

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: March 5, 1998
DAY: Thursday
TIME: 2:00 PM
PLACE: Council Chamber

<u>Approx. Time*</u>		<u>Presenter</u>
2:00 PM	CALL TO ORDER AND ROLL CALL	
(5 min.)	1. INTRODUCTIONS	
(5 min.)	2. CITIZEN COMMUNICATIONS	
(5 min.)	3. EXECUTIVE OFFICER COMMUNICATIONS	
(10 min.)	4. MPAC COMMUNICATIONS	
(10 min.)	5. PARKS ACKNOWLEDGMENT PRESENTATION	Ciecko
	6. CONSENT AGENDA	
2:35 PM (5 min.)	6.1 Consideration of Minutes for the February 26, 1998 Metro Council Regular Meeting.	
	7. ORDINANCES - SECOND READING	
2:40 PM (5 min.)	7.1 Ordinance No. 98-722 , For the Purpose of Amending Metro Code Title X, Metro Regional Parks and Greenspaces, to Increase Rental Fees at Blue Lake Regional Park's Lake House.	McCaig
2:45 PM (5 min.)	7.2 Ordinance No. 98-725 , For the Purpose of Granting A Yard Debris Processing Facility License to the Minsinger's Floral Nursery Inc. to Operate a Yard Debris Composting Facility.	Washington

8. RESOLUTIONS

2:50 PM (5 min.) 8.1 **Resolution No. 98-2613**, For the Purpose of Authorizing the Executive Officer to Contract with Trexler and Associates for Reforestation Assistance on Metro Properties. McFarland

2:55 PM (5 min.) 8.2 **Resolution No. 98-2614**, For the Purpose of Amending the FY 1997-02 Capital Improvement Plan. Morissette

9. CONTRACT REVIEW BOARD

3:00 PM (5 min.) 9.1 **Resolution No 98-2612**, For the Purpose of Authorizing Exemptions for the Competitive Bidding Procedures and Pursuant to Metro Code, Chapter 2.04.056 Authorizing a Design/Build RFP for Contracting with an Exhibit Fabricator for a New Exhibit Interpretives at Metro Washington Park Zoo. McCaig

3:05 PM (10 min.) 10. **COUNCILOR COMMUNICATION**

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).

Consideration of the February 26, 1998 Metro Council Regular meeting minutes.

**Metro Council Meeting
Thursday, March 5, 1998
Council Chamber**

MINUTES OF THE METRO COUNCIL MEETING

February 26, 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 7:00 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

Art Lewellan, LOTI Designer, 3205 SE 8th #9 Portland, OR presented his latest draft of his electric bus and trolley system to serve the mall. He explained there were strong advantages to having an east side light rail with the LOTI system supporting the west side transit area. He proposed a streetcar link in the southern area of Portland.

Kay Durtchi, MCCI President, thanked the Council for their evening meeting as well as thanking those individuals who attended the MCCI retreat. She mentioned that the new staff person was working out very well.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. MPAC COMMUNICATION

Judie Hammerstad, MPAC Chair and Clackamas County Commissioner said MPAC referred a motion on substantial compliance to the Council which had exemption to eliminate small cities. She said there would be some bylaw changes. She would listen to the testimony at this meeting and would make recommendations on March 25th. She said she was looking forward to the meeting with Council on April 8th.

5. CONSENT AGENDA

5.1 Consideration of meeting minutes of the February 19, 1998 Regular Council Meeting.

Motion: Councilor McLain moved to adopt the meeting minutes of February 19, 1998 Regular Council Meeting.

Seconded: Councilor Washington seconded the motion.

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

6. ORDINANCES - SECOND READING

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.**

Motion: Councilor Morissette moved to adopt Ordinance No. 98-720A.

Seconded: Councilor McFarland seconded the motion.

Discussion: Councilor Morissette reviewed the ordinance and noted that there were some concerns at SWAC about the minimum 10% threshold before the incentive based program started.

Bruce Warner, REM Director, further discussed concerns mentioned at SWAC. He felt that the 10% minimum would penalize good operators who did source separation well and penalized operators with limited areas to work in, and about process. He recommended the council adopt the "a" version of the ordinance without changes. He said he was committed to putting the 10% threshold issue back on the table through the upcoming code rewrite and revision process. He said SWAC members were comfortable with the dual process. He said he was confident a middle ground could be found.

Councilor McLain said that she would support this ordinance. She believed that Mr. Warner had worked closely with the SWAC. She said she was supporting this ordinance because of the 10% threshold. She wanted the agency to see recycling as a major responsibility.

Councilor McFarland said that she supported the ordinance. She said she was in favor of the 10% threshold at this time.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-720A.

Sue Keil, Manager of Industrial Solid Waste, City of Portland, 1120 SW 4th Portland, OR 97204 said the issue was captured by Bruce Warner. The committee was caught off guard. She supported the ordinance before council. She said it had been difficult to pass through to the rate payers but their intent was to pass through the reduction to the rate payers with a June implementation date.

Councilor Washington said he supported the ordinance and appreciated Mr. Warner and his staff for their hard work.

Presiding Officer Kvistad closed the public hearing.

Councilor Naito felt this was a balanced proposal. She commended the committee.

Councilor Washington commended the chair of the committee for his outstanding job.

Councilor McFarland said she felt the same.

Presiding Officer Kvistad commended Councilor Morissette, Solid Waste staff, and their SWAC partners. He said it had taken years to get to the point of reducing tipping fees and perhaps sending the reduction back to rate payers. He said it was a tremendous achievement.

Councilor Morissette reviewed the reductions and incentives once more. He said he felt Waste Management should be given great credit for the success of this ordinance.

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

7. RESOLUTIONS

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

Motion: Councilor McLain moved to adopt Resolution No. 98-2606.

Seconded: Councilor Washington seconded the motion.

Discussion: Councilor McLain reviewed the ISTEA resolution. She noted it had been through the Transportation Planning Committee and JPACT. This covered a 6 year period of time including the year of the appropriation. She noted Exhibit A which listed regional priorities.

Councilor Morissette said his concern was that the first three were alternatives to roads. He said again that with the vast majority of citizens chose automobiles as their mode of transportation, that the priorities were backwards from where the majority chose to operate.

Councilor Naito noted item #4 made a good point that transportation projects might require an intensive capital investment at one time.

Presiding Officer Kvistad said the I-5/217 Kruse Way interchange was a priority for him.

Councilor Morissette said that he would not be against the proposal if that were the number one priority. He felt it was important to focus on local priority, not regional priority.

Councilor McLain pointed out that the project priority list included a balanced package and considered the importance of freight as well as other things.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Morissette voting no.

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.**

Motion: Councilor Naito moved to adopt Resolution No. 98-2609.

Seconded: Councilor McFarland seconded the motion.

Discussion: Councilor Naito reviewed the resolution which would ask voters for help in completing the Oregon Convention Center. She said MERC staff reported that in 1996 the Convention Center turned down conventions and trade shows which would have generated \$275,000,000 in economic benefits for the Metro region. She explained why expanding the center made good business sense.

Presiding Officer Kvistad opened a public hearing.

Mr. Joe D'Alessandro, President and CEO of the Portland Oregon Visitor Association, 26 SW Salmon Portland OR 97204 said POVA urged support of putting this before the voters.

Presiding Officer Kvistad closed the public hearing.

Councilor McFarland said that she supported this resolution. She felt it would benefit the whole state. She urged an aye vote from the Council.

Councilor McCaig said she would be voting no on this resolution. She said the infrastructure systems in the region were falling apart and there was no money to operate on. She said the fire stations were literally falling apart and she was genuinely concerned about asking voters for this money. She felt her job was to decide if this was the right issue to put before the voters at this time and she did not feel it was. She said Metro had unmet capital needs in the next 2 years which needed to be looked at. She said she was unclear about the connection between the convention center being finished and the existence of Metro being threatened. She felt without resolve of this issue, she would be uncomfortable moving on.

Councilor McLain said some of the issues that Councilor McCaig brought up for not supporting the resolution were the same reasons she would be voting in support. She explained that she trusted the voters to do the right thing. She felt the expansion was necessary to the region. She said a vital economy was necessary to repair the fire stations and schools. She felt the convention business was very sound. She commented on the petition to abolish Metro. She said she would keep doing a good job until that day came.

Councilor Washington said the one thing he believed was to never second guess the voters, he recognized the benefits that had been derived in this district from the center. He said he would support the resolution as a choice the voters would make.

Presiding Officer Kvistad said he respected some of the priorities Councilor McCaig had discussed. He felt this was a world class region and this was a tremendous opportunity. He thanked Multnomah County and their elected leadership for working with Metro Council, and also thanked the City Council and the City of Portland, the hotel/motel industry, MERC Commission and staff. He said one could not ask for better public servants. He said he supported the resolution even though he shared some of Councilor McCaig's concerns.

Councilor McCaig said that even though she would be supporting it, she wanted to ask why two years ago the numbers were different than now.

Mr. Jeff Blosser, Director of the Oregon Convention Center responded to Councilor McCaig that this was because they had wanted to relate the 1994 dollars when they got the quote for the 1999 dollars this time.

Councilor McCaig said she felt they had did not driven a hard enough bargain and asked about Clackamas County' s position.

Mr. Blosser responded that they had decided to respond without the State in that participation. He said the city of Portland and Multnomah County were contributing to the project. He said they had unanimous support from Clackamas County Council and would be talking to Washington County soon.

Councilor Naito spoke to the timing issue. She said if this proposal passed it would not open until the year 2001. She explained that this development was compatible with many other planning objectives. She felt this was an investment into something that would generate a return in a big way. She pointed out that the center had exceeded all projections for success since it opened by more than double. She urged support.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor McCaig voting no.

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.

Councilor Morissette requested that this resolution be returned the REM Committee for further work.

Regular meeting closed and contract review board convened.

8. CONTRACT REVIEW BOARD

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.

Motion: Councilor McFarland moved to adopt Resolution No. 98-2611.

