exhibit B: Title 10 Definitions
  - Exhibit C: Stream and Floodplain Protection Plan Model Ordinance
  - Exhibit D: Stream and Floodplain Protection Plan Maps

#### BACKGROUND

The *Metro Charter* mandates that Metro adopt elements of the *Regional Framework Plan* that address issues of regional significance, particularly as they relate to growth management and land use planning. Water quality and flood protection are issues of regional significance because they cross jurisdictional boundaries, affect all parts of the Metro region and can be addressed, in part, by regional, watershed-wide land use management actions.

Chapter 11 in the *Regional Urban Growth Goals and Objectives (RUGGOs)* identified the need to address water quality and flood management through coordinated, multi-objective strategies carried out by Metro and its regional partners. The RUGGOs

identified the important policy connection between protecting the region's water quality and reducing flood damage, and the Stream and Floodplain Protection Plan which is an integral component to managing the region's growth. Building upon this policy, the *Urban Growth Management Functional Plan (UGMFP)*, adopted by the Metro Council in November, 1996, included *Title 3: Water Quality and Floodplain Management Conservation* which sets performance standards to meet water quality and flood management goals. The Stream and Floodplain Protection Plan, i.e. Title 3, did not come into affect with the rest of the UGMFP in February, 1997, because the Metro Council required that two products be developed and adopted: 1) a model ordinance and 2) a map showing the areas affected by the Plan.

The Water Resources Policy Advisory Committee (WRPAC) began work on the model ordinance and maps in September, 1996 and completed both products one year later. In addition, a peer reviewed scientific paper was written by staff that substantiated the performance standards. In September, 1997 a joint committee was then formed consisting of members from the Metro Technical Advisory Committee (MTAC) and WRPAC to address outstanding issues and differences between the two committees. The joint committee completed its work at the end of December, 1997 and its product, the draft Revised Performance Standards, is presented in this report and is being reviewed by WRPAC, MTAC and the Metro Policy Advisory Committee (MPAC).

The Growth Management Department developed a public outreach strategy in November, 1997 to educate the public and seek their comments on the Stream and Floodplain Protection Plan's draft model ordinance, maps and revised performance standards. The strategy included:

- producing public outreach materials such as slide shows, printed materials, and visual displays;
- developing a speakers bureau, which has presented the slide show to interested groups and local governments;
- conducting four workshops around the region;
- extensive media coverage through newspapers, radio and cable access; and
- presentations to targeted groups and interested parties.

A written report on the public involvement program and a summary of comments received to date will be presented at the Growth Management Committee meeting on February 17, 1997.

## FACTUAL ANALYSIS

### Current Conditions

Metro's June, 1997 *Policy Analysis and Scientific Literature Review Report* for Title 3 of the UGMFP documents the nature of water resource and flooding problems in the Metro region. As witnessed in the February 1996 flood, homes and businesses built in the floodplain sustained serious economic damage, to say nothing of the human hardship experienced. Also poor water quality appears in many urban and urbanizing streams with

greater frequency in recent years. Of those streams where monitoring information is available, many exceed the state standards for turbidity, temperature, dissolved oxygen and fecal coliform (bacteria) Finally, the lack of erosion prevention and sediment control at construction sites results in increased sediment loadings to streams and wetlands, further reducing water quality.

Examples of regional water quality and flooding problems include:

- Development in the floodplain has resulted in damage to infrastructure and threats to human health and safety. In the Metro region, there are an estimated 8,840 units in or close to the floodplain, and approximately 1,080 household units were built in or close to the floodplain between 1992 and 1995. The February, 1996 flood and landslides resulted in almost \$60 million dollars worth of damage in the entire tri-county region. An estimated 189 household units built since 1992 in the Metro region were inundated with flood waters.
- The Oregon Department of Environmental Quality (DEQ) has identified 34 stream/river segments (213 miles) in the Metro region as water quality limited or not meeting water quality standards. Metro has mapped these stream segments. DEQ suspects other waterbodies in the Metro region have water quality problems, but corroborating data are lacking due to insufficient monitoring stations and limited resources. Therefore, the extent of the water quality problems may be greater than indicated by the DEQ.
- Some streams have disappeared entirely due to the historic practice of placing streams in pipes or culverts during development. The Metro "Disappearing Streams" map will be presented at the informational presentation to illustrate the approximately 400 miles of streams throughout the region that have been lost.
- Without proper controls installed and maintained at construction site, clearing and grading at the sites cause sediment to be deposited in streams and wetlands, which can cause severe water quality problems. Erosion is the movement of soil particles resulting from the actions of water or wind. National figures reveal that uncontrolled construction site sediment loads have been reported to be at a rate of 35 to 45 tons per acre per year, compared to the rate from undisturbed woodlands which is typically less than 1 ton per year. Each year in the United States, an estimated 80 million tons of sediment are washed from construction sites into receiving streams and lakes. The estimated cost to replace this amount of topsoil is approximately \$41.6 billion per year. Erosion control programs vary around the region, but there are currently no minimum erosion control standards in place regionwide.

The Stream and Floodplain Protection Plan is an important first step for Metro to begin addressing the region's water quality and flood damage problems. It must be emphasized, however, that the Plan is not the solution to water quality and flooding problems. It sets minimum regional standards for the protection of vegetation along rivers, streams and

wetlands, controls development in the floodplain and requires erosion prevention and control measures region-wide. In addition to these important measures, there needs to be comprehensive watershed-wide stormwater management, watershed planning and analysis for regionally significant fish and wildlife habitat conservation. These tasks have been identified as important next steps for Metro to investigate.

Ordinance Amending the Urban Growth Management Functional Plan (UGMFP) and the Regional Framework Plan, and Adopting the Model Ordinance and Map (Attachment 1)

The discussion draft ordinance to amend the UGMFP is attached for committee review. It enables the Metro Council to amend Ordinance No. 96-647C to amend Title 3 in the UGMFP and adopt the model ordinance and map. It also amends Ordinance No. 97-715B, Attachment 1, of the Regional Framework Plan to amend the performance standards in the UGMFP. The significant outstanding issue raised by the adoption of this ordinance is the timing of adoption by local cities and counties. The Stream and Floodplain Protection Plan would not take effect until 90 days after Council adoption. The adopted version of Title 3 states that local jurisdictions then have 24 months to ensure that their local code is in compliance with the performance standards. There is now a Council proposal to reduce this time to one year so that Title 3's adoption schedule is more in line with the rest of the UGMFP compliance schedule.

Amendments to the Title 3 Performance Standards in the Urban Growth Management Functional Plan (Exhibit A)

A series of amendments are being proposed for the adopted Title 3 performance standards. These amendments represent information developed during the writing of the model ordinance that the joint WRPAC/MTAC committee felt would improve the clarity, objectivity and understanding of the performance standards. The proposed amendments in Exhibit A were used in the public involvement workshops in January 1998 and are being reviewed by MPAC, MTAC and WRPAC. MPAC and WRPAC may each have further amendments to present to the Council prior to final adoption.

Amendments to Title 10 (Exhibit B)

A list of proposed new definitions is proposed to amend Title 10. A draft list of definitions will be presented at the Growth Management Committee meeting on February 17, 1998.

Stream and Floodplain Protection Plan Model Ordinance (Exhibit C)

The Stream and Floodplain Protection Plan Model Ordinance was developed by the Water Resources Policy Advisory Committee (WRPAC) over the course of one year, including intense discussion, research and debate regarding how to best achieve the performance standards. A technical paper entitled *Policy Analysis and Scientific Literature Review* (Metro, 1997) was written by Metro staff and peer reviewed by scientists and

practitioners in the Pacific Northwest. This paper analyzed the performance standards in the context of current scientific literature and federal and state policy. The paper concluded that the Title 3 performance standards are substantiated by current scientific literature. The model ordinance, which is enclosed at Exhibit C, provides specific code language which can be used by local cities and counties to achieve the performance standards. The draft version of the model code will be revised as needed to be consistent with whatever version of the performance standards is adopted.

#### Stream and Floodplain Protection Plan Maps (Exhibit D)

The Stream and Floodplain Protection Plan maps will be presented at the Growth Management Committee meeting. The maps have been developed over the last year in coordination with local jurisdictions which have thoroughly reviewed the maps for accuracy and provided additional data when available and needed. The draft "baseline" maps are being used in the public outreach process. A map change request form has been developed for citizens, landowners and jurisdictions to request a change to the map. All requests will be compiled, evaluated by staff and recommendations made to the Council prior to final adoption of the maps.

#### Budget Implications

There are no budget implications from this report because it is informational in nature.

#### Next Steps

Staff will report on the latest advisory committee actions and recommendations to the Metro Council at the Growth Management Committee meeting. Based on direction given by the Growth Management Committee, staff will compile the recommendations from the advisory committees for Metro Council review and action.





Wayne Chiu 98.

022698c-01

Feb '98 Draft

022698c-02

Portland can build a lightrail to Oregon City!

(and so much more)

L. O. T. I.

LOOP

ORIENTED

TRANSIT-MALL

INTERMODAL

trackless trolley *Lightrail* STREETCAR RAIL.

*HIGH-SPEED RAIL* *Commuter-rail* AMTRAK

**STERNWHEELER**

*Watertaxi*

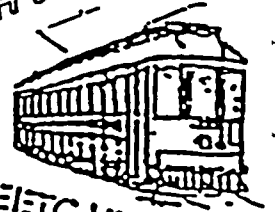
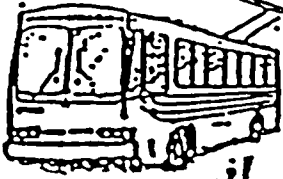
**the bus desiele**

trackless trolley

Portland can build a lightrail to Oregon City!

(and so much more.)

HIGH-SPEED RAIL



L. O. T. i.

lightrail

AMTRAK

STREETCAR RAIL

Commuter-rail

The 3 basic elements of the LOTi proposal:

1. Eastbank lightrail alignment, SPRR corridor, Rose Quarter to Oregon City.
2. Trackless Trolley electric buses circulating from the Rose Quarter, across the Steel Bridge, up & down the Transit-mall.
3. Streetcar line extension of the Central City Streetcar from 10th & 11th Avenues, across the Hawthorne Bridge, directly to a Water Avenue turn-around, with special access to OMSI.

## Loop Oriented Transit-mall Intermodal

A "Trackless Trolley Loop-Circulator" for Portlands' Transit mall, running from a suitable street at the extended southern end, directly to Union Station, across the Steel Bridge to the Rose Quarter.

LOTi vehicles, similar to Seattles' standard and articulated Trolley-buses, eliminate the expensive, disruptive demolition and track-laying process.

These electrical buses cooperate with diesel buses. Current bus routes need not be displaced off the mall to other streets downtown.

LOTi creates conveniently regular transferring on the Mall, to and from the Rose Quarter transfer center.

A conveniently often transfer vehicle operating from the Rose Quarter serves downtown better, and when combined with an Eastbank lightrail alignment, creates there a true, regional, rapid transit, crossroads-hub.

In this way we create less noise & air pollution on the Mall by reducing, not displacing the number of diesel buses there. It accommodates "trans-Mall" users more frequently than lightrail and adds an important transfer vehicle at the Rose Quarter. It has the expandability to include other modes of transportation and recognizes the importance of the Eastbank corridor as a regional consideration. LOTi corrects a major failing of the Tri-Met system: It is the delay waiting for a transfer which transit users object to, not simply transferring. LOTi accomplishes this end most effectively on the central segment of the system.

Portland can build a lightrail to Oregon City  
and so much more

Portland's South/North lightrail proposals are now led by three players. Metro, Buckman & AORTA. The South/North rail project should be built this way! No! This way! No! It is going to be built Metros' way, and only Metros' way! These players are not alone in proposing projects. The route from Clackamastown Center north via I-205 to Gateway has been proposed by many people. Many see the Glen Jackson Bridge route into Clark County as even more supportable by junctioning it into the airport extension. A growing number of people are within no-build groups who have lost faith in the project as laid-out by Metro, oppose densifying stable neighborhoods, or oppose expensive, overly bureaucratic mass transit projects, altogether. They are proposing *anything* but lightrail.

I am not a no-builder. Lightrail can be an ideal component to any mass transit system. My outspoken opposition to the alignment Metro has concocted is based on thorough & critical analysis. I award Metro with a grade of D+ for their so-called "cost-cutting" measures. The + for reassuring the public that lightrail can work, but the less than passing grade for nearly every alteration to the project which leaves it essentially unchanged. The project is now actually worse after Measure 32.

AORTA contends that the costs of routing lightrail on the Transit Mall do not have enough return to justify the investment; that the operational mingling there between lightrail and buses is questionable; that this extremely expensive lightrail plan alone will do nothing to reduce current automobile dependency. I agree

Buckman Neighborhood Association contends there is greater need for transit investments on the east side of the Willamette. I agree, and add that in order to create an improved transit system for downtown Portland, investment on the eastside is essential.

North Portlanders have had their support turned against them in Metros' long-delayed decision to build along I-5, not on the supported Interstate Avenue and Kenton District. The north extension will have a net loss of transit ridership because it has longer walks to fewer stations for the riders of the #5 busline it replaces. Thus, it effectively leaves the region in the unenviable position of forcing Vancouver to accept the project, despite their voter rejection in 1995, despite other viable options.

The directly affected neighborhoods of Milwaukie, Hector Campbell & Harmony Road voted "no confidence" in their mayor and city council when their concerns about the alignment and subsequent development were officially shrugged off as, "the minority opinion". The Milwaukie Democracy Project recall was a victory for Democracy. It was not a "disaster brought on by non-voting Milwaukie citizens".

The list of blunderous flaws along the entire proposed route is unbelievable. However, with true cooperation, (can you say cooperation?), I believe support can be rebuilt in Milwaukie, Railroad Ave & Harmony Road neighborhoods, North & Northeast Portland, in Vancouver and with the many groups who have no confidence in the planning, related land use development aspects or the shenanigans of politicians.

Since the Spring of 1995, an additional, little known, extensively detailed proposal has been presented before Metro council hearings but has received no response or been given any public attention. It includes the very first lightrail alignment to be considered in 1993 that was then supported by Buckman neighborhood, AORTA and others. Two years after Metros' controversial rejection, this original alignment was resubmitted, incorporating two additional transit modes: streetcars & trackless trolleys. In their appropriate application, these broaden the possibilities of cost containment & public/private partnerships, reduce property displacements of home & business (preservative redevelopment), and increase fundamental transit efficiency.

The 1995 proposal is entitled: LOTi Loop Oriented Transit-Mall Intermodal (pronounced lot E, a derivative of Charlotte, a family name). LOTi defends that the *best* way to serve the Mall is not with lightrail, but with trackless trolleys (thank you Ray Polani), serving the entire length of the extended Mall in a closed loop, to and from the Rose Quarter; defends that the South/North lightrail is *best* routed via Water Ave on the east side of the Willamette, directly to the RoseQuarter, enter the East/West line toward town and return at the Galleria turnaround; and defends that the *best*, first extension of the Central City Streetcar is across the Hawthorne Bridge for superior access to the OMSI and Tom McCall Waterfront Park and act as an east-west transfer and circulator.

LOTi realigns the Milwaukie & Clackamastown segments, serving each more effectively with "spur" streetcar rail systems, leaving the S/N entirely on the Union Pacific rail corridor with a final destination of Oregon City. Cost savings reduce required ridership development. Reaching Oregon City guarantees increased ridership. LOTi has evolved into a phenomenal project encompassing 5-7 logical, practical streetcar lines, 9 trackless trolley lines, 6 lightrail lines, high-speed and commuter-rail potential and several highway improvements including a fine Morrison Bridge/I-5 rebuild, an interesting treatment for the Milwaukie-Powell intersection and rebuilding the Ross Island Bridge "mess" as the best option in the "South Willamette River Crossing Study". Not AORTA, not Buckman, not Metro has developed anything near as extensive a regional proposal as LOTi. Maximum advantage: LOTi. Portland must have a public appraisal of LOTi.

If the future of Portland is to be an "International City", we must increase transit ridership between 3 to 6 times, and increase walk/bike trip generation by 10 times. International cities fund successful rail-oriented mass transit with gasoline taxes 10 times what Americans pay. We should increase our basic gasoline taxes initially 15 to 20 cents and that funding go to mass transit. The reality is that any future electric or hybrid automobile cannot possibly solve the multitude of problems related to auto dependency. The future for Portland has hope, as all American cities can derive hope from some progress in urban design advancing here. But until we admit to the abject failure of the automobile-oriented lifestyle, and begin to build efficient electric mass transit systems whose costs can be kept from "out of control" escalation, build them extensively with an unprecedented cooperation between every single American who can participate in a "New American City Renaissance", we will not be able to stop our precipitous decline of environmental degradation and social disintegration.

## LOTi, the cooperative compromise

The South/North lightrail needs a change. Support must be rebuilt before federal funding will happen. Until the route is realigned significantly, not just trimmed & rearranged, various opponents will dominate and kill the project. It was people who support mass transit, but against the impractical, inefficient & intrusive alignment that brought about the failure of Measure 32.

LOTi offers acceptable alignment changes in all regions where discontent still rages. It has always been much more of a compromise than recent alignment proposals. Downtowns Portland & Milwaukie & Clackamas Town Center are avoided, yet served with lower cost, more appropriate vehicles that have great potential growth patterns, and should attract additional private funding.