Seconded: Councilor Morissette seconded the motion.

Discussion: Councilor McFarland said this was the straightforward process of replacing the compactors at Metro South Station. She said the present ones were not very efficient as they were early models and were starting to cost a lot in repairs. She reminded the Council to use the RFP carefully so the best proposal would be found.

Councilor Morissette said the new technology allowed closer monitoring of the weight therefore reducing the numbers of trucks. He also mentioned that the price would be dealt with in the proposal. He urged support.

Presiding Officer Kvistad asked about the turn around time between the proposal and the replacement.

Councilor McFarland asked Mr. Warner to respond.

Mr. Bruce Warner, REM Director, said between 6 to 8 months. He said it was about a 3 month process to get the proposals and evaluate them, then 5-6 months to get them manufactured and in place.

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

Contract Review Board adjourned, Metro Council meeting reconvened.

9. PUBLIC HEARING

Draft Stream and Flood Plain Protection Plan (Comments on MPAC and WRPAC Draft Recommendations)

Councilor McLain welcomed the public. She explained that Metro was required to protect water quality and reduce the flooding. She reviewed the background, that Metro adopted the Metro Functional Plan. She noted the advisory groups involved in the ordinance, MPAC, WRPAC.

Councilor Naito said there had been a public hearing in the Growth Management Committee and that she had received a call from the Oregon Environmental Council who were unable to send a delegate but wanted it known that they supported the resolution.

Councilor McLain added that there had already been 49 documents received on the Stream and Flood Plain Protection Plan. She said a list of those was available.

Kelly Ross, Home Builders Association, came to express serious concerns that were forthcoming to Council regarding this resolution. He said Councilor McLain summarized most of them. He said the housing industry was frustrated by the regulatory standards that protected stream quality but gave blanket exemption to agricultural industry who polluted the waterways badly.

Frank Opila, Friends of Smith and Bybee Lakes, PO Box 83862 Portland, OR 97283 read his letter into the record (Letter #52 a copy of which may be found in the permanent record of this meeting).

Thomas Claus, 22211 SW Pacific Hwy., Sherwood, OR 97140 yielded his time to Robert Claus.

Dr. Robert Claus, 22211 SW Pacific Hwy., Sherwood, OR 97140 said in previous testimony he had stated the goals in 6 and 7 were not proper. He felt Council was punishing communities that had already done flood control and gone to enormous expense to control water quality. He felt council was not doing anything to mitigate or offset the costs. He also said this was an extreme act that would criminalize normal civil behavior. He said that assuming this would even work, the act was retroactive and the impact would be enormous. This was the most extreme act in the United States vastly exceeding the navigable river and clean water act. He said that under Title 1983, by being extreme the Council was violating civil rights, due process and civil treatment. He expanded on why he felt the council's work was poorly done. He said the maps were wetland

study maps done without field work. He noted areas that were not correctly done on the map. He said this would not have happened if the issues had been noticed properly. He said he believed this was a taking. He asked that Council send staff to Sherwood before acting.

Nancy Kraushaar, City of Oregon City and WRPAC, 320 Warner Milne Rd PO Box 351 Oregon City, OR 97045 read her letter of support into the record (Letter # 54, a copy of which may be found in the permanent record of this meeting).

Bob Roth, Watershed Coordinator for the Johnson Creek Watershed Council, 525 Logus, Oregon City OR 97045 read his letter of support into the record (Letter #53, a copy of which may be found in the permanent record of this meeting).

John Jackson, Planning Division Manager for the United Sewerage Agency and a WRPAC member, Hillsboro, OR spoke in support of the plan. He said regardless of what happened with this plan, there would still be waterways on the 303D that needed help. This would be a start. Title 3 provisions were minimum performance standards.

Seth Tane, 13700 NW Newberry Rd, Portland, OR 97231 a citizen representative for RPAG and WRPAC said Title 3 was about the preservation of a fast disappearing resource. He urged support of WRPAC's version as it was a consensus of those with the technical expertise to understand and the field work behind them to have crafted this consensus. He said it contained a process of map review to undo the very kinds of errors that were inevitable in a region wide process. It might be a moot point if we took too long to protect this resource.

Dave Eshbaugh, Coalition for a Livable Future and Audubon Society of Portland, 5151 NW Cornell Rd, Portland, OR 97210 highlighted his written comments to the Council. He said Metro should reject any attempt to reduce, weaken or eliminate the language of the performance standards in Title 3. He also highlighted the Title 3 Headwater issues. He said it was not necessarily helpful to combine Title 3 and some of the more complex headwater issues. He urged adoption of Title 3.

Robert Liberty, 1000 Friends of Oregon and Coalition for a Livable Future, 534 SW 3rd Ave #300, Portland, OR 97204. Said his organization was committed to keeping the urban growth boundary stable in order to encourage reinvestment in existing communities and to prevent sprawl from overrunning farm and forest land and natural areas outside the urban growth boundary. He said protection of natural areas was a prerequisite for stopping low density sprawl. He explained natural areas made smaller backyards easier to bear. Title 3 would help insure public safety took priority over private financial interest. He urged implementation as soon as possible.

Jenny Holmes, Coalition for a Livable Future, and Interfaith Network for Earth Concerns, 2325 NE 44th Portland OR 97213 spoke in support of the provisions of Title 3 that protected wildlife habitat, water quality and flood plains. She urged implementation as soon as possible. She said their concerns stemmed from religious and moral commitments which asked what the decisions surrounding Title 3 would mean for the community.

Alan Hippolita from Coalition for a Livable Future and the Urban League of Portland, 10 N Russell, Portland, OR 97227 presented the historical perspective of north and northeast Portland streams. He urged passage of the WRPAC version of Title 3.

Jessica Glenn, an affordable housing advocate and a member of Coalition for a Livable Future, 1001 SW Baseline, Hillsboro, OR 97123 read her letter supporting Title 3 into the record (Letter # 55, a copy of which may be found in the permanent record of this meeting).

Sanford Rome, 1780 E Willamette St., Sherwood, OR 97140 challenged everyone who spoke against Dr. Robert Claus to take a look at his books and his record, including the Tualatin Valley wetlands and wildlife refuge and the thousands of volunteer hours he had put in on this effort. He went on to give a brief history of his wetland efforts in Sherwood. He requested that the Sherwood storm water plan become part of the record for review. He said the map said they needed to recreate a wetland on his property where there was none before, which rendered his property valueless to him. He asked that the maps be corrected to reflect the real deal.

Amanda Fritz, 4106 SW Vacuna St. Portland, OR 97219. Friends of Orno Creek said it was important to remember we were implementing a previously adopted policy with the buffers and it was important to get it adopted as soon as possible. She showed maps and explained the problems. She requested the draft language be strengthened. She requested an additional buffering for headlands areas. She requested storm water discharge into streams be addressed. She urged adoption of a strong Title 3.

John LeCavalier, John Innskeep Environmental Learning Center, PO Box 5162, Oregon City, OR 97045 spoke of Fanno Creek. He talked about the pollution entering the creek and the fish reproducing in spite of it. He said Fanno Creek was the most urbanized watershed in the Tualatin River sub-basin and was what all other watersheds should never be. He said urban streams can survive urban densities. Title 3 would be important to this. He urged WRPAC's version of Title 3 be adopted.

Sue Marshall, Tualatin Riverkeepers, 16430 SW Beef Bend Rd, Sherwood, OR 97140 read her letter into the record (Letter #56, a copy of which may be found in the permanent record of this meeting).

Peter Teneau, Friends of Smith and Bybee Lakes, 2715 N Terry St., Portland, OR 97217 read his testimony into the record (Letter # 61, a copy of which may be found in the permanent record of this meeting).

Sha Spady, 17855 Alden, Oregon City, OR 97045 said she wanted to deal with the standard 50 - 200 foot buffer zone and its application. She told of a landslide behind her house in Newell Creek Canyon probably caused by runoff from an apartment complex built 12 years ago. She highlighted written testimony (Letter #59, a copy of which may be found in the permanent record of this meeting).

Kendra Smith, 7145 Delaware, Portland, OR 97217, said her degrees were in ecology and ecosystems management, and her work had been in waterway management. She said Title 3 was important and needed to be implemented. She said it was a minimum requirement to protect the environment now before there was nothing that could be done. Protective natural resources was not a political game board for egos and other things to get in the way. She said stream buffers of 100 feet were a bare minimum and were very important to keeping the streams safe. She said the maps were really pretty to look at, but useless in the field. The wording was much more important.

Laura Hill, Chair of Friends of Rock, Bronson, and Willow Creeks, 220 SW Salix Terrace, Beaverton, OR 97006. She said they were concerned about last minute attempts to weaken the standards of Title 3. She said, do not make buffers voluntary. She submitted written testimony. (Letter #48, a copy of which can be found in the permanent record of this meeting).

Jane Leeson, 9795 SW Washington St., Portland, OR 97225 read her testimony into the record (Letter #57, a copy of which may be found in the permanent record of this meeting).

Douglas W. Bollam, PO Box 1944, Lake Oswego, OR 97035 noted his letter to be submitted to the record and said he had been involved in Title 3 since the "dawn of time". He underscored his sincerity for the project and read from his letter regarding the language of Title 3, Letter #58 a copy of which letter can be found in the permanent record of this meeting.

Bill Resnick, Jobs with Justice, 1615 SE 35th Place, Portland, OR 97214 mentioned and explained several reasons to accept Title 3, first the economic necessity of flood plain management and stream and wetland protection in the buffer zones. Second, housing and economic vitality had come together in the land use planning, and it would be a shame to abandon Title 3 at this late date after all the work had been done. Title 3 was vital to regional growth management plan.

Jere Retzer, Crestwood Headwaters Group, 5115 SW Alfred, Portland, OR 97219 strongly supported the protection of streams and natural areas. He supported the 50 to 200 foot buffer in Title 3. He had concerns about the net effectiveness of Title 3. He said he had spent the day planting trees on a creek that did not appear on the map because it did not meet the criteria for protection. He found an oil spill on this stream that day near where some trout had been found. He felt this should also be protected and others like it. Title 3 did not provide for water quality treatment for water being discharged into the streams. He was concerned that storm water was being ignored. Excessive erosion from storm water clogged spawning beds. He felt Title 3 was ineffective for erosion control. He felt fish and wildlife protection needed to be handled now and not two years from now.

Ross Tewksbury, Friends of Beaverton Creek, PO Box 25594, Portland, OR 97298 spoke in support of the strongest Title 3 that could be given. Quality of life was being effected for future residents. He gave some examples of where wetlands and flood plains were being damaged.

Natalie Darcy, 9355 SW Brooks Bend Lane, Portland, OR 97223. Ms. Darcy spoke about the significant changes in the Fanno Creek watershed during her lifetime. She explained the lessons learned from past mistakes regarding flood plains and water quality there and high cost in dollars, wildlife, water quality and land. She urged adoption of Title 3 with protection for the headlands.

Liz Callison, West Multnomah Soil and Water Conservation District, 6039 SW Knightsbridge Drive, Portland, OR 97219 suggested some recommendations to Title 3 to avoid further resource degradation resulting from last year's early implementation of the regional functional plan. Watershed, resource planning and other issues were needed to protect the area. She said at the public Title 3 workshops, regardless of what the newspapers said, the most frequent public response was disappointment that so many streams and wetlands were omitted from Metro's official Title 3 map, that there was no protection for fish and wildlife and no provisions for

monitoring or enforcement for Title 3 effectiveness. She said the best legacy for Metro was to give a component for fish and wildlife now and not in 2 years as Metro agreed to. Title 3 placed a disproportionate burden of flood management provisions on downstream owners. There was a need for headland protection in the first step plan also. She said she would submit additional written comments and recommendations after tonight.

Richard Leonard, 4571 SW Hillside Drive, Portland, OR 97221 commented that Title 3 seemed extremely limited as a water quality management program. He suggested it needed additional teeth. There were no measures of water quality in Title 3, it only focused on buffers. He mentioned the effect of the buffer areas on the inventory of developable land needed to accommodate growth. There were many acres in the wetland buffer areas and flood plains. It seemed imperative before this was adopted for Metro to look at how many acres would be taken out of the buildable land inventory.

Corinne Weber, Maplewood Hayhurst Neighborhood Association, 6245 SW 39th Ave Portland, OR 97221 reiterated some previous comments from citizens. She added that citizens in the Hayhurst neighborhood had been struggling to save their stream. She said there were currently 3 DEQ noncompliance notices against the city of Portland regarding buffers. Muddy water was now flowing into Vermont Creek due to this noncompliance. There had been 4 months of sediment before the notices of violations were issued which said to her that Title 3 needed beefing up with monitoring and enforcement. She offered that the delaying tactics of the city needed to be dealt with.

Beverly Bookin, Commercial Real Estate Economic Coalition (CREEC), 621 SW Morrison Suite 200, Portland, OR 97205. The Commercial Real Estate Economic Coalition was a coalition of 16 trade organizations, companies and other organization which were involved in the sales, leasing, development and management of retail, office and industrial properties. They were among a broad coalition of development and business interests which had been working diligently with Metro staff and local jurisdictional representatives in an attempt to look at the core implementing measures, the model ordinance and the maps which would be the guts of implementing Metro Title III. She said, you would think, by the testifiers at this public hearing, that the business community was at worst not interested in this vital issue or at best asleep at the switch. The Coalition was somewhat concerned about the fact that Metro was holding hearings on Title III in principle before the final recommended form of the ordinance and the maps were before the Council so that the Council could look at Title III in its context because, after all, all of us agree for the need for water quality and flood control, but of course, the devil was in the details. The Coalition's concerns, as part of the business and development community, was to ensure that these regulations were scientifically based, fairly applied and with appropriate balancing of environmental and economic concerns. She felt that it was premature to outline the Coalition's various concerns because they were hopeful in the process that Metro had outlined that these issues would be considered in the technical and policy review now underway. She noted that MTAC was not scheduled to make its final recommendations on the model ordinance or maps until next week. These items were still to be reviewed by MPAC and WRPAC and then must go to the Council's Growth Management Committee before they came before the full Council for final review and adoption. She said the kinds of issues the coalition had were those that were succinctly listed by Council McLain in her opening remarks, issues related to engineered versus land intensive solutions, flexible versus prescriptive standards, the relationship of Goals 6 and 7 to Goal 5, and concerns about undermining local jurisdictions authority particularly those jurisdictions which had done a good job to date in regulating water quality and

flood management and finally the relationship and supremacy of the text and map. The Coalition deferred now to make these kinds of detailed testimony so that they could come back when the Council had the implementing measures before them so that these could be reviewed in context.

Greg Robart, Oregon Department of Fish and Wildlife, 5103 SE 34th Ave Portland OR 97202 said they had read into the record formal comments previously. He highlighted that it had been mentioned before the listing of fish such as coho and chinook salmon, a key habitat attribute of which was water quality. Regardless of the reason for the decline of these fish, water quality related to habitat was an extremely important part of this decline. The governor had undertaken a plan to address the recovery of these important fish species to our heritage here in the Pacific Northwest called the Oregon Plan and a steelhead supplement to that plan. Embodied in the documents was a request that it would go out to local jurisdictions, to all levels of government, to help recover those declining populations of fish. He had worked in the water quality division as Water Quality Coordinator with the Department of Fish and Wildlife and was currently the habitat conservation biologist for the Columbia region in the Clackamas office. He was very concerned about Metro area water quality and felt this was something that Metro could do something about. The Oregon Department of Fish and Wildlife urged the Council to adopt Title III.

Teri Cummings, 2190 Valley Court, West Linn, OR 97068 spoke as a citizen who had been involved trying to protect a forested corridor that drained down where two streams merged into a ravine. The last three years, West Linn had changed their rules and increased their protection for streams, however, she had learned that since the two streams that merged into the ravine were just listed as a drainage way, they were not treated as a waterway and they had no name. She strongly urged the Council to incorporate into the Title III plan a proactive move to name the streams. She noted the inventory of disappearing streams. She wondered how many of these did not have names. Throughout the area there were examples of streams that people have put barkdust over and tried to plant over because they were unaware that it was a stream partly do to a lack of a name. She thought, for the purposes of civic pride and community involvement in these issues, if the streams were given names then people would be more likely to recognize them as streams and develop a better sense of awareness about how you handled these kinds of streams. These concerns could come down to a local involvement level. This was where most of these decisions ended up being made.

Jennifer Thompson, U.S. Fish and Wildlife Service, 2600 SE 98th Ave Suite 100, Portland, OR 97226 worked on the Metropolitan Greenspaces program, which was a partnership between the U.S. Fish and Wildlife Service and Metro where they offered habitat restoration and environmental education grants. She also represented the Service on WRPAC as a non-voting member. Through her work on the grant programs she was constantly reminded of the urgent need for Title III and other policies which protect natural resources. Although the natural areas the group worked on were publicly protected lands, it was often a challenge for them to design a project that would be beneficial in the long term. This was because publicly protected areas were both directly and indirectly effected by what went on beyond the property limits. Most of the region's urban stream systems were carrying tremendous sediment loads and associated pollutants. They were flashy because of the effects of increasing impervious surfaces and the input of storm water run off. Many of the streams were down cutting and losing their natural connection to the flood plains and becoming less dynamic. Banks were eroding and channels were losing their structural diversity. All of these problems further fueled the cycle of continued degradation. The environmental integrity of our streams systems and the species that depended

on them hinged upon sound growth management policies that included natural resource conservation. At a minimum the Service urged Metro to adopt vegetative corridors adjacent to streams and wetlands which had been recommended by WRPAC and which had already been adopted by the Council in November 1996.

Much research had been conducted to determine the widths of buffers required to protect water quality and streams. A literature review of riparian widths related to physical processes conducted by the Washington Department of Fish and Wildlife showed that average widths necessary for various water quality functions range between 78 and 412 feet. Over 100 sources of information were reviewed to come up with those averages. The vegetative corridor widths proposed by WRPAC had already been compromised. The proposed corridors from 15 feet to 50 feet, depending upon the area drained, were well below the average widths reported in the literature as necessary to perform those various functions. Even the vegetative corridors which extend to 200 feet in width, where slopes were greater than 25%, may not be adequate to carry out the functions listed. The US Fish and Wildlife Service urged the Council to not allow the corridors to be reduced further. With over 200 miles of state listed water quality limited streams in the region and the potential federal listing of steelhead and other species under the Endangered Species Act, it was clear that current policies were not adequate to maintain the integrity of the region's streams. The proposed vegetative corridors would allow infiltration of rainfall and filtering of incidental storm water run off. They would provide a source of large woody debris and plant litter which would help to maintain channel diversity and sustain the base of the food chain. They would dissipate the energy from rainfall, run off and flood waters. The vegetation would provide root structure which would help to stabilize stream banks. They would also provide wildlife habitat in travel corridors which would be essential as a foundation for addressing fish and wildlife conservation in the up coming months. Dense urban growth could be achieved while maintaining healthy functioning natural systems. By prohibiting erosion, creating tighter standards for development in flood plains and protecting natural vegetative corridors, Title III would reduce further degradation. But alone Title III would not be enough, when combined with the protection of a regional system of parks and greenspaces, development and implementation of sound policies to conserve the region's fish and wildlife development of comprehensive watershed plans and addressing storm water management issues which were upcoming tasks outlined in the Regional Framework Plan, Title III was a necessary step towards maintaining and improving upon the health of our natural systems. She noted the written testimony she had submitted which included specific recommendations for strengthening and clarifying Title III.