Because Oregon City is reached, ridership-related new development is spread over a longer distance. Infill development requirements are lessened; *perhaps* to the degree of an acceptable level. LOTi cost reductions also reduce ridership-related development.

LOTi's Streetcar line at "Clackamastown" initiates a lightrail line northward via the I-205 corridor and the airport lightrail extension into Clark County via the Jackson Bridge. Portland east county needs an investment in transit running north/south; to encourage ridership into the lightrail junctions at Gateway and Clackamastown. East Portland neighborhoods cannot endure the terrible through-commute that every major E/W corridor has become.

LOTi proposes a commuter-rail system via the I-5 corridor. Vancouver would then have a commute system from East Clark County to Vancouver and then into Portland. These 3-6 trainsets would be usable for commuting to Olympia, Salem & other destinations daily. Weekend trips to coastal cities & Eastern Oregon are also an attractive possibility.

LOTi builds much more than a new lightrail line. Much more. Max scale lightrail has reached a limitation that is demonstrably resolved with the addition of streetcar-scale lightrail vehicles. The trolley-bus vehicle on the Transit-Mall, resolves the dilemma of transit improvements where existing bus systems must be preserved.

## BENEFITS:

**Avoids** expensive, controversial bridge crossing of the Willamette.

**Avoids** expensive reconstruction of the Transit Mall.

**Avoids** disruptions to transit service & downtown businesses during construction.

**Avoids** dislocation & dispersal of transit service after construction to 5th, 6th, 10th, & 11th Avenues; proven to be less efficient than the current configuration.

**LOTi** adds 3 streetcar routes which form the beginnings of *planned* future rail extensions.

**Helps** build riverfront improvements on the Eastbank of the Willamette, including "The Promenade".

**QMSI** will be served at its' front entrance rather than its backside parking lot, or not at all.

**Create** at the Rose Quarter, a *true*, regional, rapid transit, crossroads-hub. The LOTi vehicle accepts transfers from bus routes, both Max lines, serves the entire length of the Mall, and eliminates timing & capacity considerations. At the Rose Quarter junction, Max trains "line-up", side-by-side, *under cover*, ( a 10' to 30' entire length transfer). Transferring downtown at Pioneer Courthouse Square, Max trains are 1- 2 blocks apart, *uncovered*, with one street crossing. Downtown train connections and transfers cannot be timed. During rush hours the S/N line can easily enter the E/W line, run downtown and turn around at 11th. The rest of the time (80%), transferring at Rose Quarter, E/W Max can handle the transfers, making both lines more efficient. LOTi arrives downtown sooner than Metro alignments.

**Serves** the Transit Mall more frequently lightrail's 15 minute operating time ( 2-4 minute operating time ).

**Reduces** the number of noisy, polluting diesel buses on the Mall and 10th & 11th Avenues.

**Piggy-backs** investment onto high-speed rail, Amtrak, freight & commuter-rail corridor, a guaranteed, voter-approved destination of Oregon City.

**A trackless trolley extension** to OHSU is both less expensive & technically superior because the steep ascending and especially descending requires greater traction than rail provides for safety reasons.

Reduces the number of "track-wearing" curves between "Clackamastown" and Rose Quarter. LOTi also reduces the number of stops from 23 to 14. This makes the Max vehicle operate "fast-moving" as it is designed to be. **A lightrail that acts like a commuter-rail**. The land use goals are not sacrificed; they are improved by the streetcar line extensions further into redevelopable area, *preservatively, not destructively*.

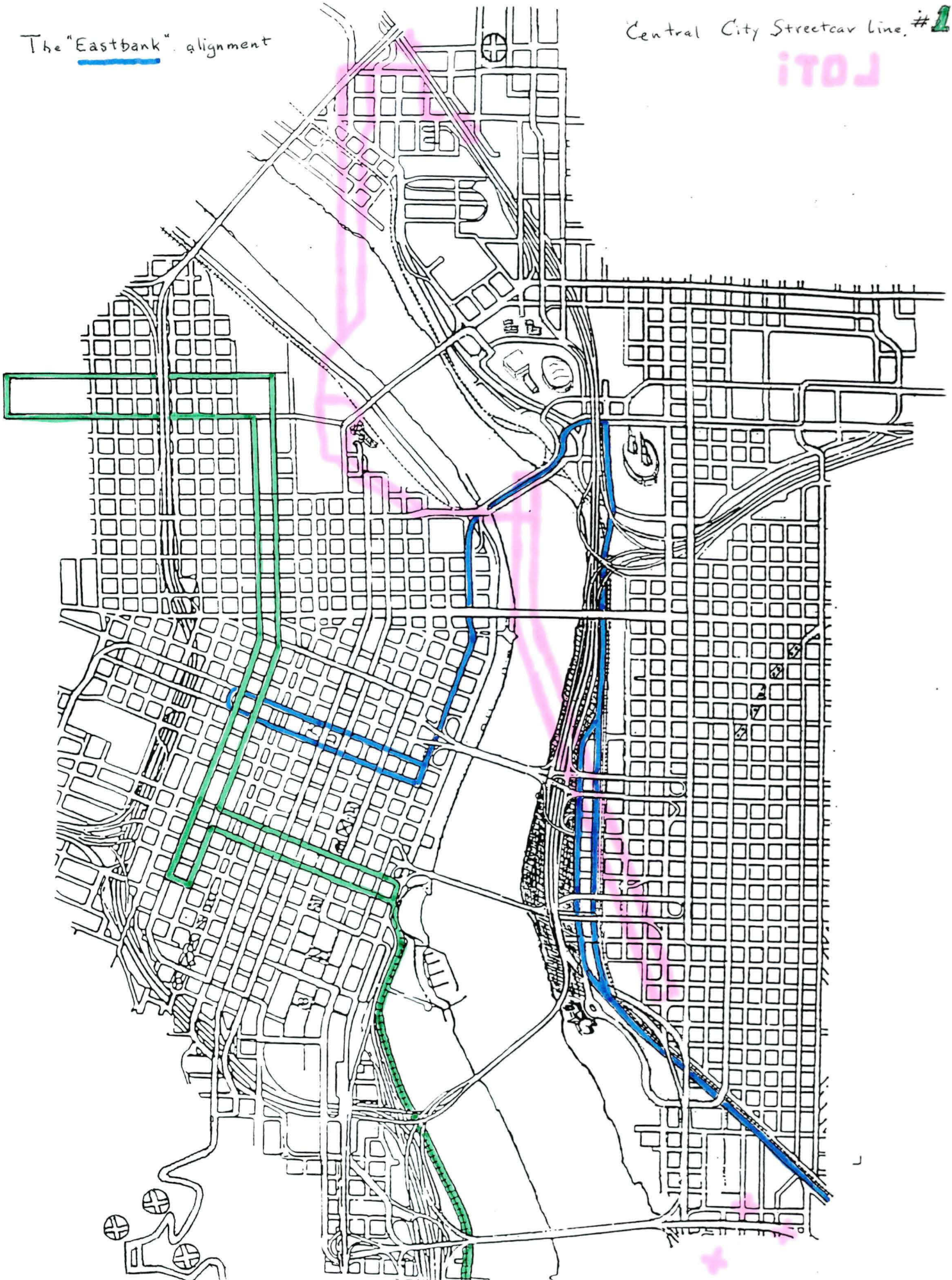
**Swan Island**, an underrated, exceptionally ideal route north must be considered; via Larrabee (an original rail corridor), Interstate (an endorsed future corridor), through the Albina District (development potential), and onto the SPRR corridor (maintenance benefit), and "final destination" at the large employment & active commerce base there; and, at some future date, extend north. Extending through North Portland will unproductively eliminate Vancouvers' option of choosing a Jackson Bridge route. If Portland builds a line to the airport, that route must be reconsidered. Fair, Fareless LOTi Benefit List never stops growing!



The "Eastbank" alignment

Central City Streetcar Line #1

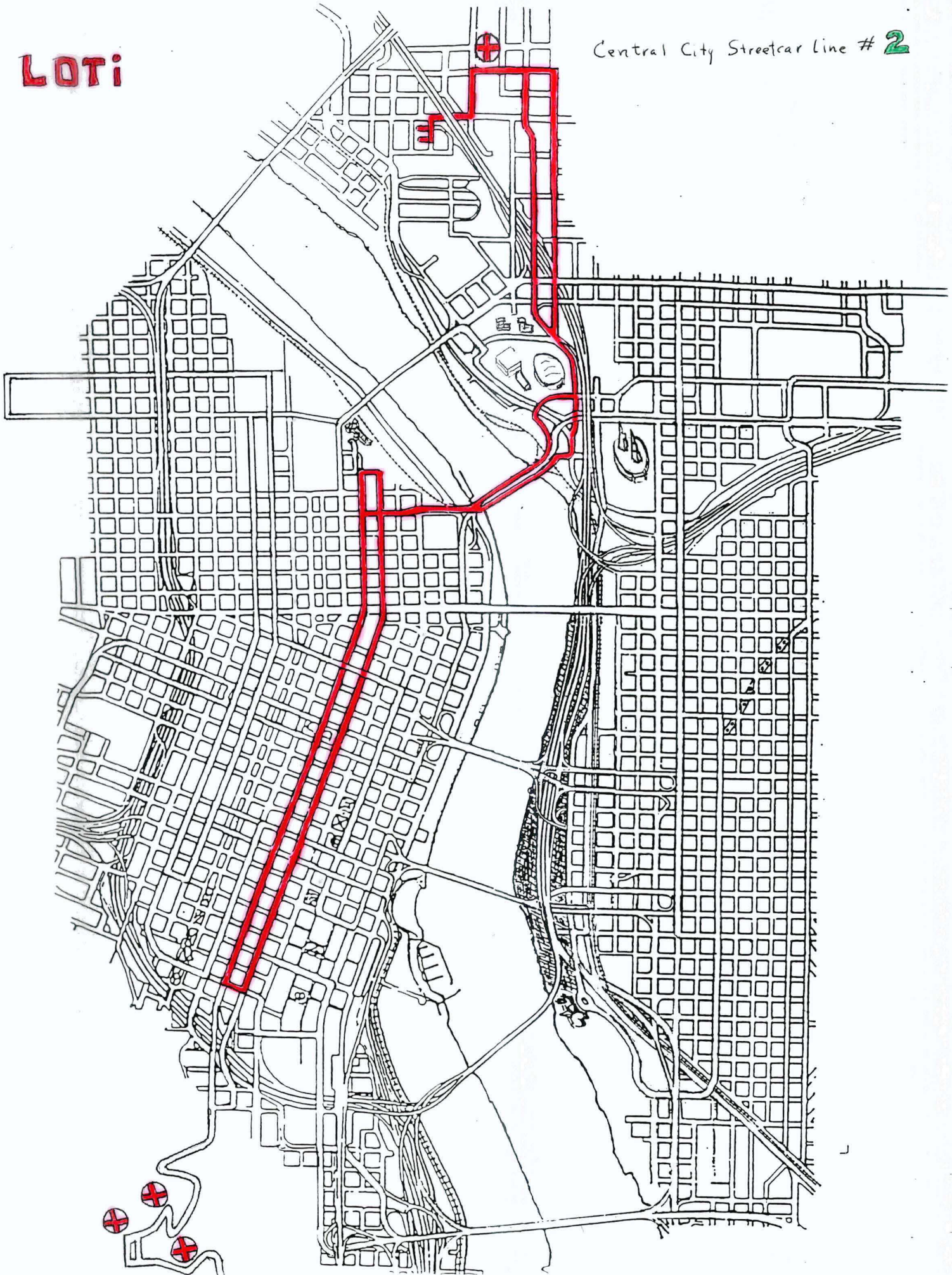
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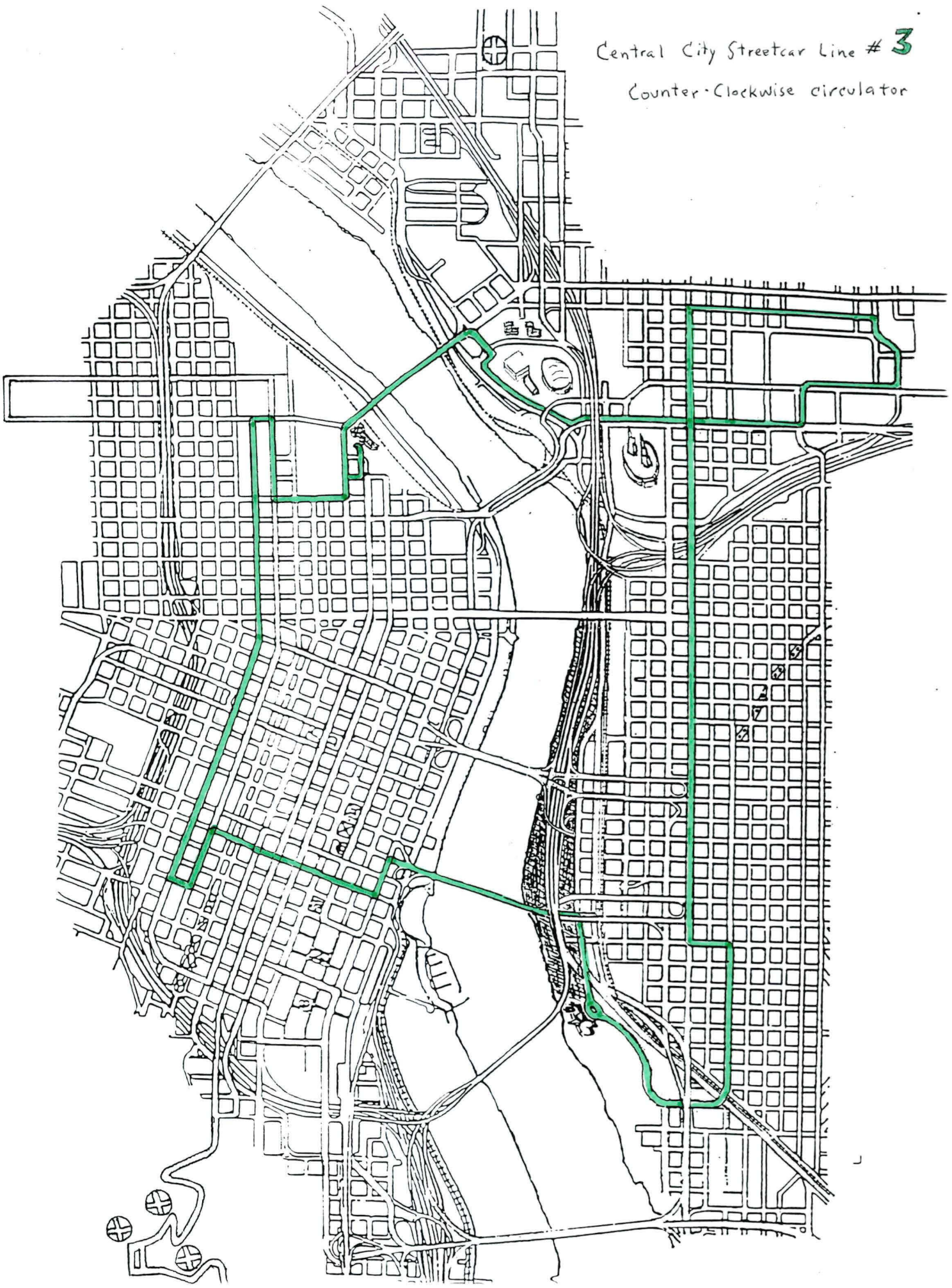