Jim Jacks, Planning Director of City of Tualatin, PO Box 369, Tualatin, OR 97062 had been a planner for over 20 years and represented small cities of Washington County on MTAC. He was also on the joint committee of MTAC and WRPAC. On his 6700 square foot lot, they had three ponds, bird feeders, and vegetation planted. His purpose in actively participating in the review of the Functional Plan and specifically Title III had been that he wanted the Plan to be as good as it could possibly be. The joint committee, MTAC and the Office of General Counsel had corrected many inconsistencies and unclear provisions in Title III. There were several times that the 200 foot buffer had been mentioned during this public hearing. He thought this may be do to several letters he had sent to MTAC earlier this month. It was not that he opposed vegetative corridors in general as it appeared some thought, he did not have a problem with the 50 foot set back or the 30 foot set back, he wanted people to know that he did not oppose Title III or vegetative buffers but the 200 foot figure.

His concern came from his reading of over a dozen articles, the scientific literature that he reviewed dealt with feed lot run off and forestry situations and did not justify the 200 foot buffer. He expressed concern that the justification for the 200 foot buffer might not meet the reasonable person test and that citizens might suggest that this recommendation did not make sense to them. How can you justify recommending 200 feet when the research had to do with something different? He preferred to see real water quality standards such as water temperature and real chemical standards. He said Metro staff had told him this suggestion was a real big bite, it was just not possible to do this now. Knowing that his suggestion was not an option he continued to work to make Title III as good as it could possibly be.

Zepher Moore, 2732 NE 15th, Portland, OR 97212 said that everyone was down a stream from everyone else. His testimony concerned earth outside stream boundaries. Storm water run off could be reduced by causing water to stay where it fell. He suggested catching it and letting the earth absorb it, naturally and by engineering. Vast areas of barkdust covered some landscaped areas, the soil beneath the barkdust became compacted. Water ran off. Solution - encourage planting of native vegetation on landscaped areas presently covered with barkdust, encourage close spacing of native vegetation so the plants caught rain on their leaves and allowed rain to soak into root loosened earth. Precipitation on parking lots typically flowed to storm drains and directly to waterways. Engineering solution - contour parking lots to drain to a large catch basin where water would be held and slowly percolate out to the earth rather than flowing to storm drains. He suggested that on new development within the Urban Growth Boundary the storm water catches might be engineered into the roadway drainage so you were catching the road storm run off. All roof drains on new developments should go into water catches. The Plan specified native vegetation only on streams and wetlands.

The next time you visit Bulch Creek or Oxbow State Park you would see sprouts of ivy here and there beneath the trees and creeping up some trees. This ivy was not planted in the park but was carried by birds which ate ivy seeds from ivy which was planted outside the park. Jack Broom, Director of the Wetlands Conservancy, called non-native invasive ivy "the bane of all wetlands". Metro had finally removed ivy from the Regional Center and northeast Portland. He wondered if the Council had informed the media that the City of Portland urged that ivy be planted on this site. How many people continued to plant ivy next to their trees and woods because Metro had not urged people to stop planting ivy and invasive plants. These plants were sold freely at plant nurseries with no restrictions or warnings about its danger to wildlife habitat. Solution - Metro actively discourage all non-native invasive vegetation listed on Portland's prohibitive plant list. He also suggested reducing debris entering streams by mandating that studded tires be put on separate rims so that people have the flexibility to taking their studded tires off. Another recommendation included salvaging native vegetation from development sites to replace lawns and barkdust. He also would be submitting funding sources for stream restoration projects.

Howard Handley, 10357 Hovenden Lane, Woodburn, OR 97071 said he was an effected land owner. He had been listening to all of these speeches about improving the environment, the problem being that the money was not coming out of the pockets of all of those people that made the speeches, rather it was coming out of his pocket and hundreds of other land owners that owned land next to these areas of concern. His wife and he owned 11 acres along Pacific Highway by a stream which they had owned for 39 years. The property had been for sale for 4 years and had been marked for their retirement income. If this land was sold, the embankment to the stream was above 25% so this meant that there would be a 200 foot buffer zone. They had donated four acres of land to the cause of Title III yet when this land was sold they would pay

back taxes for five years on all eleven acres, not seven. Title III said 200 foot corridors must have natural vegetation, blackberries covered this area. With the blackberries in place, the wildlife, coyotes and skunks would come. He could not see that this would be improving the water quality in their situation. No matter how one looked at it, even though there was denial that Metro was taking the land, it was still money out of the land owners pockets. He asked, were we really living in America when land could be taken away from people without any remuneration?

Vern Mock, 24100 W Baseline, Hillsboro, OR 97123 said he had come to listen but because he had property on a creek he would like to add his comments. He lived on Rock Creek for 30 years and when he first bought he had livestock. He had seen how the livestock had destroyed the creek beds and vegetation along the creek. At the time he did not realize what he had done. Now he was trying to reestablish trees and a boundary on his own. He had started doing this long before Title III was under discussion because he had seen what the animals did to the property and creek. He was a member of the Tualatin Valley Steelheaders. They did a lot of work on the Wilson River, cleaning up, putting areas to hold the fish, building boat ramps, helping the farmers fence the streams so the cows wouldn't destroy the stream areas. They also had a project where they had sixteen tanks which they were putting into grade schools with steelhead eggs. The kids got to hatch the steelhead eggs, bring them to a Noble Woods Park where Rock Creek runs, and put them in the creek. The kids could relate to this and to nature. He felt this was a good program. He felt Title III would help the program because it would keep the water that flowed in the stream much cleaner, much cooler and the steelhead might come back to the creek some day.

He had spoken against building the Preston Meadows project, located just below the park, because residents in the area had four to five feet of water in their basements. The engineers solution was to take two foot of fill out and make a lake. They would also put flow through foundations in the new homes. He expressed concern about this. He felt that if the water got as high as it had been before, those houses would have water in them. He suggested flow through front and back doors would have been a better solution because the residents had had three feet of water in their front rooms. This had occurred every year. The latest was that the residents had had the Corp. of Engineers teaching them to build five feet high dikes around their homes. He felt Title III was great and has been needed for over twenty years. He said even if it effected him and his children, he would be glad to pay the extra cost. If it helped his neighbors, it helped everyone.

Aleta Woodruff, MCCI, 2143 NE 95th Place Portland, OR 97220 repeated a story that she had heard on public radio from a gentleman who was speaking on the clarity and the non-clarity of the Willamette River. 'When he was going to high school he worked in an auto repair shop. A poor little lady came to the shop and said that there was something drastically wrong with her car. The gentleman, said yes you need a new radiator cap, it costs \$3.50. She said, I am poor and I can't afford that \$3.50 and drove away. In two weeks her car was towed in, she had no radiator, no radiator cap, and no engine. This is what could happen to all of us for the lack of the radiator cap.'

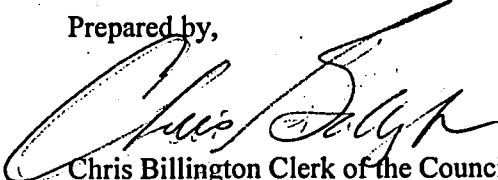
10. COUNCILOR COMMUNICATION

None.

11. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 10:50 p.m.

Prepared by,



Chris Billington Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
1-73	2/26/98	Title III - Water Letters and Documents may be found in a permanent record in the council office under Title III	TO: Metro Council FROM: Various sources	
022698c-01	2/26/98	Illustration of Oregon Convention Center expansion	TO: Metro Council FROM: POVA	Resolution No. 98-2609
022698c-02	2/26/98	LOTI Designs and narrative	TO: Metro Council FROM: Art Lewellan, LOTI Designer	
022698c-03	2/24/98	Committee Report and updated resolution materials concerning Resolution No. 98-2606	TO: Metro Council FROM: Michael Morrissey, Council Analyst for Transportation Planning Committee	Resolution No. 98-2606
022698c-04	2/25/98	Memo supporting the expansion of the Oregon Convention Center	TO: Metro Council and Mike Burton FROM: Roy Jay Oregon Convention and Visitor Services Network Inc. PO Box 5488 Portland OR 97228	Resolution No. 98-2609

Agenda Item Number 7.1

Ordinance No. 98-722, For the Purpose of Amending Metro Code Title X, Metro Regional Parks and Greenspaces, to Increase Rental Fees at Blue Lake Regional Park's Lake House.

Second Reading

**Metro Council Meeting
Thursday, March 5, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 98-722
METRO CODE TITLE X, METRO)
REGIONAL PARKS AND GREENSPACES,)
TO INCREASE RENTAL FEES AT BLUE) Introduced by
LAKE REGIONAL PARK'S LAKE HOUSE.) Mike Burton, Exec. Officer

WHEREAS, User fee survey was conducted by Regional Parks and Greenspaces staff on facilities comparable to Blue Lake Regional Park's Lake House; and

WHEREAS, Rental fees at the Lake House were found to be low compared to similar facilities; and

WHEREAS, User fees for Regional Parks and Greenspaces facilities are a part of Metro Code Title X and must receive Council approval; and

WHEREAS, Regional Parks and Greenspaces proposes to increase rental fees at the Lake House; now, therefore,

The Metro Council ordains as follows:

1. Metro Code Section 10.02.020 Park Fees is amended to read:

10.02.020 Park Fees: The following fees shall be charged and collected by Metro for and prior to the following park uses and activities:

(a) Reservation fees for shelters and reservable picnic areas, at Blue Lake Park shall be set forth in Appendix "A" to chapter 10.02. However, reservation fees for weekdays events (except holidays) shall be reduced by 20 percent. Off-season reservation fees (November 1 - May 14) shall be reduced by 50 percent.

(b) Alcohol permits at Blue Lake Park shall be as follows:

(1) \$150.00 for areas with capacity of 100 or more.

(2) \$85.00 for areas with a capacity of less than 100.

(c) Overnight camping fees at Oxbow Park: \$9.00 per site per night. Permit must be displayed. Each additional vehicle: \$2.00 per night. Each vehicle must pay entry fee on initial day of entry.