LOTi

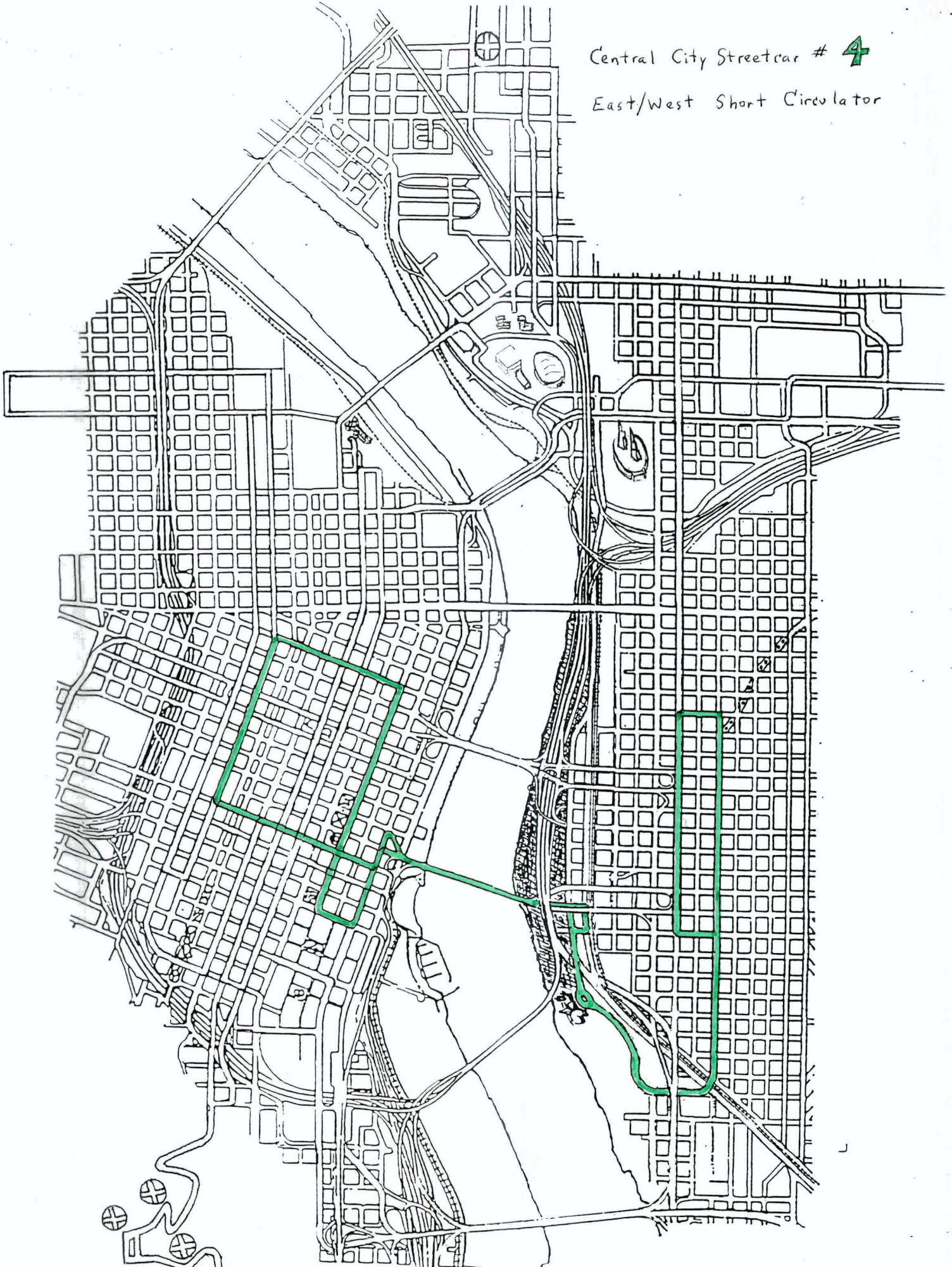
Central City Streetcar Line # 2



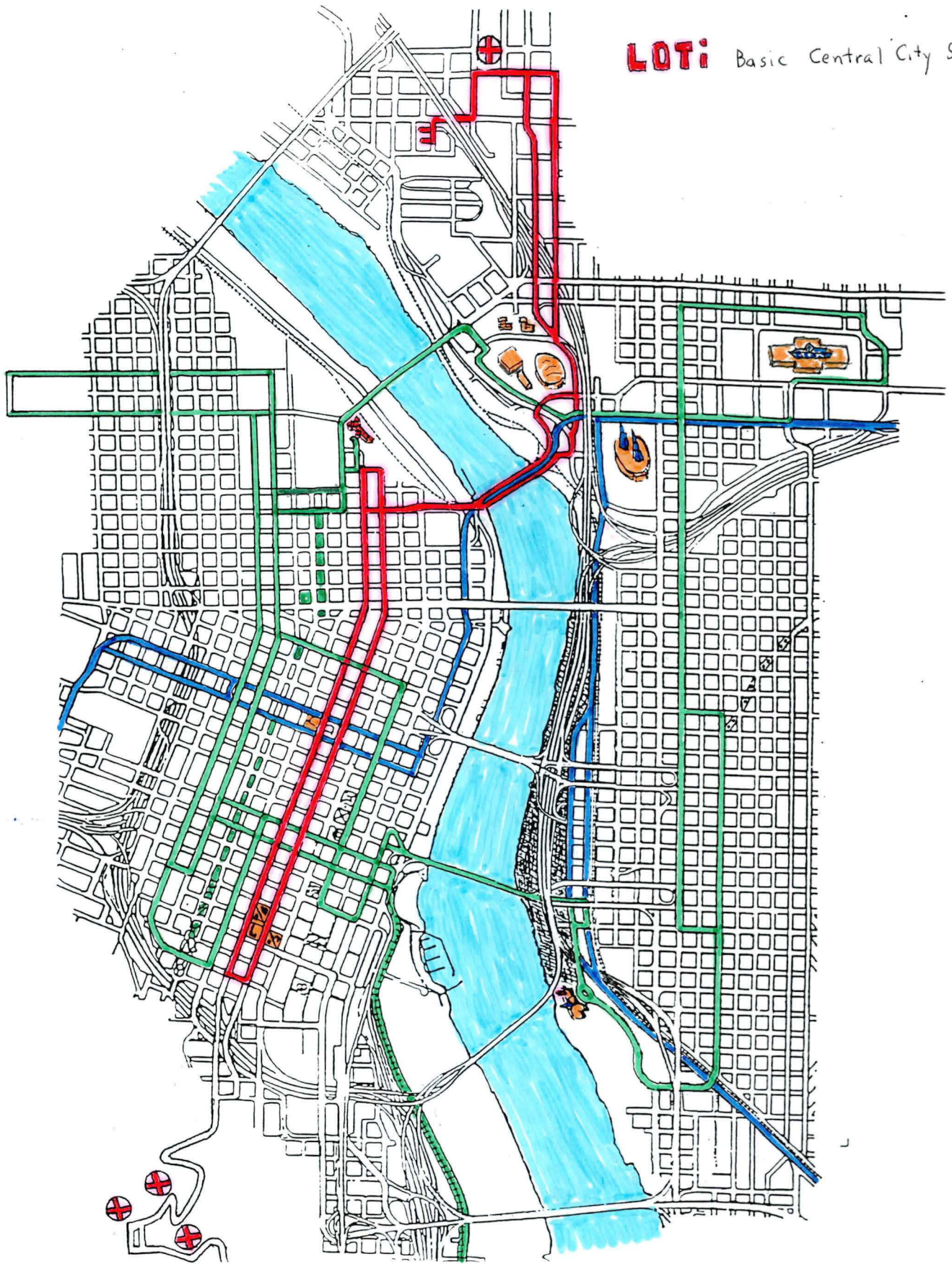
Central City Streetcar Line # 3  
Counter-Clockwise circulator



Central City Streetcar # 4  
East/West Short Circulator



**LOTi** Basic Central City System



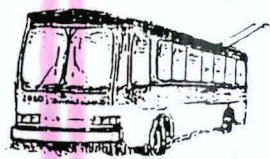
LOJI

LOJI

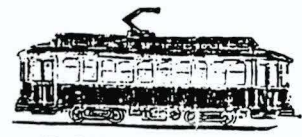
BONUS

1 HIGH-SPEED RAIL SYSTEM  
4 COMMUTER-RAIL SYSTEMS

1 TRACKLESS  
TROLLEY SYSTEM



2 miles

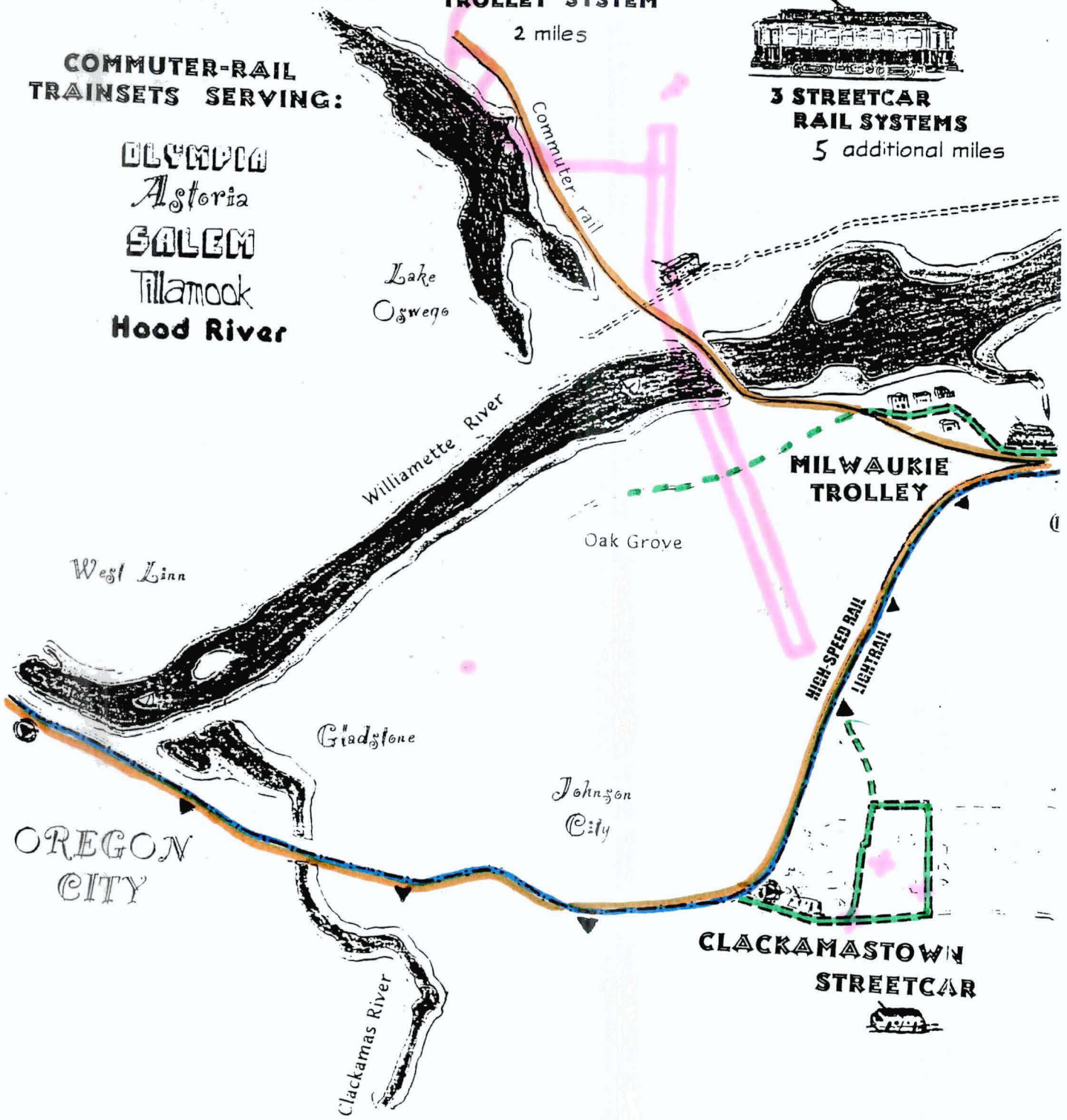


3 STREETCAR  
RAIL SYSTEMS

5 additional miles

COMMUTER-RAIL  
TRAINSETS SERVING:

- OLYMPIA
- Astoria
- SALEM
- Tillamook
- Hood River



OREGON  
CITY

Gladstone

Johnson  
City

Clackamas River

Willamette River

Lake  
Oswego

West Linn

Oak Grove

MILWAUKIE  
TROLLEY

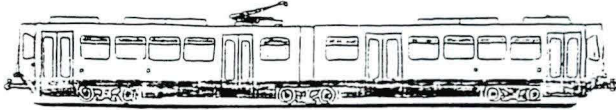
HIGH-SPEED RAIL  
LIGHT RAIL

CLACKAMASTOWN  
STREETCAR

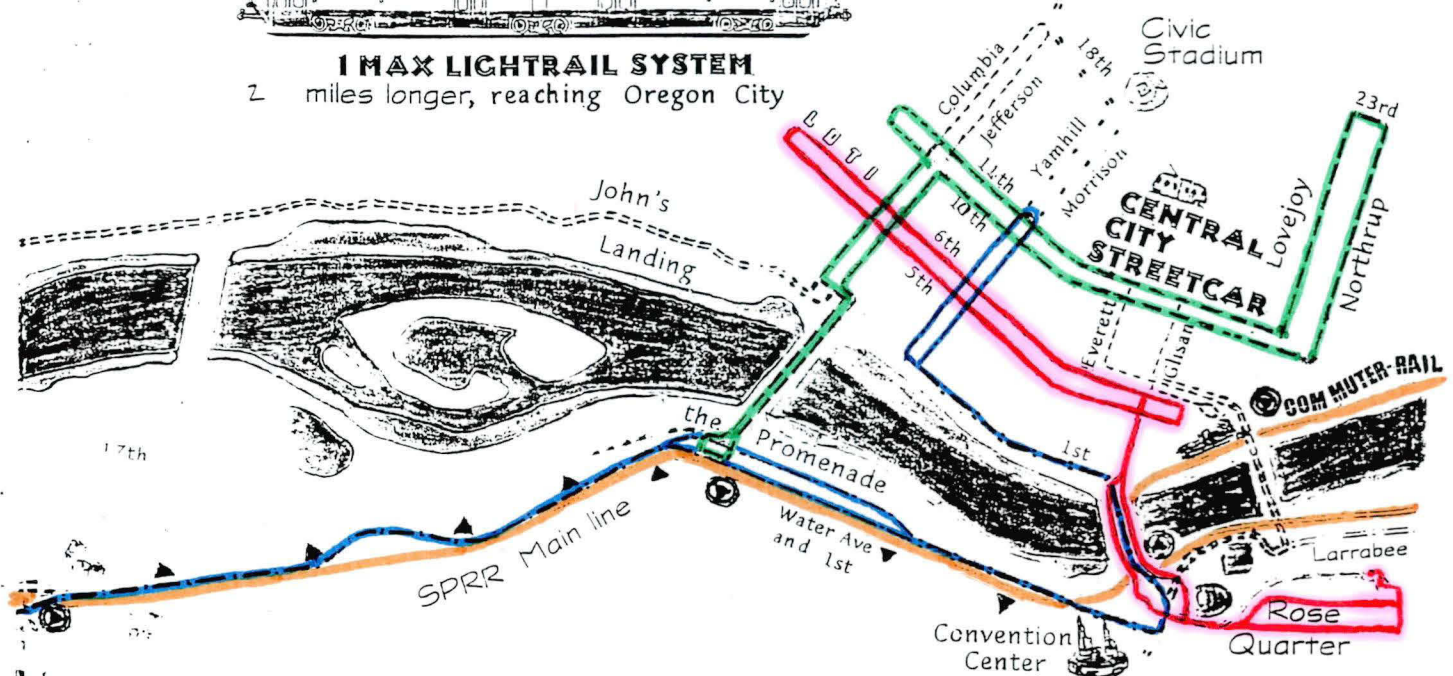


# P O R T L A N D

on **SPRR Main line**



**1 MAX LIGHTRAIL SYSTEM**  
2 miles longer, reaching Oregon City

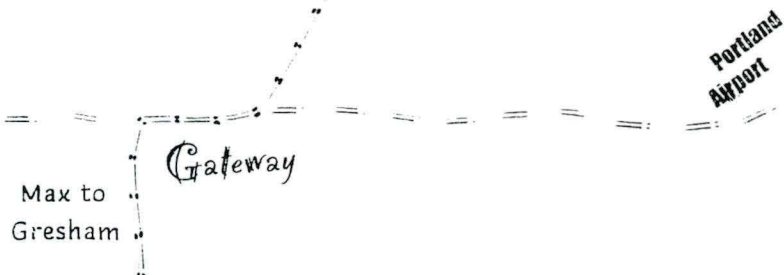


Ochoco-loti Village

# LOTi

*Loop Oriented Transit-mall Intermodal*

- MAX LIGHTRAIL**
- STREETCAR RAIL**
- TRACKLESS TROLLEY**
- COMMUTER RAIL**



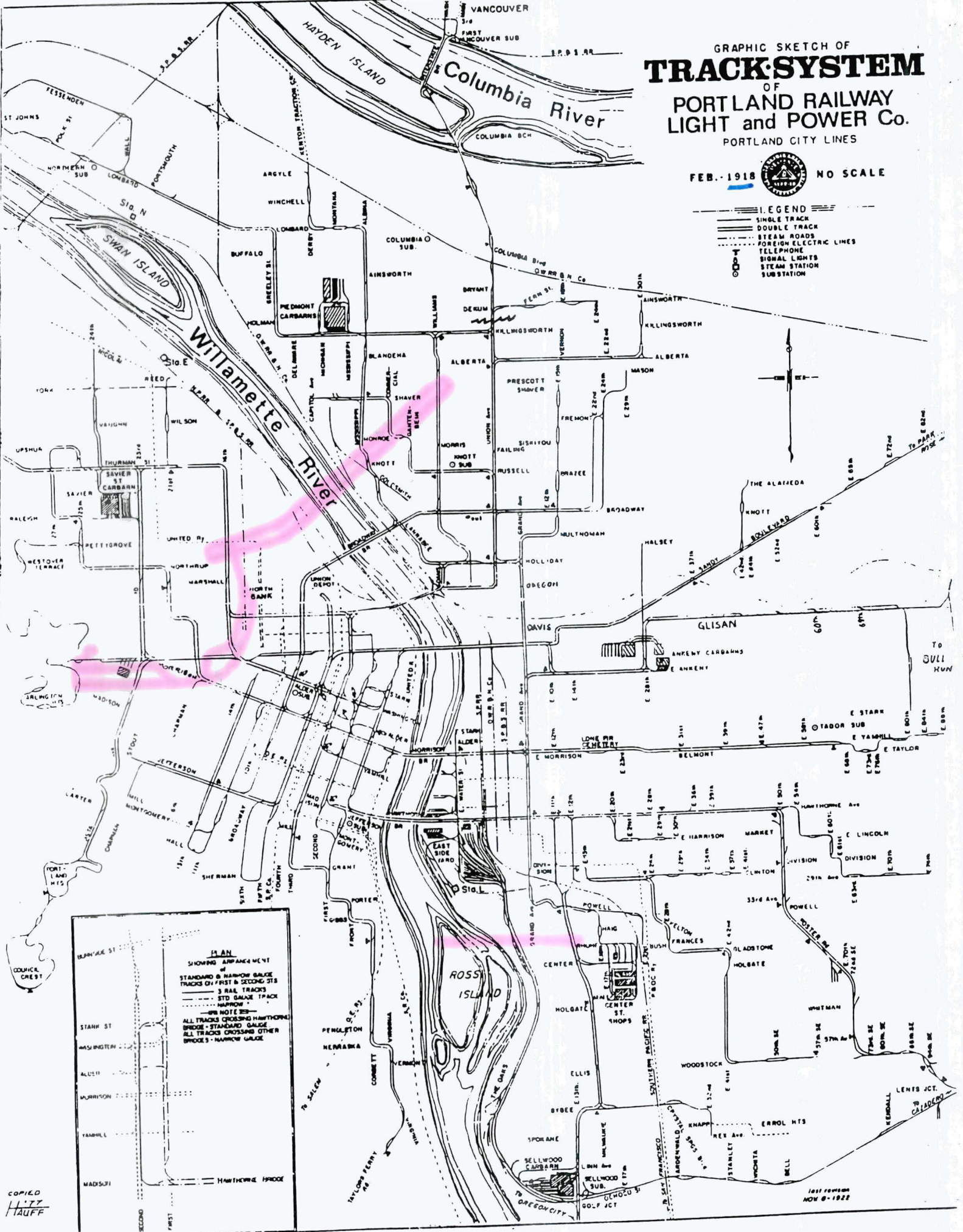
GRAPHIC SKETCH OF  
**TRACK SYSTEM**  
 OF  
**PORTLAND RAILWAY  
 LIGHT and POWER Co.**  
 PORTLAND CITY LINES