(d) Entry fees at Blue Lake Park and Oxbow Park: Summer fees (May 15 thru October 31): \$3.00 per motorized vehicle on all days; \$6.00 per bus all days. Winter fees (November 1 thru May 14): \$2.00 per motorized vehicle on weekdays; \$3.00 per motorized vehicle on weekends and holidays; \$6.00 per bus all days.

(e) Boat launching and/or parking fees at the M. James Gleason Boat Ramp and Chinook Landing Marine Park: \$3.00 per motorized vehicle on all days.

(f) Fees for special events shall be set by the Director of the Regional Parks and Greenspaces Department.

(g) All nonprofit and youth organization fees for nightly use of overnight groups camps at Oxbow shall be as follows:

(1) \$20.00 minimum for the first 10 people for Group Camp #2 and #3 and then \$2.00/person up to a \$70.00 maximum (This does not include the vehicle entry fee). 35 people per night maximum per site.

(2) \$40.00 minimum for the first 20 people for Group Camp #1 and then \$2.00/person up to a \$300.00 maximum (This does not include the vehicle entry fee). 150 people maximum per night.

(h) Picnic area reservation fees at Oxbow Park (does not include vehicle entry fees):

Area A - \$210.00

Area B - \$130.00

Area C - \$160.00

Area D - \$110.00

However, reservation fees for weekday events (except holidays) shall be reduced by 20 percent. Off-season reservation fees (November 1 - May 14) shall be reduced by 50 percent.

(i) Annual passes in lieu of daily entrance fees, launching and/or parking fees at Blue Lake Park, Oxbow Park, Chinook Landing, and M. James Gleason Boat Ramp:

Regular: \$35.00 per year (October 1 thru September 30) Seniors: \$25.00 per year (October 1 thru September 30). Low-Income/disabled: \$10.00. (October 1 thru September 30).

(j) Entrance fees at Blue Lake and Oxbow Park shall be waived for any police officer or Metro employee who presents valid current identification at the park entrance. Fee waivers shall not apply to any special events.

(k) Except for use by Metro, rental fees, along with \$100.00 refundable deposit, for "The Lake House" at Blue Lake Park shall be:

- (1) April 1 to October 31 (Friday 5:00 p.m. through Sunday):
10:00 a.m. to 4:00 p.m. ~~\$537.50~~\$650.00
6:00 p.m. to midnight ~~\$537.50~~\$650.00
10:00 a.m. to 10:00 p.m. ~~\$860.00~~\$1,000.00
- (2) November 1 to March 30 (Friday 5:00 p.m. through Sunday):
10:00 a.m. to 4:00 p.m. \$430.00
6:00 p.m. to midnight \$430.00
10:00 a.m. to 10:00 p.m. \$724.50
- (3) Weekdays (Monday through 5:00 p.m. Friday):
\$38.00 per hour (10:00 a.m. - 5:00 p.m.) with a three-hour minimum charge
\$60.00 per hour (5:00 p.m. - Midnight) with a three hour minimum charge;

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

REGIONAL PARKS AND GREENSPACES STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 98-722 FOR THE PURPOSE OF AMENDING METRO CODE TITLE X, METRO REGIONAL PARKS AND GREENSPACES, TO INCREASE RENTAL FEES AT BLUE LAKE REGIONAL PARK'S LAKE HOUSE.

Date: December 29, 1997

Presented by:
Charles Ciecko, Director
Dan Kromer, O & M Manager
Regional Parks and Greenspaces

FACTUAL BACKGROUND AND ANALYSIS

User fee survey of facilities in the region comparable to Blue Lake Regional Park's Lake House was recently completed and is attached as Exhibit A. Based on this survey, Regional Parks and Greenspaces is proposing to raise the rental fee charged at the Lake House by approximately 21% for six hours and 16% for twelve hours. The last time fees were increased at this facility was in May of 1993. User fees for Regional Parks and Greenspaces facilities are a part of Metro Code Title X. Any changes to these user fees are subject to Council approval.

Budget Impact:

The budget impact to Regional Parks and Greenspaces from this ordinance is an increase in annual rental revenue from the Lake House of approximately \$5,400. No other budget impacts are anticipated.

A Regional Parks and Greenspaces staff member will be present to answer any questions by Council regarding this agreement.

Executive Officer's Recommendation:

The Executive Officer recommends adoption of Ordinance No. 98-722.

EXHIBIT A

**LAKE HOUSE COST COMPARISON STUDY
DECEMBER 1997**

CRITERIA	BLUE LAKE'S LAKE HOUSE (Proposed)	LEACH GARDENS 761-2185	JENKINS ESTATE 642-3855	LAKESIDE GARDENS 760-6044	CLUB PAESANO 666-7636	PERSIMMON COUNTRY CLUB 666-4797	WEDDING HOUSE 236-7353	BROETJE HOUSE 659-8860	EAST FORK ESTATE 667-7069
Capacity									
Indoor	125	up to 85 for weddings	100	250	500	100	100	150	250 indoor/outdoor
Outdoor	250	50	50	50		200		150	
Basic Rate Weekday	\$38/hr before 5 pm (\$60/hr after 5 pm)	\$25/hr, \$45 for cleaning	\$25/hr before 5 pm \$50/hr after 5 pm	\$50/ hr	\$475 /6 hrs. \$875/ 12 hrs	\$300 for 50 plus AV rental			
Minimum hrs	3	3	3	4	6	4			
Basic Rate Weekend	\$537.50/860 Apr. 1-Oct. 31 (\$650/\$1,000)	\$625; \$60 ea. extra hr.	\$525/res. \$675/nonres.	\$1800	\$875	\$750	\$800	\$2,500/150	\$6,995/250
Minimum hrs	6/12	6	6	4	12	4	6	6	6
Other	Nov. 1-Mar 30 \$430/\$724.50 Add't hour: \$70 (\$100)		Will book for all day event at \$800/res. \$950/nonres.	Weddings range from \$1,800 (w/cake) - \$2,400 (w/cake & bev.) food extra	Outdr. \$775 for < 300, \$175 for > 300 Indr & out: \$1075 for < 300, \$1475 > 300	Only Country Club food/beverage service allowed, prices vary	Limited outdoor seating	Package deal only \$2,500 (w/ cake), \$4,500 (w/food)	Package deal only (includes food/bev.)
Relative cost per 100 person meeting/event Weekday 3 hr. meeting	\$114 (\$180 after 5 pm)	\$120	\$75 (res.) \$150 after 5 pm (res.)	\$200	\$475	\$300			
Weekend 4-6 hr event	\$537.50 (\$650)	\$625	\$525/res \$675/non-res	\$1800	\$475	\$750	\$800	\$2,500	\$6,995

REGIONAL FACILITIES COMMITTEE REPORT
**CONSIDERATION OF ORDINANCE NO. 98-722, FOR THE PURPOSE OF
AMENDING METRO CODE TITLE X, METRO REGIONAL PARKS AND
GREENSPACES, TO INCREASE RENTAL FEES AT BLUE LAKE REGIONAL
PARK'S LAKE HOUSE.**

Date: February 26, 1998

Presented by: Councilor McCaig

Committee Action: At its February 18, 1998 meeting, the Regional Facilities Committee unanimously recommended Council adoption of Ordinance 98-722. Voting in favor: Councilors McCaig, Naito and McFarland.

Council Issues/Discussion:

Charles Ciecko and Dan Kromer made the staff presentation for the Regional Parks and Greenspaces Department. The department is proposing to raise fees at Lake House, a facility at Blue Lake Park which is used primarily for weddings and small group meetings. It was felt that the fees were not being charged at a similar level with other facilities in the area. This was confirmed through a survey. Proposed fee increases range from \$100 to \$150, depending on the block of time rented. The net revenue impact of these fee increases is approximately \$5,400, annually.

Staff indicated that they did not expect any decrease in bookings based on these increases. Councilor McFarland supported this ordinance, while stating that it might be O.K. for public facilities to charge a little less than private ones in circumstances like these.

Agenda Item Number 7.2

Ordinance No. 98-725, For the Purpose of Granting A Yard Debris Processing Facility License to the Minsinger's Floral Nursery Inc. to Operate a Yard Debris Composting Facility.

Second Reading

**Metro Council Meeting
Thursday, March 5, 1998
Council Chamber.**

with applicable provisions and standards in the Metro Code related to the licensing of yard debris processing facilities; and

WHEREAS, the Executive Officer recommends that the Council grant the attached license with the requested variances from the Metro Code, with conditions, to Minsinger's Floral Nursery; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Council authorizes the Executive Officer to enter into the attached licensing agreement for a yard debris processing facility.
2. Minsinger's Floral Nursery is granted a variance from the Metro Code Section 5.01.300(a)(1) pertaining to quarterly reporting requirements.
3. Minsinger's Floral Nursery is granted a variance from Metro Code Section 5.01.320 pertaining to the annual license fee.

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

EXHIBIT A

YARD DEBRIS COMPOSTING FACILITY LICENSE

issued by

METRO

600 N.E. Grand Avenue

Portland, Oregon 97232-2736

(503) 797-1700

LICENSE NUMBER: YD-0598

DATE ISSUED: (see Section 2)

AMENDMENT DATE: N/A

EXPIRATION DATE: _____

ISSUED TO: MINSINGER'S FLORAL NURSERY

NAME OF FACILITY: MINSINGER'S FLORAL NURSERY

ADDRESS: 655 ROSEMONT ROAD

CITY, STATE, ZIP: WEST LINN, OREGON 97068

LEGAL DESCRIPTION: (see attached application)

NAME OF OPERATOR: MINSINGER'S FLORAL NURSERY

PERSON IN CHARGE: CHARLES MINSINGER

ADDRESS: 655 ROSEMONT ROAD

CITY, STATE, ZIP: WEST LINN, OREGON 97068

TELEPHONE NUMBER: (503) 636-1843

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LICENSE AGREEMENT

This License is issued by Metro, a municipal corporation organized under the Constitution of the State of Oregon and the 1992 Metro Charter ("Metro"), to Minsinger's Floral Nursery ("Licensee").