FEB. 1918



NO SCALE

- LEGEND**
- SINGLE TRACK
  - DOUBLE TRACK
  - STEAM ROADS
  - FOREIGN ELECTRIC LINES
  - TELEPHONE
  - SIGNAL LIGHTS
  - STEAM STATION
  - SUBSTATION



**PLAN**  
 SHOWING ARRANGEMENT  
 OF  
 STANDARD & NARROW GAUGE  
 TRACKS ON FIRST & SECOND STS  
 ——— 3 RAIL TRACKS  
 - - - - - STD GAUGE TRACK  
 ..... NARROW  
 ——— NOTE ———  
 ALL TRACKS CROSSING HAYTHORNE  
 BRIDGE - STANDARD GAUGE  
 ALL TRACKS CROSSING OTHER  
 BRIDGES - NARROW GAUGE

COPIED  
 1/17/27  
 HAUFF

last revision  
 NOV. 6 - 1922

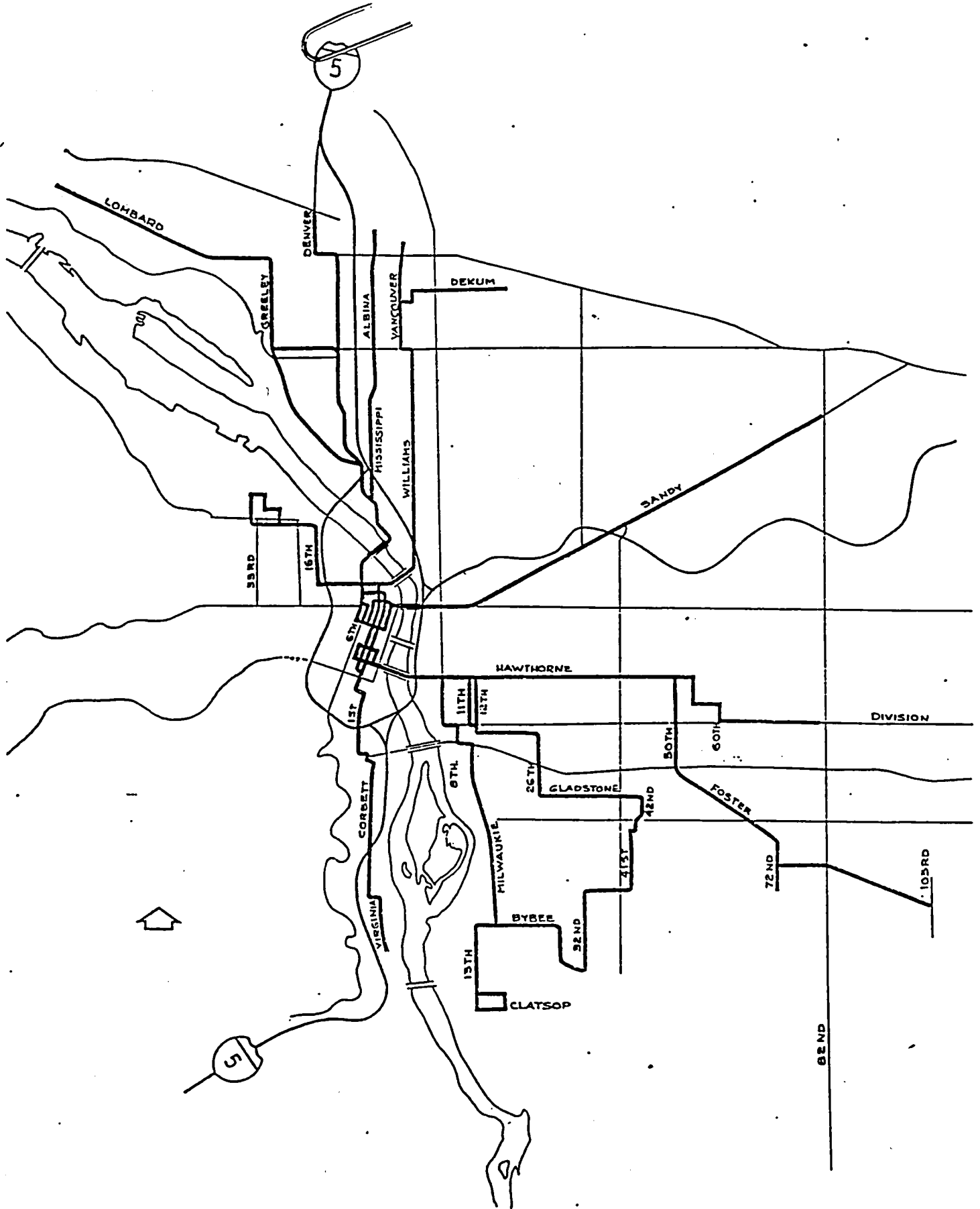


Figure 2  
 PORTLAND TROLLEYBUS NETWORK - 1951



EXHIBIT A

"Municipal transportation ought to move immediately to a serious consideration of electrically powered buses. There is no reason why buses which travel short distances each day, cannot be developed with electric motors. This development would radically change one of the most annoying of all pollution irritants."

Robert F. Kennedy, Air Pollution and the Death of our Cities in "Air and Water Pollution", Washington Square Press, 1969

"Based upon likely rates of interest and inflation, the life-cycle costs of trolley busses will be cheaper than those of diesel buses... This condition is true even if 100% of the capital costs are raised by Tri-Met with no federal participation...

. . . .

"Trolley buses consume only about 69 percent of the fuel energy of diesel buses on a mile for a mile basis. Their use of electricity (8.4 million KWH per year) would reduce Tri-Met's fuel consumption by about 756,000 gallons per year. The availability of the necessary electricity does not appear to be a problem in this region for the foreseeable future.

. . . .

"Trolley buses are from 10 to 30 decibels quieter than diesel buses. Their reinstatement would result in noticeable reductions of noise in several neighborhoods, as well as downtown Portland.

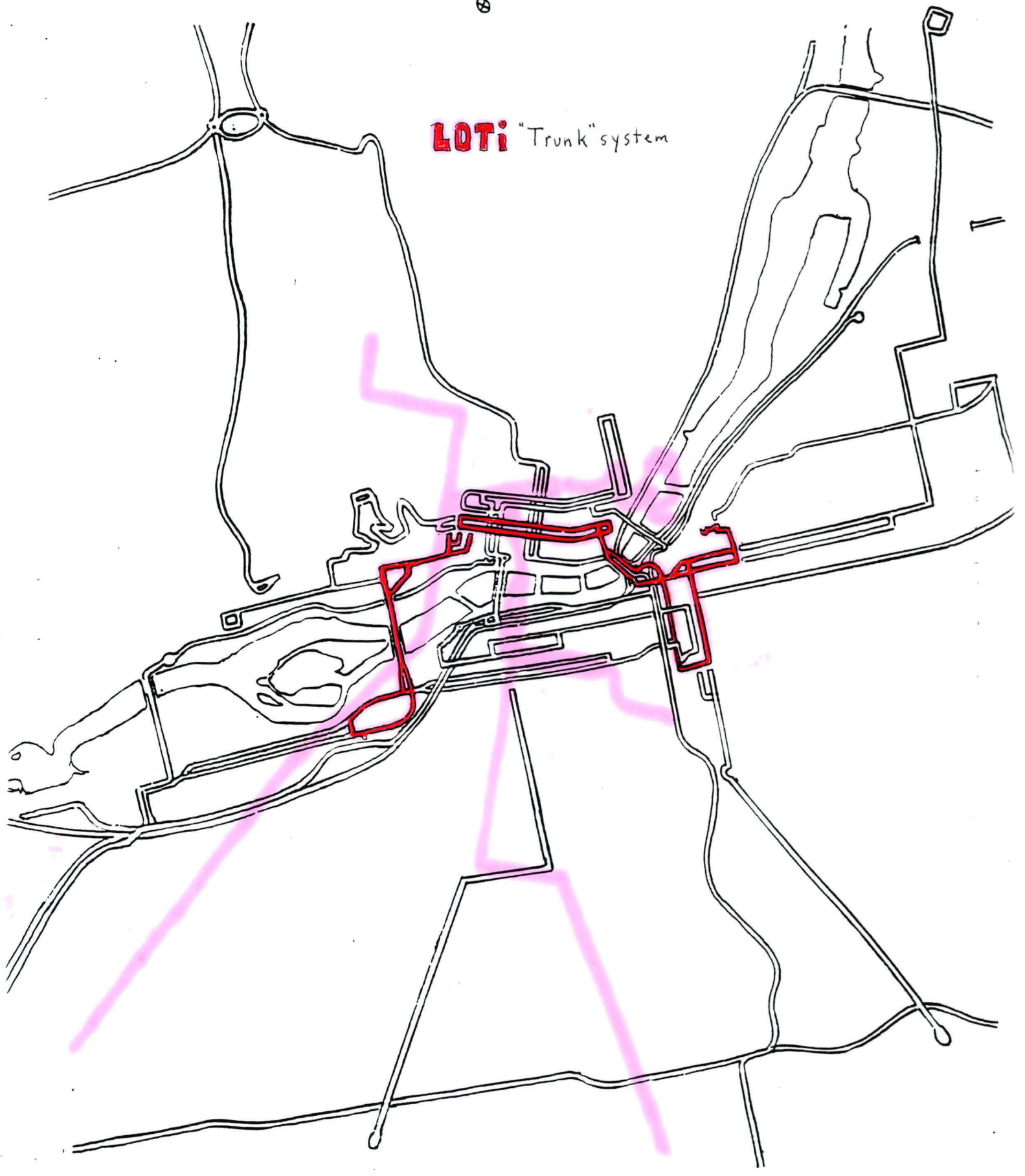
. . . .

"Based upon responses at community meetings and to an on-board survey, public opinion favors trolley buses over diesel buses. The survey of riders... indicated 84% in support of trolley buses due to environmental and/or long term economic advantages. The majority (64%) of those surveyed felt that the environmental advantages of trolley buses outweigh their concern about overhead wire visual pollution."

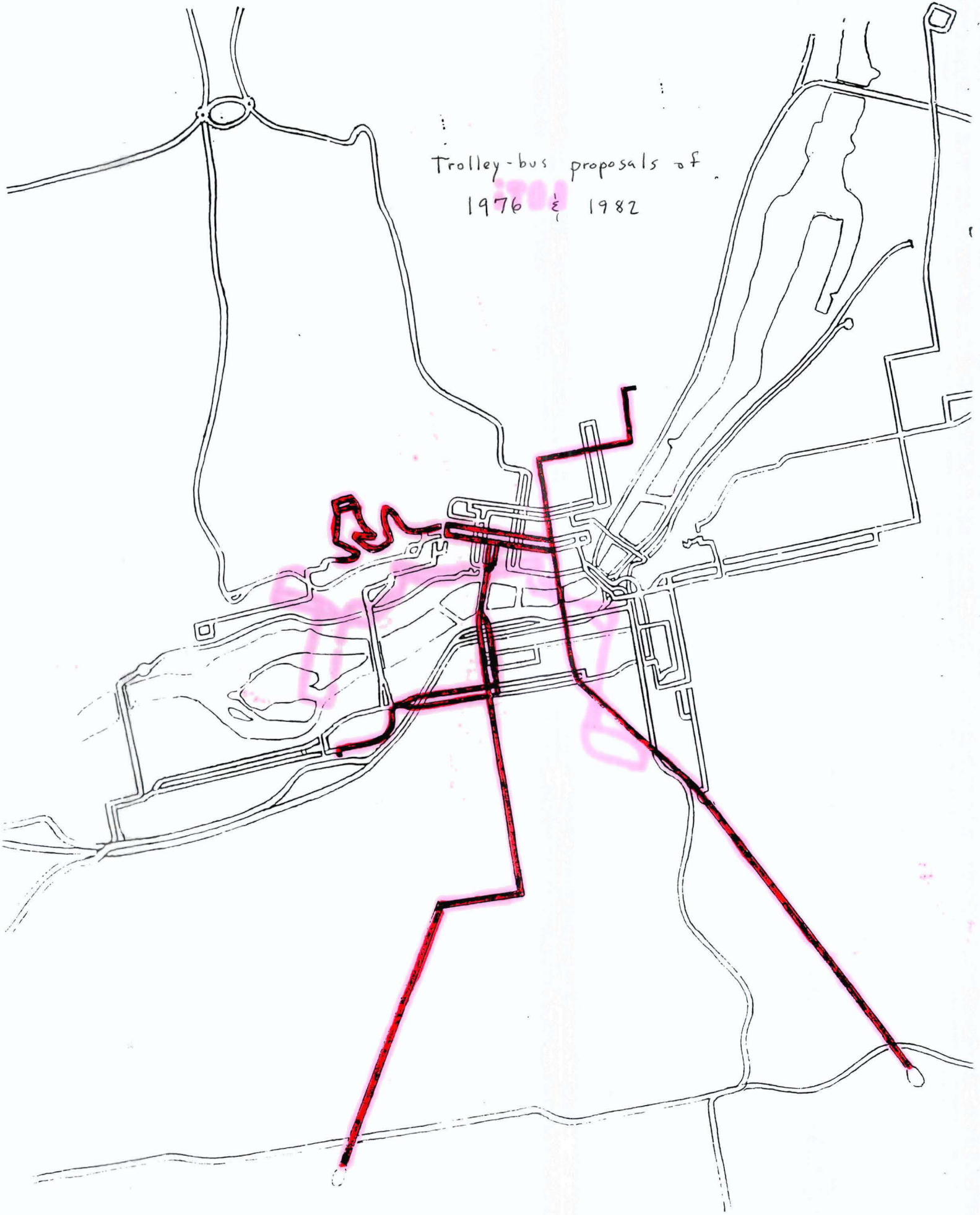
Tri-Met Transit Development Department,  
Tri-Met Trolley Bus Project, Phase I,  
Summary Report and Staff Recommendation,  
Portland, Oregon, 1982



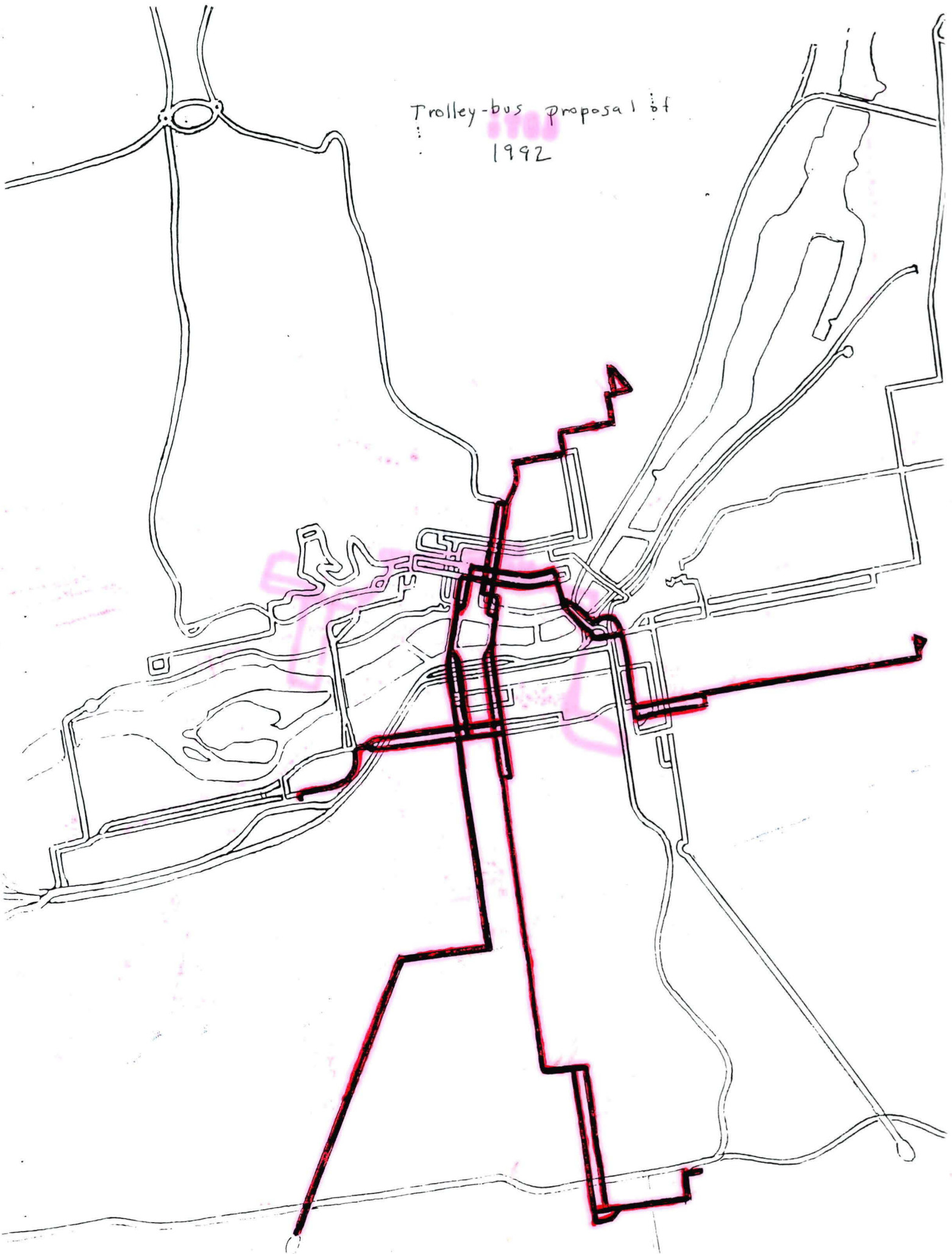
**LOTi** "Trunk" system



Trolley-bus proposals of  
1976 & 1982

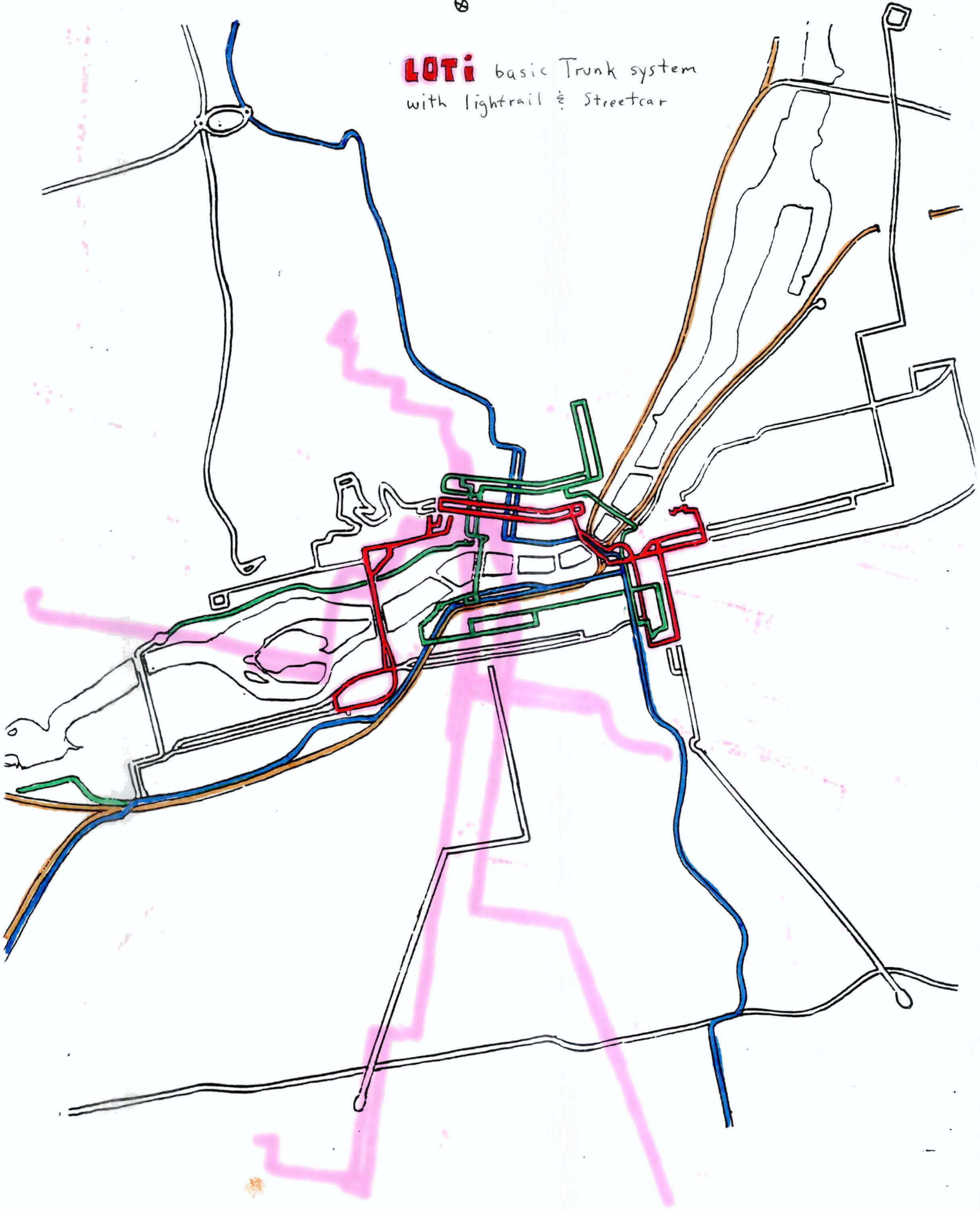


Trolley-bus proposal of  
1992

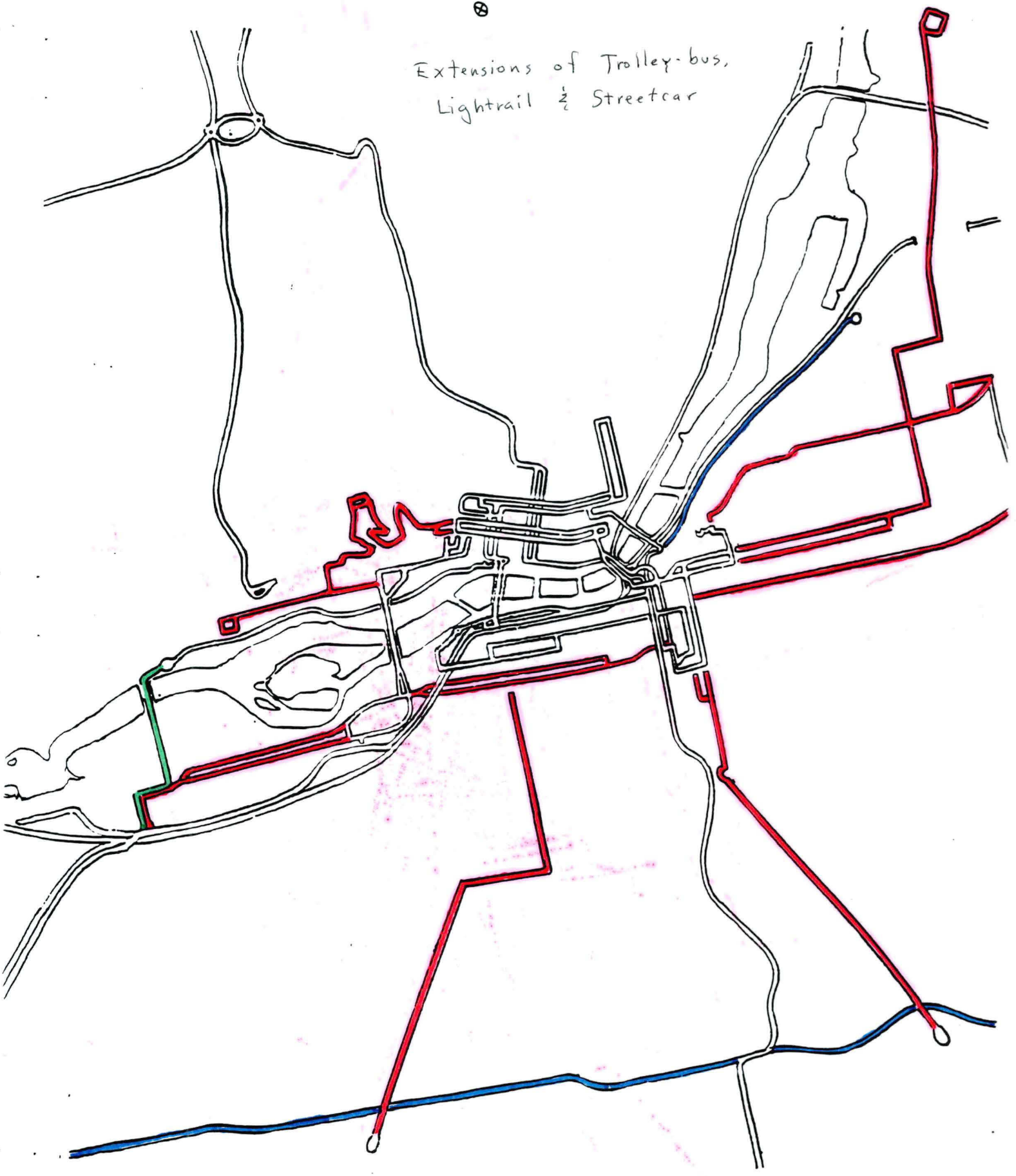




**LOTi** basic Trunk system  
with light rail & Streetcar



⊗  
Extensions of Trolley-bus,  
Lightrail & Streetcar



Transportation Secretary,  
Frederico Pena

Nov. 5th, '97

Enclosed is an "energy conserving" transportation project (LOTi) that may allow Portland to rebuild support for our South/North lightrail extension. LOTi is submitted because I believe that with an improved transportation system, our automobile-oriented industrial base would *require much less energy*. My analysis of the *planned* route for the N/S lightrail extension is that at each end and every point in between, the line is littered with flaw and error, will fail, will do greater harm to our transit system than help. The case I try to make about LOTi, is that it may indeed be an enormous step forward in transit design, particularly for Portland, but also in many cities where need for reform is obvious.

Redirecting industry away from the auto and towards mass transit rail projects can fulfil the promise that "New Urbanism" offers the New American City Renaissance\*.

The automobile-dependent transportation system has burdened our economy and people with a fiercely competitive, materialistic, community-destroying, unsustainable, extremely expensive transit mode.

Good mass transit systems that include rail are absolutely necessary & beneficial investment in the structure of sustainable communities. Good mass transit has been actively discouraged by the automobile industry, and this is only a portion of the damage that industry has wrought upon the history of our age. The great conspiracy of the 20th century is the destruction of the rail mass transit system in this country, that has led to the global exploitation of resources, human and natural, to sustain a huge industrial/financial complex created during the military build-up of World War I.

LOTi has the potential to reignite the popular support of building a "revolutionary model" lightrail system. LOTi is ignored by all organizations to which it has been submitted. Am I like the Jewish engineer in a scene from "Schindler's List" who alerted her German captor to a flaw in the construction of an outpost building, and was executed for her noble desent? I must trust that someone will see the real opportunity of the LOTi proposal and be able to *help* in its' promotion.

Art Lewellan

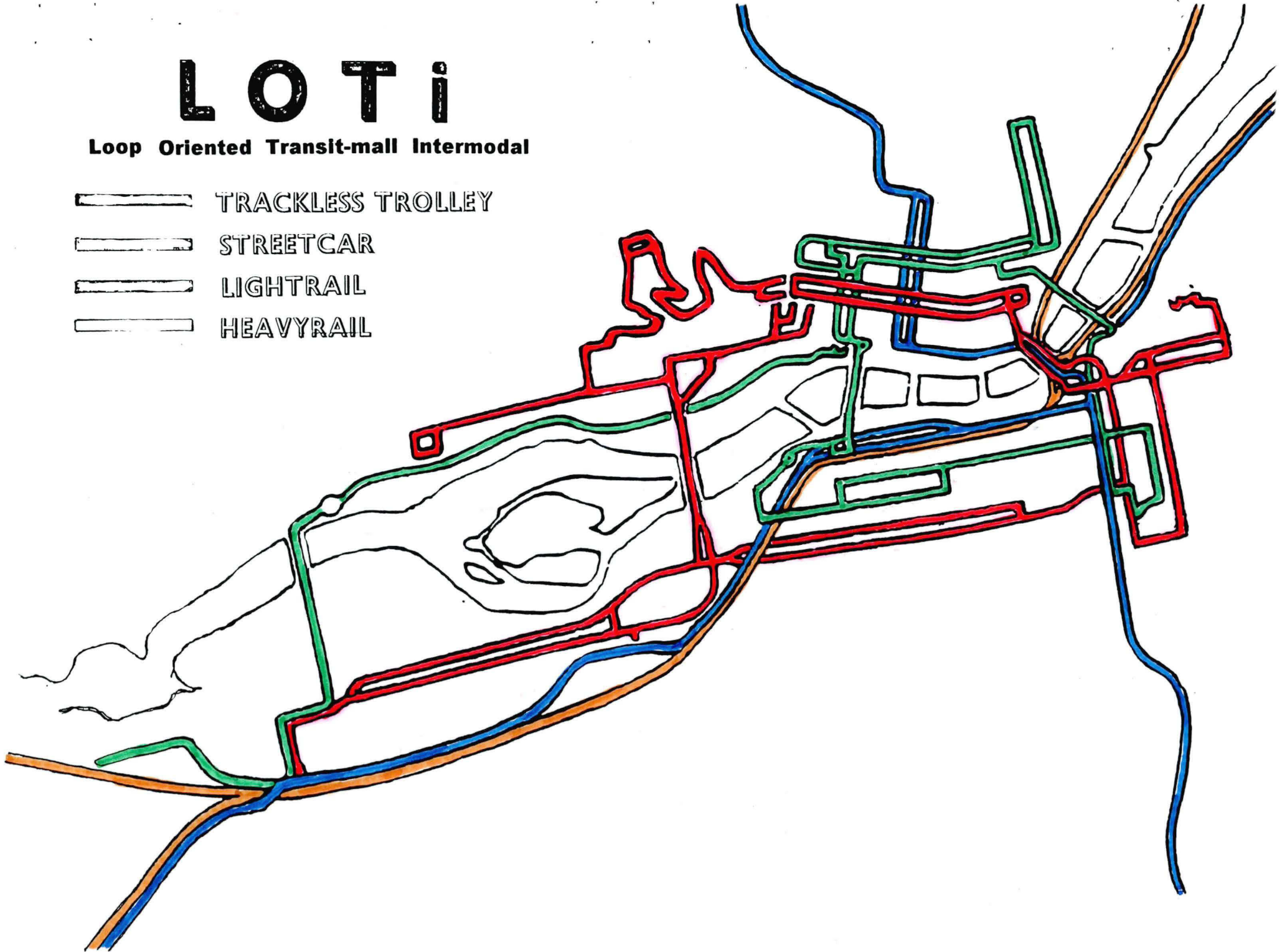
238-4075

3205 SE 8th #9  
Portland, Oregon 97202

# LOTi

Loop Oriented Transit-mall Intermodal

- TRACKLESS TROLLEY
- STREETCAR
- LIGHTRAIL
- HEAVYRAIL





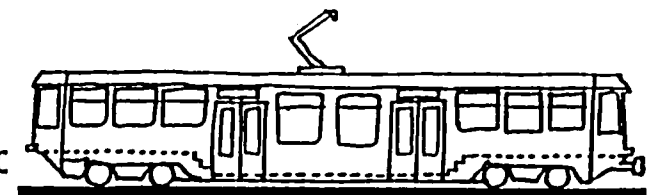
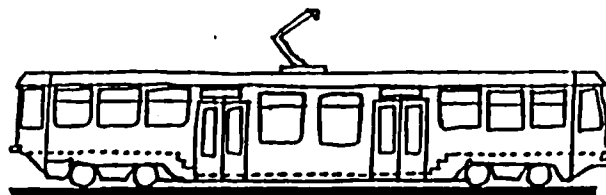
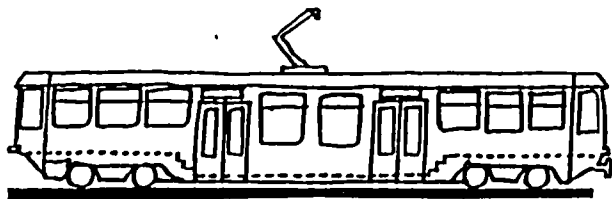
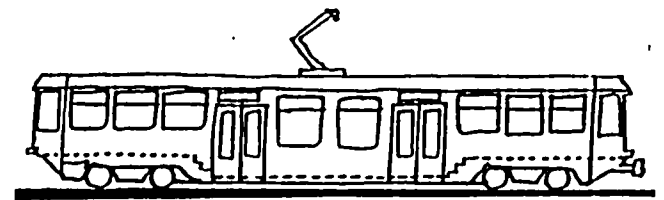
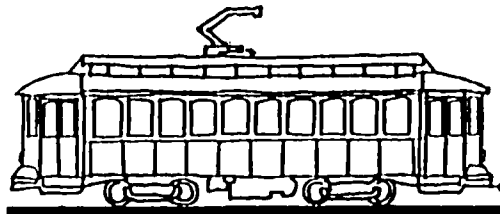
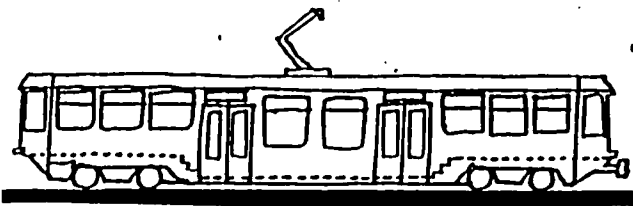