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

1. DEFINITIONS

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

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

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

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

"Prohibited Wastes" has the meaning set forth in Section 5.2 of this License.

2. TERM OF LICENSE

This License is issued for a term of five years from the date signed by Metro and the Licensee, following approval by the Metro Council.

3. LOCATION OF FACILITY

The licensed Facility is located at 655 Rosemont Road, West Linn, Oregon 97068. Tax lot 01600; Section 22, Township 2 South, Range 1 East.

4. OPERATOR AND OWNER OF FACILITY AND PROPERTY

4.1 The owner of the Facility is Charles E. Minsinger.

4.2 The owner of the property underlying the Facility is Charles E. Minsinger.

4.3 The operator of the Facility is Minsinger's Floral Nursery. Licensee may contract with another person or entity to operate the Facility only upon ninety (90) days prior written notice to Metro and the written approval of the Executive Officer.

5. AUTHORIZED AND PROHIBITED ACTIVITIES AND WASTES

5.1 Subject to the following conditions, Licensee is authorized to operate and maintain a yard debris composting facility.

5.1.1 Licensee shall accept only yard debris, landscape waste, and clean wood wastes (e.g., untreated lumber, wood pallets). No other wastes shall be accepted at the Facility unless specifically authorized in writing by Metro.

5.1.2 Licensee shall accept, for processing, yard debris in an amount not to exceed 600 cubic yards per year. This limitation in accordance with the variances from Metro Code Sections 5.01300 and 5.01.320 as granted by the Metro Council.

5.2 Prohibited Wastes

5.2.1 Licensee is prohibited from receiving, processing or disposing of any solid waste not authorized in this License.

5.2.2 Licensee shall not accept Hazardous Waste. Any Hazardous Waste inadvertently received shall be handled, stored, and removed pursuant to state and federal regulations.

6. MONITORING AND REPORTING REQUIREMENTS

In accordance with the variance granted by the Metro Council, licensee is not subject to certain standard reporting requirements. Licensee is required to monitor facility operations as set forth below:

6.1 Licensee shall monitor facility operation and maintain accurate records of the following:

6.1.1 Amount of feedstock received and quantity of product produced at the facility.

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

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

(a) The nature of the complaint;

(b) The date the complaint was received;

(c) The name, address, and telephone number of the person or persons making the complaint; and

(d) Any actions taken by the operator in response to the complaint.

6.1.4 For every odor complaint received, the licensee shall record the date, time, and nature of any action taken in response to an odor complaint, and record such information within one business day after receiving the complaint. Records of

such information shall be made available to Metro and local governments upon request.

- 6.2 The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, at the same time of submittal to DEQ and/or a local jurisdiction.

7. DESIGN AND OPERATIONAL REQUIREMENTS

- 7.1 Activities shall be conducted in accordance with the Metro approved facility design plan, operations plan and odor minimization plan submitted as part of the License Application. In addition:

7.1.1 To control odor and dust the Licensee shall:

- (a) Install dust control and odor systems whenever excessive dust and odor occur, or at the direction of Metro. Alternative dust and odor control measures may be established by the Licensee with Metro approval.
- (b) Take specific measures to control odors in order to avoid or prevent any violation of this License, which measures include (but are not limited to) adherence to the contents of the odor minimization plan.

7.1.2 With respect to vector control, the Licensee shall manage the Facility in a manner that is not conducive to infestation of rodents or insects. If rodent or insect activity becomes apparent, Licensee shall initiate and implement additional vector control measures.

- 7.2 The Licensee shall provide an operating staff which is qualified to perform the functions required by this License and to otherwise ensure compliance with the conditions of this License.

- 7.3 The licensee shall utilize functionally aerobic composting methods for processing authorized wastes at the facility.

- 7.4 All facility activities shall be conducted consistent with applicable provisions in Metro Code Chapter 5.01: Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities (Sections 5.01.230 - 5.01.380). Licensee may modify such procedures. All proposed modifications to facility plans and procedures shall be submitted to the Metro Regional Environmental Management Department for review and approval. The Executive Officer shall have 10 business days from receipt of proposed modifications to object to such modifications. If the Executive Officer does not object, such modifications shall be considered approved following the 10-day period. Licensee may implement proposed modifications to Facility plans and procedures on a conditional basis pending Metro review and notice from Metro that such changes are not acceptable.

- 7.5 Licensee shall remove compost from the Facility as frequently as possible.

8. FACILITY CLOSURE

- 8.1 In the event of closure of the facility, all yard debris, composting material, end-product, and other solid wastes must be removed from the facility within 180 days following the commencement of closure.
- 8.2 Licensee shall close the facility in a manner which eliminates the release of landscape waste, landscape waste leachate, and composting constituents to the groundwater or surface waters or to the atmosphere to the extent necessary to prevent threats to human health or the environment.
- 8.3 Within 30 days of completion of closure, Licensee shall file a report with Metro verifying that closure was completed in accordance with this section.

9. ANNUAL LICENSE FEE

In accordance with the variance granted by the Metro Council, licensee is not subject to the annual license fee requirements established under Metro Code Section 5.01.320.

10. INSURANCE

- 10.1 Licensee shall purchase and maintain the following types of insurance, covering Licensee, its employees, and agents:
- (a) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (b) Automobile bodily injury and property damage liability insurance.
- 10.2 Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 10.3 Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED. Notice of any material change or policy cancellation shall be provided to Metro thirty (30) days prior to the change or cancellation.
- 10.4 Licensee, its contractors, if any, and all employers working under this License are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

11. INDEMNIFICATION

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

not assume liability for any negligent or intentionally wrongful act of Metro, its officers, agents or employees.

12. COMPLIANCE WITH LAW

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

13. METRO ACCESS TO FACILITY

Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this License. Access to inspect is authorized during all business hours.

14. DISPOSAL RATES AND FEES

- 14.1 The rates charged at licensed facilities are exempt from Metro rate setting.
- 14.2 Licensee is exempted from collecting and remitting Metro fees on waste received at the Facility. Licensee is fully responsible for paying all costs associated with disposal of residual material generated at the facility, including all Metro fees and taxes. A licensee shall obtain a non-system license prior to disposal of residuals at any facility not designated by Metro.
- 14.3 Licensee shall adhere to the following conditions with regard to disposal rates charged at the facility:
 - (a) A licensee may modify rates to be charged on a continuing basis as market demands may dictate. Rate schedules should be provided to Metro on a regular basis, and shall be provided to Metro on request.
 - (b) Public rates charged at the facility shall be posted on a sign near where fees are collected. Rates and disposal classifications established by a licensee shall be reasonable and nondiscriminatory.

15. GENERAL CONDITIONS

- 15.1 Licensee shall be responsible for ensuring that its contractors and agents operate in compliance with the terms and conditions of the license.
- 15.2 This License shall not vest any right or privilege in the licensee to receive specific quantities of yard debris during the term of the license.

- 15.3 The power and right to regulate, in the public interest; the exercise of the privileges granted by a license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such legal requirements against licensee.
- 15.4 This License may not be transferred or assigned without the prior written approval of Metro, which will not be unreasonably withheld.
- 15.5 To be effective, a waiver of any term or condition of a license must be in writing, signed by the executive officer. Waiver of a term or condition of a license shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 15.6 This License shall be construed, applied, and enforced in accordance with the laws of the State of Oregon and all pertinent provisions in the Metro Code.
- 15.7 If any provision of a license is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in the license shall not be affected.

16. REVOCATION

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

17. MODIFICATION

- 17.1 At any time during the life of this License, either the Executive Officer or the Licensee may propose amendments or modifications to this License. Except as specified in the Metro Code, no amendment or modification shall be effective unless it is in writing, approved by the Metro Council, and executed by the Licensee and the Executive Officer.
- 17.2 The Executive Officer shall review the License annually, consistent with Section 6 of this License, in order to determine whether the License should be changed and whether a recommendation to that effect needs to be made to the Metro Council. While not exclusive, the following criteria and factors may be used by the Executive Officer in making a determination whether to conduct more than one review in a given year:
- a) Licensee's compliance history;
 - b) Changes in waste volume, waste composition, or operations at the Facility;
 - c) Changes in local, state, or federal laws or regulations that should be specifically incorporated into this License;
 - d) A significant release into the environment from the Facility;
 - e) A significant change or changes to the approved site development plan and/or conceptual design; or
 - f) Any change in ownership that Metro finds material or significant.
 - g) Community requests for mitigation of impacts to adjacent property resulting from Facility operations.

18. NOTICES

18.1 All notices required to be given to the Licensee under this License shall be delivered to:

Charles E. Minsinger
Minsinger's Floral Nursery
655 Rosemont Road
West Linn, Oregon 97068

18.2 All notices required to be given to Metro under this License shall be delivered to:

Licensing Program Administrator (Yard Debris Facilities)
Metro Regional Environmental Management Department
600 N.E. Grand Avenue
Portland, OR 97232-2736

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

MINSINGER'S FLORAL NURSERY

METRO

Facility Owner or
Owner's Representative

Mike Burton, Executive Officer
Metro

Date

Date

BM:ay

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 98-725 FOR THE PURPOSE OF GRANTING A YARD DEBRIS PROCESSING FACILITY LICENSE TO THE MINSINGER FLORAL NURSERY INC. TO OPERATE A YARD DEBRIS COMPOSTING FACILITY

Date: January 20, 1998

Presented by: Bruce Warner
Bill Metzler

INTRODUCTION

The purpose of this report is to provide the information necessary for the Metro Council to act on the recommendation that the Minsinger Floral Nursery be awarded a license to operate a yard debris composting facility located in West Linn, Oregon. The license agreement is attached to Ordinance No. 98-725 as Exhibit A.

This report is divided into four main parts: (a) a description of the facility and other relevant applicant information; (b) list of submittals; (c) staff analysis of the application and whether the facility meets the standards as specified in Metro Code in order to be awarded a license; and (d) staff's recommendations and specific conditions to be contained in the license agreement.

The purpose of the licensing program is to help ensure that yard debris processing facilities are designed and operated in a manner that minimizes nuisance impacts on surrounding communities and businesses.