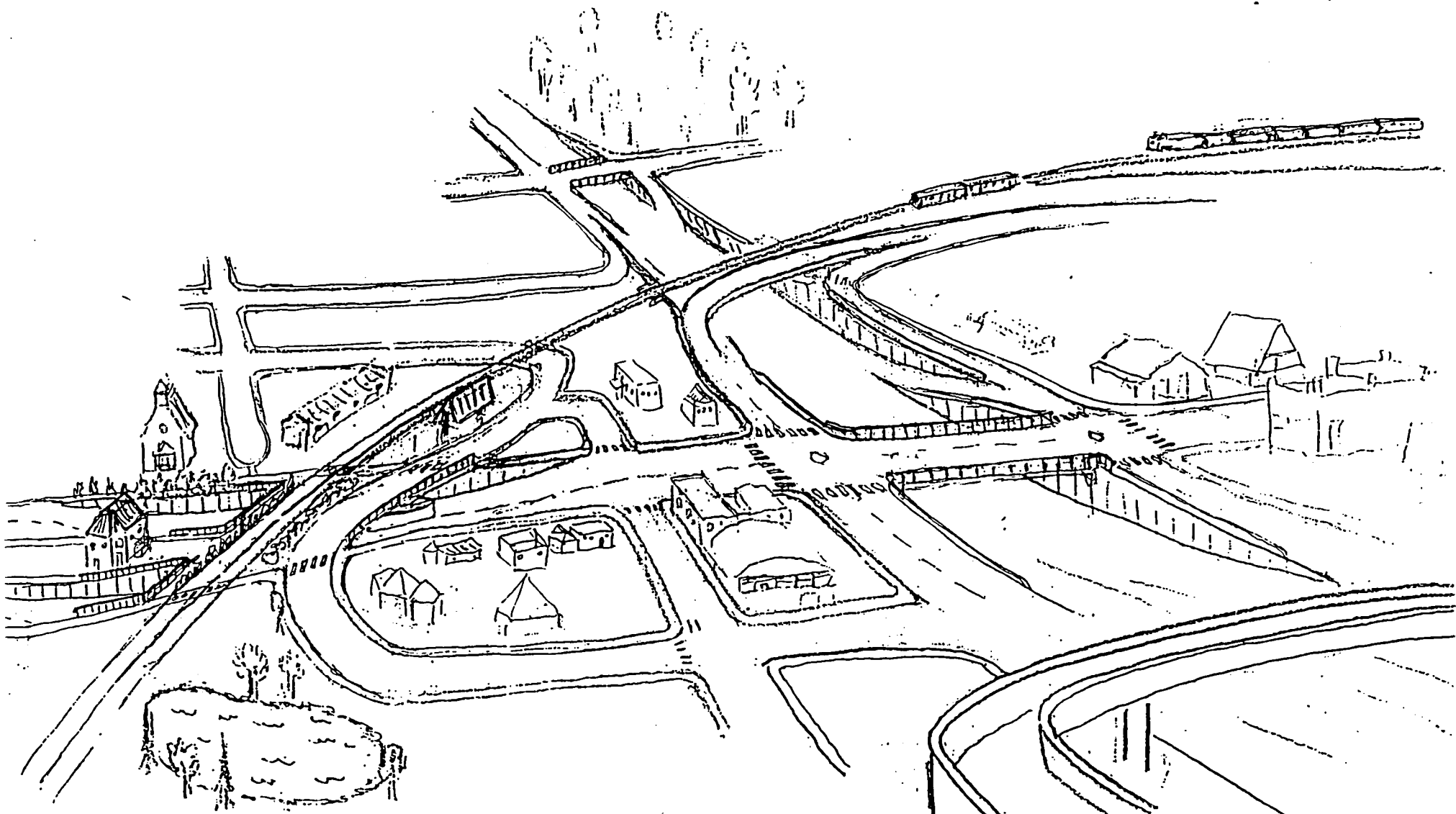
## Rail Transit

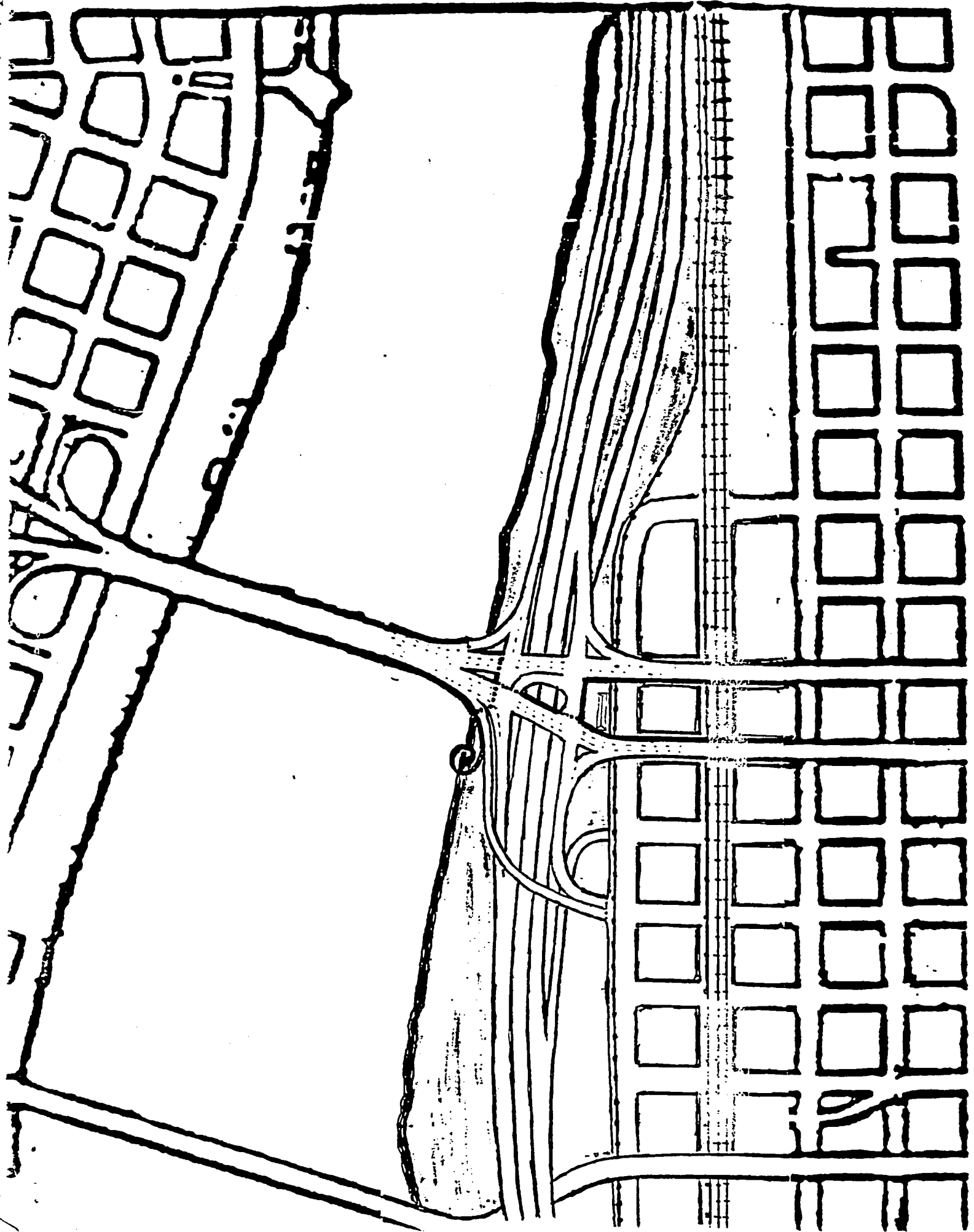
- Clean — virtually no local pollution
- Quiet — both inside and out
- Fast
- Smooth riding
- More comfortable
- Easy boarding — walk on, walk off
- Better air conditioned
- Less affected by bad weather
- Safe — all traffic is signal controlled
- — You always know where you can get it
- More frequent, more regular service
- Preferred — typically 1.5 to 2 times the ridership for the same service areas

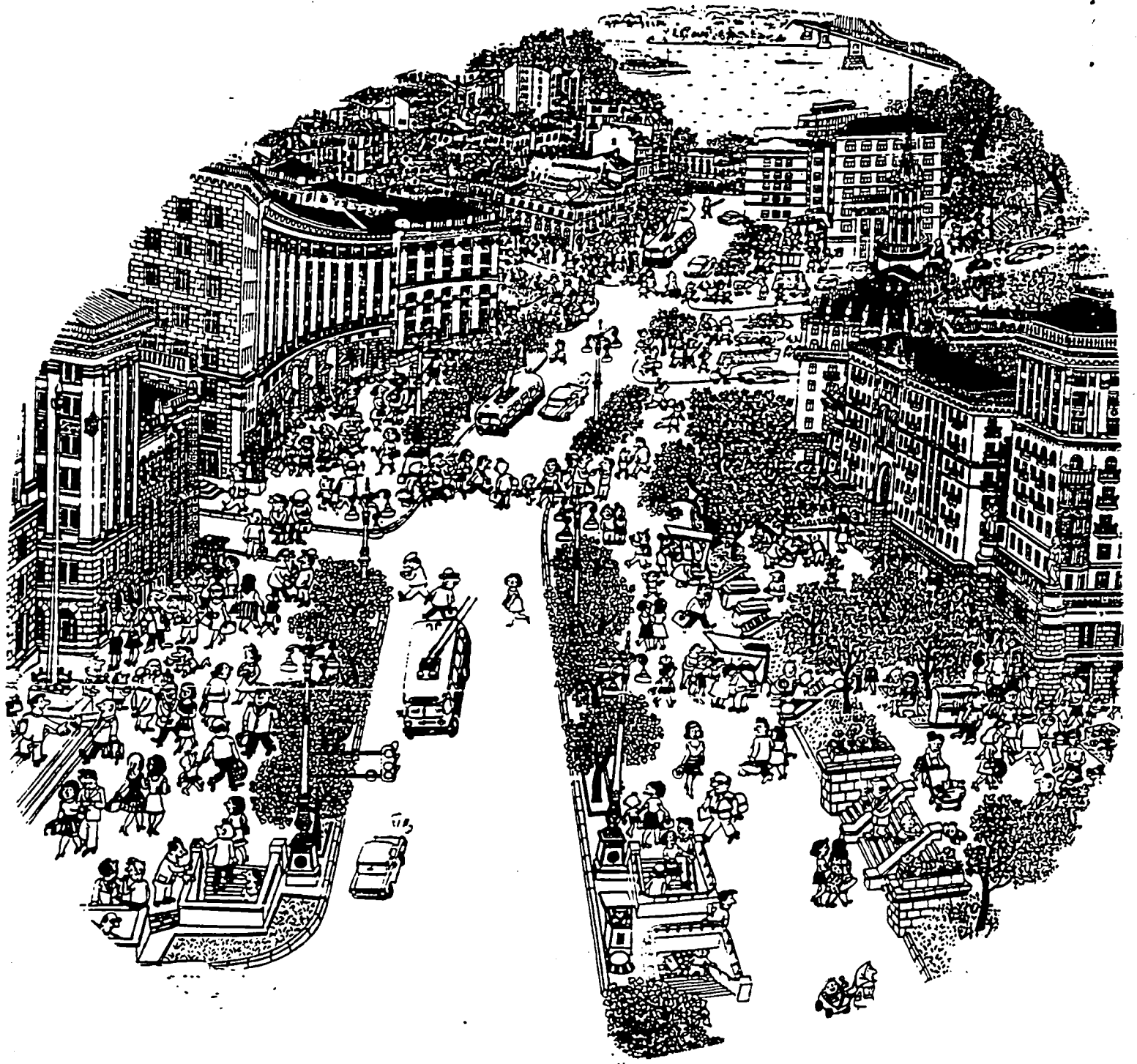
## Buses

- Pollute the local air and waters
- Noisy — loud inside ... busways require "Berlin Wall" sound barriers outside
- Slower acceleration and lower top speeds
- Bump, shake, rattle; rougher starts & stops
- Less room; some seats are hard \*
- Harder to climb up into
- Less dependable air conditioning
- More likely late or cancelled in bad weather
- More likely to be involved in accidents
- Routes can be detoured or changed easily; often different at different times of the day
- Off busway traffic can delay the whole route
- Declining ridership even in busway serviced corridors









**TRANSPORTATION PLANNING COMMITTEE REPORT**  
**CONSIDERATION OF RESOLUTION NO. 98-2606, FOR THE PURPOSE OF**  
**ADOPTING 1998 PRIORITIES FOR FEDERAL TRANSPORTATION**  
**LEGISLATION.**

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Date: February 24, 1998

Presented by: Councilor McLain

**Committee Action:** At its February 17, 1998 meeting, the Transportation Planning Committee unanimously recommended Council adoption of Resolution No. 98-2606. Voting in favor: Councilors Kvistad, McLain and Washington.

**Council Issues/Discussion:** Andrew Cotugno, Director of the Metro Transportation Department gave the staff presentation relating to Resolution 98-2606. The purpose of the resolution is to adopt a common set of regional priorities for Intermodal Surface Transportation Efficiency Act (ISTEA) reauthorization, which would cover a six-year time period, including next year's appropriation. Exhibit A to the resolution is a position paper outlining these regional priorities, and is a revision of a similar resolution passed by the Metro Council last year.

Two changes to the version in the committee packet were recommended by JPACT, and agreed to by the Transportation Planning Committee:

- Language in item #9, page 21, clarifies the intended meaning of this item.
- In item #3 (deepening the Columbia River Ship channel), page 11, the amount of money requested is revised from \$725,000 to \$635,000, which is the actual amount in the President's budget. The Port of Portland is agreeable to this change.

Councilor Kvistad asked whether the list of items in exhibit A was in priority order. Mr. Cotugno stated that the groupings are prioritized; i.e. regional priorities beginning on p. 10, then local or agency priorities on pp. 12 & 13, and then other priorities. Items within groups are not in priority order/

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING 1998 ) RESOLUTION NO. 98-2606  
PRIORITIES FOR FEDERAL TRANSPORTATION) )  
LEGISLATION ) Introduced by  
Mike Burton,  
Executive Officer

WHEREAS, The Intermodal Surface Transportation Efficiency Act (ISTEA) was adopted by Congress in 1991; and

WHEREAS, ISTEA expired at the end of federal Fiscal Year 1997 (September 30, 1997); and

WHEREAS, Congress adopted an interim extension to May 1, 1998; and

WHEREAS, Congress will be considering reauthorization of ISTEA during 1998; and

WHEREAS, ISTEA has a significant policy effect on transportation planning and decision-making in the Portland region; and

WHEREAS, The Portland region adopted a position on the reauthorization of ISTEA in January 1997 by Resolution No. 96-2442; and

WHEREAS, It is through ISTEA that federal "New Rail Starts" funding commitments are made; now, therefore,

BE IT RESOLVED,

That the Metro Council:

Endorses the ISTEA Position Paper as reflected in Exhibit A subject to coordination with ODOT on a statewide position.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

Approved as to Form:

Jon Kvistad, Presiding Officer

Daniel B. Cooper, General Counsel

EXHIBIT A

ISTEA REAUTHORIZATION  
PORTLAND, OREGON  
REGIONAL POSITION PAPER  
~~JANUARY 1997~~  
FEBRUARY 1998

This position paper should be viewed as a work in progress. ISTEA reauthorization began in 1996 and will extend over the next nine months during which time numerous proposals will surface which require further consideration by the Portland region. This position represents the region's starting-place position at this point in the Congressional deliberation, thereby allowing these positions to be advocated through national organizations, before federal hearings and with the Oregon Congressional delegation. In addition, changes will be considered, if necessary, after coordination with other interests statewide through ODOT.

I. Introduction

The transportation providers of the Portland region believe there is a national interest in transportation that should be reflected in the programmatic emphasis in the next ISTEA. This national interest should focus on maintaining and improving metropolitan mobility to support the economic engines of the country and further international competitiveness. Second, it should maintain and improve vital connections between metropolitan areas. Finally, effective connections to international passenger and freight terminals to access the global marketplace are critical.

In order to ensure these national interests are accomplished through the distribution of federal transportation funds, a programmatic approach, rather than a block grant approach, is most appropriate. In this manner, the Federal Government can target its resources to the program areas that represent the national interest. The current ISTEA, with several improvements, provides an excellent model for such an approach to the next ISTEA and most of the new ISTEA proposals continue with this model. The ground-breaking changes in flexible financing, local control and public involvement embodied in the passage of ISTEA in 1991 were a major step forward in transportation development. Reauthorization of ISTEA should focus on building on the strengths of this landmark legislation rather than on major rollbacks or wholesale changes. Reauthorization of ISTEA to include these provisions is integral to the Portland region's objectives for growth management and building a livable community. This region has strived to link transportation investments to land use decisions to achieve multiple objectives of preserving farm



and forest lands, reinvesting in communities, meeting air quality standards, efficiently using existing infrastructure, and maintaining a livable region in the face of massive growth. It is essential that the Federal Government maintain its partnership with the Portland region through the reauthorization of ISTEA.