Key Findings and Recommendations Include:

- Staff has reviewed all required submittals and has determined that Minsinger Floral Nursery meets the requirements of the Metro Code related to licensing yard debris processing facilities.
- The applicant has requested variances from the Metro Code Section 5.01.300(a)(1) regarding the requirements for quarterly reports and Metro Code Section 5.01.320 regarding the payment of annual license fees. Staff recommends that the variances be granted with conditions as described in Part III of this staff report and set forth in the Licensing Agreement - Section 5.1.2.
- The terms of the license will protect public health and safety and maintain consistency with the Regional Solid Waste Management Plan. The Metro licensing program includes problem resolution through intergovernmental cooperation, technical assistance and enforcement measures.

I. FACILITY AND APPLICANT INFORMATION

Location:

- The site is located south of State Highway 224, north of the Clackamas River, and east of Interstate 205, in Clackamas County (reference Attachments 3 & 4 – Site Location Aerial Photographs).

- Facility address: 655 Rosemont Rd., West Linn, Oregon 97068
- The facility lies in Section 22, Township 25, Range 1 East, Clackamas County Oregon. Tax Lot 01600.

Zoning and Permitting:

- The site is zoned Rural Residential Farm Forest (RRFF5). No permits have been required of the applicant from Clackamas County. The facility is located inside the Metro Boundary, but outside the Urban Growth Boundary.

General Facility Description:

- The 4.19-acre site is primarily used for a nursery with compost being produced on-site for use in the nursery. Fresh grass clippings, leaves and manure are the feedstocks incorporated into a windrow and composted.
- Approximately 400 cubic yards of material is accepted annually.
- The grass clippings and leaves come from a local landscape company, and the manure comes from a neighbor's horse stable. There is no charge to the landscape company or the neighbor to dispose of these materials at this nursery.
- The incoming feedstocks are mixed together on an asphalt surface and formed into a windrow 7' high x 10' wide x 30' long and aerated daily with a Caterpillar 910 wheel loader to minimize the potential for anaerobic conditions and prevent odors.
- The composting process takes six months to complete. The compost is then stockpiled in an open-sided structure with a roof, and cures for an additional three months. The primary end use of the compost is to provide soil amendment for the nursery operations. Finished compost is also available for sale to landscapers and homeowners.

Completeness and Sufficiency of Application

Applicants for yard debris processing facility licenses are required to complete the application form and provide additional information as requested. The license application form and other material required to process the license were submitted and have been determined to be complete and adequate.

Applicant Qualifications

The applicant has been using a low-technology compost processing technique for his nursery for over thirty-five years at this location.

II. LIST OF SUBMITTALS / STAFF REPORT ATTACHMENTS

Attachment 1 - Application for a Yard Debris Processing Facility License, prepared by Charles Minsinger, owner, dated July 15, 1997 and revised October 1, 1997.

Attachment 2 - Variance Request. Letter from Mr. Charles Minsinger dated November 12, 1997,

requesting variances from Metro Code requirements pertaining to licensing yard debris processing facilities.

Attachments 3 & 4 – Site Location Aerial Photographs.

III. ANALYSIS OF LICENSE APPLICATION

The Metro Code licensing standards are set out in detail in order to establish clear and concise standards for an efficient administrative process. A standardized licensing application form was developed to ensure that the information would be sufficiently detailed to illustrate whether the facility is in compliance with the applicable Metro Code provisions.

Staff have reviewed the license application and other supporting documentation and have found that the facility meets all applicable Metro Code requirements and is eligible for a yard debris processing facility license. The following table summarizes staff's analysis:

Metro Code Licensing Provisions	Acceptable	Unacceptable
5.01.260 General Yard Debris Facility Design Requirements & Design Plans	X	
5.01.270 General Operating Requirements for Yard Debris Facilities	X	
5.01.280 Yard Debris Processing Operations Plan	X	
5.01.290 Yard Debris Facility Odor Minimization Plans	X	

Variances from the Metro Code

The applicant has requested two variances from the Metro Code provisions for the licensing of composting facilities.

The request for the variances are in accordance with Metro Code Section 5.01.110, which allows Council to grant specific variances from particular Code requirements. The two variances requested are as follows:

1. Variance to Metro Code Section 5.01.300(a)(1) - Yard Debris Facility Records, quarterly reports.

The applicant requests a variance from the licensing reporting requirements in Metro Code Section 5.01.300. The reporting requirements in this section requires licensees to deliver a quarterly report to Metro describing the quantity of feedstocks accepted for processing. The applicant states that, based on the very limited size and operation of the facility, strict compliance with this requirement would be extremely burdensome and highly impractical. Due to the very small amount of feedstock currently accepted at the facility (under 500 cubic yards per year), staff agrees and recommends that this variance be granted with the condition that the facility operations are not expanded and remain consistent with the license application.

2. Variance to Metro Code Section 5.01.320 - Yard Debris Facility Annual License Fees.

The second request is for a variance to the Metro Code Section 5.01.320 (annual license fees of \$300 per year). The applicant states that, based on the very limited size and operation of the facility, compliance with this requirement would be extremely burdensome and highly impractical. This facility uses nearly all of the compost produced on-site to enhance horticultural production at the nursery. Staff agrees, and recommends that the variance be granted with the condition that the facility operations are not expanded and remain consistent with the license application.

Recommendations and specific conditions for granting the variances

Due to the very limited size and scope of the composting operations, staff recommends that the requested variances be granted with special conditions. As a condition for granting the two variances, the facility and processing operations must remain consistent with the description in the license application. If the facility operations are expanded from that stated in the license application, the applicant must notify Metro and the variances will be re-examined (reference the conditions in the License Agreement Section 5.1.2).

V. BUDGET IMPACTS

Current staffing levels are expected to be adequate to handle any technical assistance or enforcement requirements that might arise from licensing this facility.

VI. STAFF RECOMMENDATION

Based on the foregoing analysis it is the opinion of staff that Minsinger Floral Nursery should be granted a yard debris processing facility license, with the requested variances and conditions, in accordance with the provisions of the License attached to Ordinance No. 98-725 as Exhibit A.

VII. EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 98-725.

MAIL THIS APPLICATION TO:

DATE RECEIVED BY METRO:

Metro
Attn.: Bill Metzler
Regional Environmental Management
600 N.E. Grand Avenue
Portland, OR 97232-2736

RECEIVED

OCT 1 1997

REVISED

**LICENSE APPLICATION FORM
YARD DEBRIS PROCESSING FACILITY**

**METRO REGIONAL
ENVIRONMENTAL MANAGEMENT**

Check all that apply:

- Yard Debris Composting No Branches
- Other (specify) Leaves - Grass - Manure

Note: This form should not be used for yard debris reload facilities. A separate form for reload facilities is available from Metro.

Date of Application: 7-15-97

PART 1

1. NAME OF FACILITY: Minsingers Floral Nursery
 Facility Address: 655 Rosemont Rd
West Linn Oregon 97068

2. PROSPECTIVE LICENSEE

Public Agency: Private:
 Name of Licensee: Same as above
 Mailing Address: _____

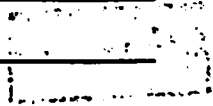
 Phone Number: 636-1843

3. OWNER(S) OF PROPERTY

Name: Charles E. Minsinger

Mailing Address: _____

Phone Number: _____



4. SUBCONTRACTOR(S)

Name, address and function of any prospective licensee's facility operation subcontractors:

5. SITE LEGAL DESCRIPTION

(Include tax lot(s) descriptions, Section, Township and Range):

Tax Lot 01600 4.19 Acres

SECTION 22 TOWNSHIP 25 RANGE 1 E

6. ZONING

Present Land Use Zone: RS

Restrictions: _____

7. Is a conditional use permit necessary for the facility?

Yes _____ No X

If required, has the permit been obtained?

Yes _____ No /

8. PUBLIC HEARING(S)

Date(s) and nature of Public Hearing(s) held or to be held, if any:

/

9. PERMITS ISSUED OR APPLIED FOR

List name and number of all permits (i.e., DEQ Solid Waste Disposal Permit, Conditional Use Permit, National Pollution Discharge Elimination System Permit, Etc.), plus name, address, and contact person at the agency responsible for issuing the permit(s).

Permit(s) Applied for:

/

Permit(s) Received:

/

10. ESTIMATED QUANTITY OF ~~YARD DEBRIS~~ TO BE ACCEPTED

Annually: 400 cubic yards

Daily: 5 Cu Yds cubic yards *Not every day*

Annually: 132 ? tons (optional)
Wet or Dry ?

Daily: _____ tons (optional)

11. PUBLIC/COMMERCIAL OPERATIONS

Will the facility be open to the public? Yes X No _____

Will the facility be open to commercial ~~solid waste collectors?~~ *Landscapers* Yes X No _____

12. OPERATING HOURS AND TRAFFIC VOLUME

OPERATING HOURS	PUBLIC	COMMERCIAL
Hours Per Day	8	8
Days Per Week	7	7 ?
Estimated Vehicles Per Day <i>between 3 and 8 or 10</i>		

13. Does the owner/operator of this facility own, operate, maintain, have a proprietary interest in, or is the owner financially associated with or subcontracting the operation of the facility to any individual, partnership or corporation involved in the business of collecting residential, commercial, industrial or demolition refuse within the boundary of Metro?

Yes _____ No X

14. Will the facility be open to solid waste collection companies who collect outside the boundary of Metro ?

Yes _____ No X

PART 2

GENERAL FACILITY DESIGN PLAN

1. Describe how stormwater is managed at the facility.

Mostly, it either soaks into natural soils or runs
into woods that absorbs excess run off.

a. Is precipitation run-on diverted around the processing area?

Yes X No

Describe By means of natural or made berms or
diversionary channels

b. Is run-off from the facility controlled?