The region would like to highlight the following issues for consideration during the reauthorization of ISTEA:

## II. Substantive Issues

1. **MPO Role in Decision-Making.** We believe that the increased local and state role in transportation decision-making is one of the most important advances in ISTEA. The region strongly supports continuing a strong MPO role in planning, project selection, joint TIP/STIP approval, and public involvement. The MPO role in ISTEA has improved the partnership of local government officials, state departments of transportation and other transportation interests and should be reinforced in reauthorization.
2. **Joint MPO/State DOT Approval of TIPs.** Joint approval of state and metropolitan Transportation Improvement Programs (TIP) in each metropolitan area ensures a partnership approach to solving transportation problems. Typically, the state DOT is responsible for only a part of the transportation system and cities, counties, transit districts and port districts are responsible for the balance. Through a partnership approach, transportation investment decisions can be made to ensure the system as a whole meets the needs of the public and responds to the federal interest. Often in a complex metropolitan area, trade-off decisions must be made to determine which improvements to which part of the system can most effectively meet the needs. In addition, it is critical that transportation investment decisions are coordinated with land use decisions for the region which typically rest with local governments rather than the state DOT. Joint approval of the TIP assures that all parties responsible for the transportation system are party to making the priority decisions about its improvement.
3. **Flexible Funding.** The region supports maintaining and, where appropriate, expanding flexible funding. Flexibility gives local and state governments and citizens the opportunity to craft the most appropriate local solutions to transportation needs. Flexible funding has been a key component of this region's effort to respond to the demands of growth, address congestion and freight

mobility needs and preserve livability and environmental quality. While the region supports continuing the existing categories for Surface Transportation Program funds, Transportation Enhancement funds, and Congestion Mitigation/Air Quality funds, including metropolitan set-asides, there should not be any additional categorical funding allocations in the next ISTEA if they have the effect, particularly in the environment of reduced or level funding, of actually reducing rather than increasing flexibility. This can occur if there is less funding split up among more categories. The region supports expanding the flexibility of existing STP and CMAQ funds to address capital improvements to freight and passenger rail and intermodal facilities. In addition, the region supports maintaining the existing flexibility provisions for the NHS program.

4. Maintain the Federal Transit Program. Some proposals under consideration by Congress would dramatically alter the transit program to establish a "minimum allocation" to each state rather than the current model based upon where the need is the greatest, where the greatest amount of service is provided and which projects have the highest merit. Retaining the current structure is particularly important in maintaining a viable "New Starts" program. Light rail projects cannot be built based upon a small formula allocation to each state. Rather, periodic large appropriations are needed to build a segment of that system, followed by years when no funds whatsoever are provided. This is comparable to the years when the Interstate system was being built -- many states received more to construct their segments of the Interstate system than they were contributing to the Trust Fund through user fees.

45. Reject Rollbacks and Devolution. The region does not support the rollback or elimination of major elements of ISTEA, such as local control, public involvement or joint MPO/state DOT approval of TIP/STIP or the "devolution" of the federal program and its return to the states. The passage of ISTEA resulted in improved coordination between the state, region and federal transportation providers. The benefits to the taxpayers are a more efficient use of existing transportation investments and the construction of new investments that best reflect their individual community needs. In this region, the experience of ISTEA has been a positive one and has resulted in a greater degree of public involvement in and support for the transportation investments. In addition, it is problematic for states to adopt sufficient tax increases to offset the elimination of the federal program.

56. Discretionary Section 3 "New Start" Program. The region supports the continuation of a discretionary Section 3 "New Starts" program. The program has been shown to be an effective way for urban areas to implement large-scale innovative transit alternatives to new freeway construction. Opportunities to leverage private sector investments are substantially enhanced with the existence of a categorical program and predictable funding allocations: The existence of a categorical program and the scale of investment accommodated by the New Start program is critical to the integration of long-range transit development and land use planning efforts such as that underway in the Portland region.

The region supports the proposal now under consideration in the House Bill to change the "New Starts" program from one of involving earmarking of specific projects by Congress to one of advancing the projects with the highest merit. Under this proposal, 92 percent of the funds would be available to commit to construction of new projects and 8 percent to pre-construction environmental and engineering studies. Construction funds for a specific project would be approved by Congress at the point in time it has completed its pre-construction engineering and environmental studies based heavily on an independent recommendation of the Federal Transit Administration on the merits of the project. Under this approach, we would anticipate that the South/North LRT project would be authorized for construction in this ISTEA update with the actual funding commitment for Segment 1 provided in 1999 upon completion of the Final Environmental Impact Statement.

67. New Start Evaluation and Land Use Benefits. The region believes that one of the most important benefits of the Section 3 New Start program is the opportunity it offers communities to reduce urban sprawl and its associated costs. The new ISTEA should direct FTA to include the benefits of improved land use and the reduced costs of sprawl in the analysis for new rail projects. Projects which can demonstrate the reduced costs of sprawl through legally binding land use requirements should be given additional consideration in the allocation of New Start funding. FTA should be encouraged to continue its efforts to include in its evaluations the value of reduced sprawl, reduced utility costs, road construction and maintenance costs, air pollution and other benefits associated with the more compact development pattern attainable with integrated transit development and land use planning.

78. Blanket Authorization of Contingent Commitments and Existing Full-Funding Grant Agreements. The region supports the "en bloc" authorization of contingent commitment projects and carryover Full-Funding Grant Agreements. Failure to authorize these projects would unfairly penalize communities that have moved forward with the expenditure of local and state funds under the spirit and the letter of ISTEA's contingent commitment provisions. The level of local trust and cooperation with the Federal Government would be seriously harmed if contingent commitment projects are not authorized as indicated in ISTEA. Not authorizing contingent commitment projects will send a signal to the private sector that public sector financing is unreliable and would reduce future opportunities for public-private ventures. "En bloc" reauthorization of carryover Full-Funding Grant Agreements is critical to complete projects in mid-stream. In many cases, appropriations for these projects have not kept pace with the amount authorized in the current ISTEA and contracted for in these Full-funding Grant Agreements. The remaining appropriation must be provided for in the next ISTEA.

89. Innovative Financing. Steps taken in ISTEA to authorize innovative methods for financing transportation facilities is very helpful. These should be nurtured and expanded in the next ISTEA authorization bill. The flexible funding provisions of ISTEA provided important new tools for local communities to address their transportation needs. However, transportation infrastructure needs still far outstrip local, state and federal resources. Additional innovative financing mechanisms should be explored and local jurisdictions, MPOs and states should be given a broader range of tools to address funding shortfalls. In particular, the region supports expanded authority for tolling federal facilities to address mobility, freight movement and congestion demands. Secondly, the Congestion Pricing authority should be retained and funded. Third, expanded opportunities for public-private partnerships could allow greater private sector participation in transportation financing. Fourth, expanded methods of providing the required local match should be retained and enhanced. Finally, the pilot effort to implement "Infrastructure Banks" should continue, be made permanent and should be capitalized with federal seed money the "firewalls" between the transit and highway portions of the banks should be removed.

Of particular interest in the area of Innovative Finance is a proposal being considered in the Senate Bill to provide a federal credit enhancement program to help

with short-term borrowing required on large projects. Referred to as the "Transportation Infrastructure Financing Improvement Act" or "TIFIA," this program would provide federal support to borrow funds, thereby enhancing short-term cash flow, lowering interest costs and speeding up project completion.

910. Congestion Pricing. The Congestion Pricing PILOT Program should be retained and funded. Market-based mechanisms have proven ability to manage demand with limited resources. The PILOT program to date has been instrumental in promoting the effectiveness of market policies to significantly reduce peak period congestion. By allowing regions around the country to intensively study the concept, the PILOT program has significantly furthered the understanding of the role that congestion pricing can play in managing transportation costs while enhancing mobility. The recent opening of State Route 91 in California and the High Occupancy Toll Lanes in San Diego and the high level of public acceptance in recent public opinion surveys conducted as part of the Southern California Council of Governments'—and the San Francisco Bay Bridge projects and the Houston HOV buy-in project demonstrate the growing support for congestion pricing. Like any policy which involves a dramatic change in behavior among the general populous, implementations of congestion pricing face enormous challenges in terms of public education and acceptance. The program is now poised to capitalize on the concrete successes in a variety of locations around the country. The Portland metropolitan region is currently in the midst of a study which is exploring the potential of this tool to play a key role in our regional transportation future. The region is interested in having access to funding through the PILOT program should it conclude congestion pricing is an appropriate tool to implement in the Portland region. In particular, current proposals under consideration by Congress to limit these PILOT projects to three locations nationwide should be lifted or expanded.

1011. Increased Funding. ISTEA recognized the critical link between transportation investments and economic development, increased productivity and individual opportunity. Funding for ISTEA programs should be increased to reflect this critical linkage. To maintain the equity and flexibility in ISTEA, the existing 80/20 funding ratio between highways and transit should remain constant.

1112. Many of the highway funding distribution formulas are biased against Oregon, resulting in the state being in a

"donor" status, paying more into the federal trust fund than returns through ISTEA. These formulas should be revisited to correct this problem.

1213. 4.3 cents of the federal fuel tax ~~is now~~ which was being used for deficit reduction was shifted back into the Transportation Trust Fund in 1997. When this tax increase was adopted by Congress, it was on the basis of being an interim measure to reduce the deficit and the commitment was made to return this to the Highway and Transit Trust Funds. This commitment should be was fulfilled in 1997 since through a shift of this 4.3 cents to the deficit is nearly in check but the authorization to spend these user fees has not been provided by Congress. In addition, even without this 4.3 cents, the Trust Funds have been growing due to limits on appropriation.

As the Congress debates options for use of the budget surplus, from cutting taxes to increased spending on social programs, a high priority should be placed on investing in transportation infrastructure. Toward this end, ISTEA spending levels should be increased to fully spend those user fees being collected as follows: 1) one-half cent for passenger rail; 2) 80 percent of the balance to the Highway Trust Fund; and 3) 20 percent of the balance to the Transit Trust Fund with an associated increase in spending authority in these areas to spend down the Trust Fund balances and the added 4.3 cents.

1314. The High-Speed Rail Program within ISTEA should be reauthorized for the five selected priority corridors, including the Cascadia Corridor from Eugene, Oregon to Vancouver, B.C. There are important trackway improvements needed within the Portland metro area to improve speed and safety. In addition, the Portland region benefits from improved service (speed and frequency) to Eugene, Seattle and Vancouver, B.C.

Associated with this, one-half cent of the 4.3-cent gas tax ~~new~~ previously dedicated to deficit reduction should be committed to intercity passenger services, capital improvements, such as high-speed rail, intercity bus and Amtrak. This program would provide for grants and loan guarantees to such applicants as ODOT, transit districts, Amtrak and local governments.

1415. NHS Priority Corridors -- I-5 Trade Corridor. ISTEA designated several high priority NHS corridors throughout the nation. These corridors receive special funding for capital improvements. Oregon in cooperation with Washington and California should seek special status for

I-5 as an NHS Priority Trade Corridor. With the passage of NAFTA, this special designation is of even greater importance.

Establishment of this tri-state international trade corridor should include a critical component focusing on the bi-state I-5 crossing corridor and the deficiencies in the current interface between north-south international trade on I-5, east-west international trade between the Pacific Rim and points east via the Ports of Portland and Vancouver, inadequate facilities to meet cross-river commuting demands and growth in barge traffic on the Columbia River and the difficulty in accommodating this river traffic.

With this I-5 Priority Trade Corridor designation, appropriate bi-state studies should be undertaken to address the problems of moving freight to and from the ports and between the states and moving commuters between these two parts of the Portland-Vancouver region. Following these studies to define and agree upon appropriate methods to address the needs, funds should be sought to begin implementing the key priority improvement projects.

1516. Match Ratios. Oregon should oppose any attempts to change the match ratios as outlined in ISTEA. Oregon benefits from the sliding scale match ratio provisions of ISTEA tied to federal lands within the state and should advocate for their inclusion in the next ISTEA. In addition, ISTEA should explicitly allow "overmatching" federal funds with a higher than required local match.

1617. Fiscal Constraint. The current requirement to base transportation plans and programs on realistic revenue forecasts should be continued. This requirement has brought about more realistic plans rather than simply a "wish list" and therefore greater attention to funding decisions which assume more cost-effective projects. However, equal attention should be paid to a "vision" plan to provide the basis for pursuing the funding needed to accomplish that vision.

1718. Oregon is facing a severe shortfall in meeting its Transportation Capital needs. This has been exacerbated by federal funding cuts and lack of action by the Oregon Legislature to meet the need. Most recently, ODOT was forced to cut \$400 million from its Modernization Program. Highway "Demo" projects represent a possibility for helping to meet these needs. The state should submit projects that have the greatest likelihood of being included as "Demo" projects.

19. Fix the six-month lapse in ISTEA. In 1997, Congress failed to agree on the update to ISTEA which lapsed on September 30, 1997. In order to assure continued flow of funds to the states and localities, a six-month interim extension was adopted. Without action by Congress, all federal spending will come to a halt on May 1, 1998, right before the start of the 1998 construction season. It is essential that Congress act to avoid this lapse and to provide the second half of funding for federal fiscal year 1998.
20. Support for Transportation/Land Use Program. Senator Wyden has sponsored a program to provide funds to states and localities for land use actions which support transportation. Eligible activities would include transit-oriented development, right-of-way protection, access management, and interchange management plans. The region supports enactment of this program and award of one of the discretionary grants to Oregon and the Portland region.
21. The Congress should not limit the options available to states on the type of user fee used to finance transportation, particularly to provide the means of maintaining cost responsibility between and within vehicle classifications.



### Project Priorities

FY 97 ~~is~~ was the final year of ISTEA which was adopted in 1991. In 1997~~8~~, both consideration of the FY 98-2003 ISTEA and the FY 98~~9~~ Appropriations Bill will provide opportunities to consider earmarking projects. The following priorities should be considered for funding through the ISTEA reauthorization or appropriations or other legislative actions. This list should be accepted on a preliminary basis to allow for coordination with ODOT on statewide priorities. It may be necessary to add projects elsewhere in the state or delete some Portland area projects. The "Regional Priority Projects" are endorsed as priorities for all jurisdictions of the region while the other projects are a priority for individual jurisdictions.

#### A. Regional Priority Projects

1. Completion of Westside/Hillsboro LRT project - Section 3.

~~\$74 million of "contingent commitment" for the Hillsboro extension must be authorized in ISTEA, in addition,~~  
\$10036.8 million remains to be appropriated as the final appropriation in FY 98~~9~~ for this project.

2. Initiation of South/North LRT project - Section 3.

~~It is the intent of the region to re-examine the scope and cost of the South/North project now under consideration in order to define a Phase I project that meets regional objectives within a more constrained budget and to seek federal "New Rail Starts" funding. In March 1997, the region will amend the alternatives now under consideration in the Draft EIS. This project is likely to require partial funding in the next ISTEA and a commitment to complete the funding in the following ISTEA.~~  
implement a phased South/North LRT project from the Clackamas Regional Center to Vancouver, Washington. The Draft EIS will be published in February 1998 to provide the basis for adoption of the final alignment and phasing plan. The Final EIS is scheduled for completion in early 1999 which will allow Tri-Met to enter into a Full-Funding Grant Agreement with the Federal Transit Administration in the summer of 1999 for the first construction segment. In support of this project, the region is seeking \$487.1 million in construction authorization for the project in the ISTEA update and an FY 99 appropriation of \$30 million for completion of preliminary engineering, the Final Environmental Impact Statement and final design and initial right-of-way purchases.

Also needed to accomplish this is a local and regional commitment over this same time period. Consideration should be given to various local and regional sources in addition to the \$475 million General Obligation Bond Measure, and the \$55 million of regional STP funds and the \$10 million of Clackamas County urban renewal funds.

~~The region will consider adoption of a detailed financial plan for this proposal in March 1997.~~

3. Deepening of the Columbia River Ship Channel - Corps of Engineers.

The Port of Portland, in cooperation with other Columbia River ports, is seeking Corps of Engineers funding to deepen the Columbia River ship channel to accommodate larger ocean-going vessels. This is critical to the international competitiveness of the Portland area and the greater Columbia River Basin and directly tied to truck and freight rail access improvements in the Rivergate area.

We strongly support continued funding of ~~\$725,000~~\$635,000 per year in Fiscal Years ~~1998 and~~ 1999 for the U.S. Army Corps of Engineers' completion of the feasibility, and environmental and engineering studies for the Columbia River channel deepening.

The region also encourages Congress to approve bill language to provide a contingent authorization of ~~\$65 million~~ for the federal share of the project, subject to required environmental, economic and engineering reviews. This authorization is a critical step in keeping the project on schedule for construction early in the next decade.

4. I-5 Priority Trade Corridor

The region requests earmarking \$10 million to the states of Oregon and Washington and the affected regional and local governments in the Portland-Vancouver area to develop a strategic plan to correct deficiencies in the bi-state I-5 Trade Corridor. This planning process should address and develop agreement on actions needed to meet the following needs:

a. Structural, functional and capacity limitations on the I-5 Columbia River bridge and the I-5 approaches on both sides of the Columbia River causing congestion during commute periods, thereby impeding interstate and international commerce across the Columbia River.

b. Impacts of congestion on access to the Port of Portland and Vancouver.

- c. Access routes to and from Port of Portland and Vancouver terminals, including Marine Drive, Columbia Boulevard, Mill Plain Road, access to West Hayden Island and access between the two ports.
- d. Effects of increased size and volume of barge traffic on I-5 and Burlington Northern Railroad lift spans and the resulting disruption to vehicular traffic. This could include Coast Guard involvement in correcting lift span problems, changing the location and/or depth of the main shipping channel and/or changing restrictions on hours of operation of the I-5 lift span.

Upon completion of this planning process, implementation priorities will be defined which could affect future ISTEA and appropriation requests. If the Congress chooses to appropriate funds toward construction projects in this I-5 Trade Corridor, the region has projects that could proceed to implementation immediately.

#### B. Local or Agency Priority Projects

Projects presented in this section are acknowledged by the region as being a priority by one or more individual jurisdiction or agency in the Portland region. The projects presented below are grouped into a first component encompassing projects that our Congressional delegation have requested for inclusion in ISTEA and a second component which remain priorities and should be considered for funding if the opportunity arises.

#### PREVIOUSLY REQUESTED CONGRESSIONAL PRIORITIES

1. I-5/Highway 217/Kruse Way Interchange - FHWA Demo project.

A revised design has been developed and endorsed by ODOT, the affected local governments and Metro. \$38 million of Highway Demonstration funds or Interstate Discretionary funds would allow this critical I-5 bottleneck and safety problem to be corrected.

2. Sunnybrook Interchange - FHWA Demo project.

Project development on this project is nearly complete. \$19 million of Highway Demonstration funds or Interstate Discretionary funds in combination with previously committed ODOT and local funds would allow this project to proceed on schedule.

3. South Rivergate Railroad Overcrossing/Columbia Boulevard Corridor - FHWA Demo project.

Columbia River channel dredging and Rivergate rail improvements are increasing the cargo movements into and out

of the Rivergate port terminals. \$15 million of Highway Demonstration funds for this railroad grade separation would enhance truck access to these terminals. This project is the second in a series of planned improvements in the Columbia Boulevard corridor between Rivergate and I-205.

54. Lovejoy Ramp Removal/Broadway Bridge Rehabilitation - FHWA Demo and Bridge Program.

Replacement of the Lovejoy ramp in the River district and upgrade to the Broadway Bridge will enable major redevelopment in this Central City district. \$15 million of Highway Demonstration funds and \$10 million of Highway Bridge Repair and Replacement funds would allow these projects to proceed.

95. Willamette Valley High-Speed Rail - High-Speed Rail Account.

Funding should be sought for track upgrade to improve speed and safety. The Eugene to Vancouver, B.C. corridor is one of five priority corridors selected by USDOT following establishment of the High-Speed Rail Program in the last ISTEA. A component of these funds should be through the recently authorized Amtrak capital improvement funding program.

106. Transit-Oriented Development Revolving Fund - Section 3.

In 1994, \$3 million of Regional STP funds were allocated to establish this revolving fund. Initiation of the grant application through the Federal Transit Administration is now in progress was awarded in May 1997 and the program is now being implemented. In addition, \$10 million of Section 3 funds would additional funding is now being sought to allow additional projects adjacent to LRT to be implemented. Potential sources for these funds include HUD or through the land use program proposed by Senator Wyden to be included in ISTEA.

#### OTHER PRIORITIES

41. Sunset Highway - Phase III.

The Westside Corridor Project included both LRT to Hillsboro and Sunset Highway improvements. The Sunset Highway projects, however, have been delayed due to lack of funding. This \$27 million would allow the next logical phase to proceed.

72. 242nd Avenue/I-84 Connection: Mt. Hood Parkway Interim Improvement.

242nd Avenue is the region's designated NHS corridor connection between I-84 and U.S. 26. Existing roads in this corridor are poorly connected to these highways or provide less direct travel into and out of the region for autos and substantial truck movements.

The proposed project will provide for a more direct connection to I-84 by extending 242nd Avenue northerly from Glisan Street to Sandy Boulevard and connecting to I-84 via ramps. Development of this alignment will replace a hazardous, steep three-lane road (238th Avenue) which has a high accident rate and must be closed during icy conditions. Existing East County streets used for travel into and through the region are projected to suffer from increased congestion. Thus a more direct route with access control and with some operational changes can better serve these substantial non-local traffic movements.

Much of the right-of-way is currently owned by Multnomah County and ODOT. Project cost for project construction is \$20 million. An additional \$5 million is proposed to make operational enhancements to the existing 242nd Avenue to improve flow and eliminate bottlenecks.

83. Cornell @ Cornelius Pass and Baseline @ 185th Intersections.

Implementation of the Region 2040 Growth Concept in the vicinity of the Westside LRT project creates the need to also provide road improvements. This \$12 million demonstration project will identify and construct the correct solution to accommodate the land use regime the region desires for this area.

114. Federal demonstration funds for a regional "Intelligent Transportation System" should be sought. This technology shows promise to improve the efficiency of the region's freeway, arterial and transit systems.

##### 5. Buses

Tri-Met has a continuing need to expand its fleet by 18 buses per year in addition to the routine placement of 34 buses. Tri-Met should work with ODOT to develop a statewide funding request for bus-related improvements by transit systems statewide.

- ~~6. Seek federal discretionary funds to "capitalize" the Oregon State Infrastructure Bank for such projects as the Tualatin Expressway and cash flow management for the Westside LRT project.~~

The criteria for recommending these projects is as follows:

1. Projects are of statewide significance.
2. Projects can be built within the timeframe of the next ISTEA bill (1998-2003).
3. There is a strong base of support for the project within the governments, community and business organizations.
4. The proposal would bring new funds to the state, not merely result in reallocation of existing funds.
5. Members of the Congressional delegation express a willingness to pursue the project.
6. There should be a short list of priorities.
7. The list should be integrated with ODOT's statewide priorities.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 98-2606 FOR THE PURPOSE OF  
ADOPTING 1998 PRIORITIES FOR FEDERAL TRANSPORTATION  
LEGISLATION

Date: January 27, 1998

Presented by: Andrew Cotugno

PROPOSED ACTION

This resolution updated the 1997 regional policy position on the reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 to serve as the basis for a coordinated regional lobbying position as Congress considers its update during 1998. It was anticipated that the new ISTEA would be adopted by September 30, 1997 when it expired but Congress couldn't agree and postponed action to 1998. In order to avoid a lapse of funds, they adopted an interim, six-month extension. If Congress fails to act again, transportation spending will come to a halt on May 1, 1998.

One of the key elements is to seek federal "New Rail Starts" funding for Phase I of the South/North LRT project. In addition, a new regional priority emphasis is recommended for inclusion to focus on the bi-state I-5 Trade Corridor in cooperation with the State of Washington.

TPAC has reviewed these priorities for federal transportation legislation and recommends approval of Resolution No. 98-2606.

FACTUAL BACKGROUND AND ANALYSIS

When ISTEA was adopted in 1991, it established a significant national policy direction in support of multi-modal decision-making, funding flexibility, regional responsibility for decision-making, integration with local land use plans, partnership with state and local governments and increased public involvement. These provisions of ISTEA provided the Portland region a significant tool to meet its transportation and land use goals. This policy position paper, in large part, calls for continuing this policy direction with some refinements. Since this position paper was substantially established in 1997, presented here is an amended version to be more responsive to the issues under debate at this time.

CONTINUE THE SUCCESSES OF ISTEA

Key provisions of ISTEA that should be continued include:

- Continuation of the MPO role in decision-making;
- Joint approval with the state of transportation funding allocations;

- Continuation of flexible funding programs, particularly the Surface Transportation Program, Congestion Mitigation/Air Quality Program and Transportation Enhancement Program;
- Continuation and expansion of the "New Rail Starts" Program; and
- Linkage of transportation decision-making to land use.

#### REFINEMENTS TO ISTEA

Potential areas of refinement to ISTEA include:

- Expansion of innovative financing authority, including tolls and congestion pricing;
- Shifting of 4.3 cents of gas tax from deficit reduction to transportation with a commensurate increase in transportation spending levels;
- Funding for high-speed rail and other intercity passenger services; and
- Expansion of funding flexibility for freight projects.



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PO Box 5488 - Portland, Oregon 97228-5488  
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E-Mail: RoyJay1@AOL.COM

## Memo From Roy Jay

**To:** Mike Burton and METRO Councilors

**From:** Roy Jay - Oregon Convention & Visitor Services Network Inc.

**Date:** February 25, 1998

**Re:** See You On Thursday!

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As you may know, many of us in the convention, tourism and hospitality community have devoted many hours to laying the ground work and garnering support for the expansion of the Oregon Convention Center.

On Thursday, I am cancelling my home viewing of "Jeopardy" to attend the METRO council meeting along with my colleagues to discuss the future expansion of Oregon Convention Center. I realize that you have been faced with some very tough decisions, however I hope that you can sincerely understand the need to vote unanimously for the expansion of the convention center.

Portland must stay competitive with other cities in order to attract various out of state conferences and meetings and conventions.

I would certainly appreciate your unanimous vote in favor of the convention center expansion.

Roy Jay

## PORTLAND, OREGON... AND LOOK WHO WE BEAT OUT!

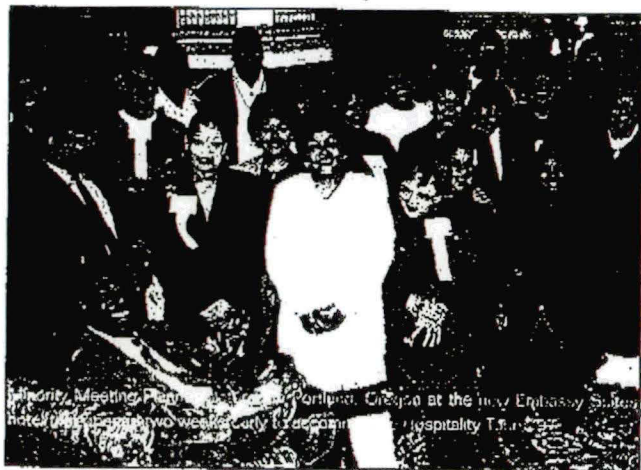
# Focus' TOP 25 U.S. Vacation Destinations for 1998

- 1. New York City**  
Broadway, Statue of Liberty, Sylvia's Restaurant, Motown Cafe, Apollo Theater - need we say more?
- 2. Chicago**  
Lots to do and see in Michael Jordan's and Oprah's town. Great nightlife, shops, restaurants and family fun.
- 3. Minneapolis**  
The "City of Lakes" is known for cultural diversity, casinos, the Great Mall of America and it's most famous resident, Prince.
- 4. Atlanta**  
Lots of historical sites to visit including Dr. King's birthplace and memorial and the largest consortium of Black colleges and universities in the country.
- 5. New Orleans**  
Cajun food, sunny weather and jazz bands are just a few reasons why this city is a hot vacation spot.
- 6. Orlando**  
Who can resist Mickey, Minnie and the entire Disney gang?
- 7. Charlotte, North Carolina**  
Theme parks, sports, art galleries, auto racing, balloon rides and craft shows are a sample of what this city has to offer.
- 8. Virginia Beach**  
Of course there's the beaches. There's also Ocean Breeze Fun Park, water sports, golf, tennis and historic homes tours.
- 9. Miami**  
This tropical cosmopolitan city is known for it's beautiful beaches and ecological wonders.
- 10. Kansas City, Missouri**  
Home of bar-b-que, jazz and Chiefs football. Also check out the Negro Leagues Baseball Museum, Kansas City Jazz Museum and the Gem Theater.
- 11. Houston**  
The fourth largest city in the U.S. boasts more than 6,000 restaurants, more than 100 public and private golf courses, 90 multicultural and minority visual and performing arts organizations and plenty of sunshine.
- 12. Boston**  
Seafood, bodies of waters, Harvard Square, Newbury Street, Faneuil Hall, South Station/Fort Point are some of the things visitors remember most.
- 13. Detroit**  
Experience the history of the Motown sound at the Henry Ford Museum. If you're lucky, you can check out Grant Hill and Barry Sanders on the hardwood and grid-iron respectively.
- 14. Portland**  
Commitment to racial equality, no sales tax, great parks and transportation hubs, strong downtown and safety are a few reasons to visit this city.
- 15. Cleveland**  
The Rock and Roll Hall of Fame, a great NBA team and friendly people are a few reasons to check out the hometown of Halle Berry, Arsenio Hall and Gerald and Eddie Levert.
- 16. Phoenix**  
The seventh largest city in the U.S. is home to the Desert Botanical Garden, the Southwest's largest art museum and South
- 17. Las Vegas**  
Welcoming more than 30 million visitors each year, this lively city has plenty of shows, lights, casinos and non-stop action.
- 18. San Diego**  
Sights include tropical garden, Wild Animal Park, Sea World, Balboa Park, Reube H. Fler Space Center and Simon Edison Centre for Performing Arts and so much more.
- 19. Philadelphia**  
Marketing itself as the "nation's #1 city for African American tourists," come see underground railroad sites, African American Art Expo, Caribbean Festival and more.
- 20. Baltimore**  
Historical sites include the civil war museum, Great Blacks in Wax Museum, Eubie Blake Gallery and Arena Players - the oldest African American community theater in America.
- 21. Lake Tahoe, Nevada**  
Golfing, horseback riding, boating, fishing, shopping and fine dining are some of the activities this resort community specializes in.
- 22. Mobile, Alabama**  
Aside from historic homes and museums, the birthplace of the Civil Rights Movement also has beaches, golf courses and other activities for the family.
- 23. Memphis, Tennessee**  
Home of the blues and the birthplace of rock and roll, visitors can check out Graceland, Beale Street and historic sites representing the Civil War, Victorian era and Civil Rights Movement.
- 24. Washington, D.C.**  
Of course there's the White House, Georgetown and Howard Universities. There's also statues and historic landmarks honoring A. Phillip Randolph, Benjamin Banneker, Mary McCloud Bethune and Frederick Douglass.
- 25. San Francisco**  
This beautiful bay city has wonderful restaurants, exquisite dining experiences and plenty to do and see.

Martin Park, the largest municipal park in the world.

# PORTLAND, OREGON CONTINUES TO ATTRACT MINORITY CONVENTIONS

## "City of Roses" Has Waiting List of Groups Wanting to See



"It was one of the best five days I have experienced," said Mark Smith of Gospel Music Workshop of America. Smith was one of 35 selected and approved meeting planners, media representatives and minority organization site selection committee members that were fortunate enough to attend what many considered the "grand daddy" of all FAM tours in America. *Hospitality Tour* was started three years ago in Portland, Oregon and has been rated "X" (for excellent) each year.

With African-Americans representing less than 2 percent of the city population, Portland has continued to become a destination for regional and national minority meetings, conferences and conventions. Much of the city's success is attributed to the efforts of Oregon Convention and Visitor Services Network, headed by African-American business entrepreneur, Roy Jay. OCVSN, the nation's only privately-owned and publicly funded enterprise works in tandem with the local convention bureau in marketing, promotions and servicing to numerous minority and other conventions.

Hospitality Tour '97 was a five-day event (October 21-25) which allowed potential customers a tour of the "City of Roses." What makes Portland's FAM tours so popular is a combination of various elements. Planners such as Reggie Sears of Kappa Alpha Psi Fraternity say that the entire Hospitality Tour is professionally managed, well coordinated and utilizes many people of color. Sears, who was recently named Meeting Planner of the Year by the National Coalition

Continued on page 47

# Attention Meeting & Event Planners!



# ISMP

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 CDS—Certified Destination Specialist  
 ITS—Incentive Travel Specialist

## International Society of Meeting Planners MOVE TO PROFESSIONAL EXCELLENCE BY JOINING ISMP TODAY!

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 "The Professional Association of Meeting Planners"



Continued from page 41

of Black Meeting Planners, went on to say that Portland's presentation adds "flavor" to the site tours. Roy Jay and his staff allow guests to see more than hotel rooms and meeting facilities. Citywide receptions provide an opportunity to meet local minority business owners, professionals and hospitality suppliers. Sears, like many others, was so impressed that his group is currently negotiating to hold a conference in Portland in 1999 or 2000.

Portland's success is also attributed to the active voluntary participation by hotels, restaurants and other businesses that are eager to showcase their operations to minority convention prospects. "We are extremely proud of the fact that every major hotel in the area rushes to the table to participate as soon as we announce the dates of the Tour. It's teamwork at its best," says Jay.

The '97 tour escorted minority guests to three of Oregon's major cities and included dining at one of Portland's five-star restaurants, Couch Street Seafood & Steak House, which is owned by African-Americans. Local entertainment for a luncheon reception in Beaverton, Oregon by Curtis Nettles and down home gospel in Eugene, Oregon set the tone for the upscale event.

Janice Wright, chair of the Board for the National Black Association of Speech-Language and Hearing says, in her evaluation, "the sights and sounds of Portland are exciting and beckoning our organization to hold its convention there in the near future." Among the many others attending included Shiela Vaden Williams, executive director of the National Association of Minority Automobile Dealers, Elaine Neal of National Association of Blacks in Criminal Justice, Edwin Cook of Conference of Minority Public Administrators, Ed Flansberry of the Western Region of the National Black Police Association and many others.

With more hotels coming on line by 2000 and absolutely no sales tax, the Portland area is a growing destination that is getting a new standard for minority convention marketing.