Yes X No

Describe diverted to collecting basin, then pumped
to spray onto pile of mixed material, to
maintain a proper amount of moisture content.
Approx - 60%

2. Describe any barriers that the facility has (or will have) to prevent unauthorized entry and dumping (fencing, gates, locks).

Access driveway goes thru nursery. We are always
available to watch for loads we don't want, such as
branches ect.

3. Are there all weather access roads to the site?

Yes X No

4. Does (or will) the facility have scales?

Yes _____ No X

5. Does the facility have signs (at entrance, directing traffic flow, public information) ?

Yes X No _____

Please describe the location(s) and type of sign(s):

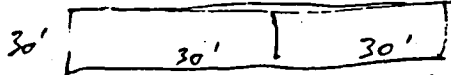
Signs designating what we take, and dont take
near point of dumping.

6. What is the estimated capacity (cubic yards) of the facility storage area(s) for incoming yard debris waiting to be processed?

over wall is a space about 10' by 50' - about 3 to 6 feet deep

7. What is the estimated capacity (cubic yards) for finished product storage?

Approximately 500 cu yds Total; under cover and in open area



8. Please describe how you handle, store and remove hazardous or other non-permitted or non-compostable wastes delivered to the facility.

what litter we get, we pick it out by hand and put in
garbage can Garbage pick up weekly
No hazardous material accepted

PART 3

GENERAL OPERATING PLAN

1. Describe your methods of measuring and keeping records of incoming yard debris.

There is no set method of measuring incoming material.
In a days time we may get 4 or 5 trailers or
pick ups, with any where from a garbage bag to 2 or 3
cu yards of grass or leaves

2. How often are the facility grounds cleaned of litter?

Daily - as we walk around, we pick up straws - Cellophane,
Pop Cans ect, and put into garbage can.

3. Describe how you encourage delivery of yard debris in covered loads.

The loads of grass - or leaves are usually wet
enough that it doesnt blow out of pick ups -

4. Describe how you control the types of materials you receive, and methods for removing, recovering and disposing of non-compostables.

We look over the trailers, pick ups ect, as they come in
we stop any that has brush.

5. Where do you dispose of non-compostable wastes?

In Garbage can. There is never any great
amount of non compostable material.

6. Please give a general description of the steps you take to process yard debris (from delivery to end-product).

Material is Layered into a pile. When $\frac{1}{2}$ rotted, is moved to another spot as moving material decomposes better if recreated. Also it helps to mix material each time it is ~~used~~ moved

7. What is the maximum length of time required to process each day's receipt of:

- a. ~~Yard debris~~? depending on how much material is received.
- b. Grass clippings? Moving raw material to pile usually takes
Leaves
Manure from 20 minutes to $\frac{1}{2}$ hour per day.

8. How long does it typically take to process yard debris at your facility (from receipt to finished product)?

About 6 months.

a. How long do you cure the finished product?

up to 6 months or until it is used or sold

9. If applicable, what are the dimensions of the windrows or piles that are typically constructed at your facility (length, width, height)?

Static Piles are usually 40' by 6 to 8 feet high.
x 40'

10. How do you manage the windrows or piles? What kind of equipment do you use?

we use a Caterpillar 910 Loader to move or pile.

Also a Ford 1710 farm tractor with bucket loader

11. Describe how you control the following:

a. Noise (from machinery and equipment):

Loader and tractor have mufflers.
We work during week day normal business hours
9 am to 5 pm

b. Vectors (insects, birds, rodents):

Havent seen any rodents, Insects or other
problems with Varmints
Occasionally a heron will try to grab a fish
from one of the ponds.

c. Dust:

Gravel drive way are sprinkled everyday as we
water shrubs and plants in nursery.

d. Litter:

Hand Picked everyday as noticed in walkaround.

12. Describe the fire prevention, protection and control measures used at the facility.

We have two wells. Water lines to all parts of
property. Also we are able to divide piles into
smaller units with equipment, so as to control
natural heating.

13. Does (or will) the facility have legible sign(s) at public entrances including:

Name of facility?	Yes <u>X</u>	No <u> </u>
Name of the operator?	Yes <u> </u>	No <u>X</u>
Hours of operation?	Yes <u>X</u>	No <u> </u>
List of materials that will and will not be accepted?	Yes <u>X X</u>	No <u> </u>
Schedule of charges?	Yes <u> </u>	No <u>X</u>
Phone number in case of emergency?	Yes <u>X</u>	No <u> </u>

14. Describe your methods for monitoring and adjusting the following (during processing):

a. Temperature:

Heat Probes to check internal heat.
Pile has water sprayed onto it at intervals as
needed to maintain proper moisture content.
we try to keep moisture content around 60%. Not soggy but dem

b. Oxygen levels:

Piles are moved occasionally - that mixes and
Aerates material

c. Moisture levels:

We keep piles moist (60%) not soggy

15. In general, what are your plans (existing or proposed) for marketing the finished product?

We will sell to landscapers - or homeowners
word of mouth advertising and having a Superior
product takes care of amount we have to sell.

PART 4

ODOR MINIMIZATION PLAN

1. Generally describe how you handle loads of bad smelling ~~yard debris~~ and grass clippings?

Material is moved from receiving area to pile every evening and mixed with manure so there is no odor problems. Also as material is aerated it naturally takes care of odor.

2. Describe your procedures for receiving, recording and remedying odor complaints or odor problems at the facility.

Have not had any complaints in 35 years of composting. We must be doing something right. Our mixture is just right for a naturally pleasing product to use around home yards.

3. Describe your methods for minimizing and controlling odors at the facility.

Properly mixing materials; moving material periodically. Area of piles is surrounded by tall fir trees and brush, and prevailing winds dissipate any odor that might occur. No problems

4. Describe your procedures for avoiding delay in processing yard debris during all weather conditions.

Our receiving area is blacktopped so we can work in rain.
drive ways are gravelled and sprinkled regularly.
Material is removed from dumping area each
evening to adjacent pile so no build up at that spot.

5. Prior to turning or moving composted material, describe how the following factors are considered:

a. Time of day:

usually whenever we have time

b. Wind direction:

the prevailing wind is from the N.E.
There are tall trees all around so we are protected
from wind currents.

c. Percent moisture:

If it rains we dont have to sprinkle pile.

d. Estimated odor potential:

None. Proper Carbon ratio 50% carbon - shavings
50% Nitrogen grass-leaves
We mix manure with shavings with grass
And/ or leaves in piles

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LICENSE APPLICANT

I hereby certify that the information contained in this application is true and correct to the best of my knowledge. I agree to notify Metro within 10 days of any change in the information submitted as a part of this application.

Signature and title of person completing this application:

SIGNATURE Charles E. Mensinger TITLE owner

DATE 9-27-97 PHONE 636-1843

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Comment —

our composting facility is an offshoot of our Nursery business.

We started composting in about 1943 in North Portland in our nursery there, to provide a source of planting mix to use in our container trees and shrubs.

We have been at our Rosemont Road address since 1963, and have used some methods as before.

We have a landscaped area of about 2 acres to display how trees and shrubs grow, and we use about 1/2 or more of our compost to mulch our shrub beds each spring, so don't have a great deal left to sell.

Because, this whole area has heavy clay, the home owners like our compost and planting mix to loosen their soil and provide nutrients.

John P. Seid has seen our facility, ask him.

Charles E. Mensinger

Site legal Description

TAX LOT 01600

4.19 Acres

Section 22

Township 25

Range 1 E

Buffam Res



open fields

our Home



Woods

shade Flg Trees
Retail

Prevailing Winds
↓

North
↙

Drive Way

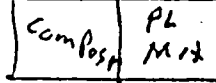
Plants Retail

Greenhouse

Plants Retail

Container Plants

30 X 60 Covered Pole Bldg



Shop

Main Drive Way

Gravel

Dumping Area

Working Compost pile

Finished Compost

Landscaped Display Gardens
- 2 Acres -

Dense Fir Woods
& Brush

Larson House



Rosemont Rd

Dense woods
of brush
↑

November 12, 1997

Mr. John Foseid
Compost Projects Coordinator
Metro Regional Environmental Management
600 NE Grand Avenue
Portland, OR 97232

Dear Mr. Foseid:

This letter is in regard to my application for a Metro yard debris compost facility license. I understand that the Metro Code Section 5.01.110 contains provisions for granting specific variances from particular requirements of the Metro Code.

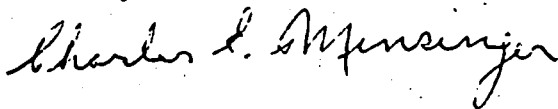
Because of the size and nature of my nursery composting site, I am requesting that the Metro Executive Officer and Metro Council favorably consider and grant me a variance from the following license requirements in the Metro Code:

- Section 5.01.300 Yard Debris Facility Records
- Section 5.01.320 Yard Debris Facility Annual License Fees (\$300 per year)

As you can see from my license application, I accept about 400 cubic yards of material per year. Most of the compost I make is used at my nursery and the rest is sold. I run a very small and simple operation that is part of my nursery. Strict compliance with the Metro Code requirements for facility record reporting and paying the annual license fee will be extremely burdensome and highly impractical for my business.

Thank you for your consideration.

Sincerely,



Charles E. Minsinger
655 Rosemont Road
West Linn, OR 97068

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NOV 14 1997
METRO REGIONAL
ENVIRONMENTAL MANAGEMENT









R L I S

REGIONAL LAND INFORMATION SYSTEM

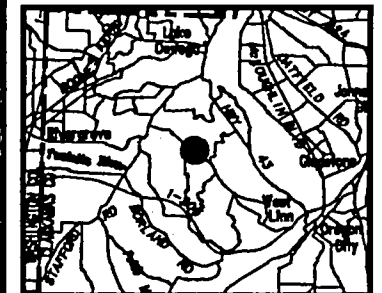
Minsinger Nursery

1996 Aerial Photos

-  Metro Boundary
-  Urban Growth Boundary
-  Parks and Open Space
-  Taxlots
-  County Line
-  Subject Property

Scale: 1" = 800'

0 400 800









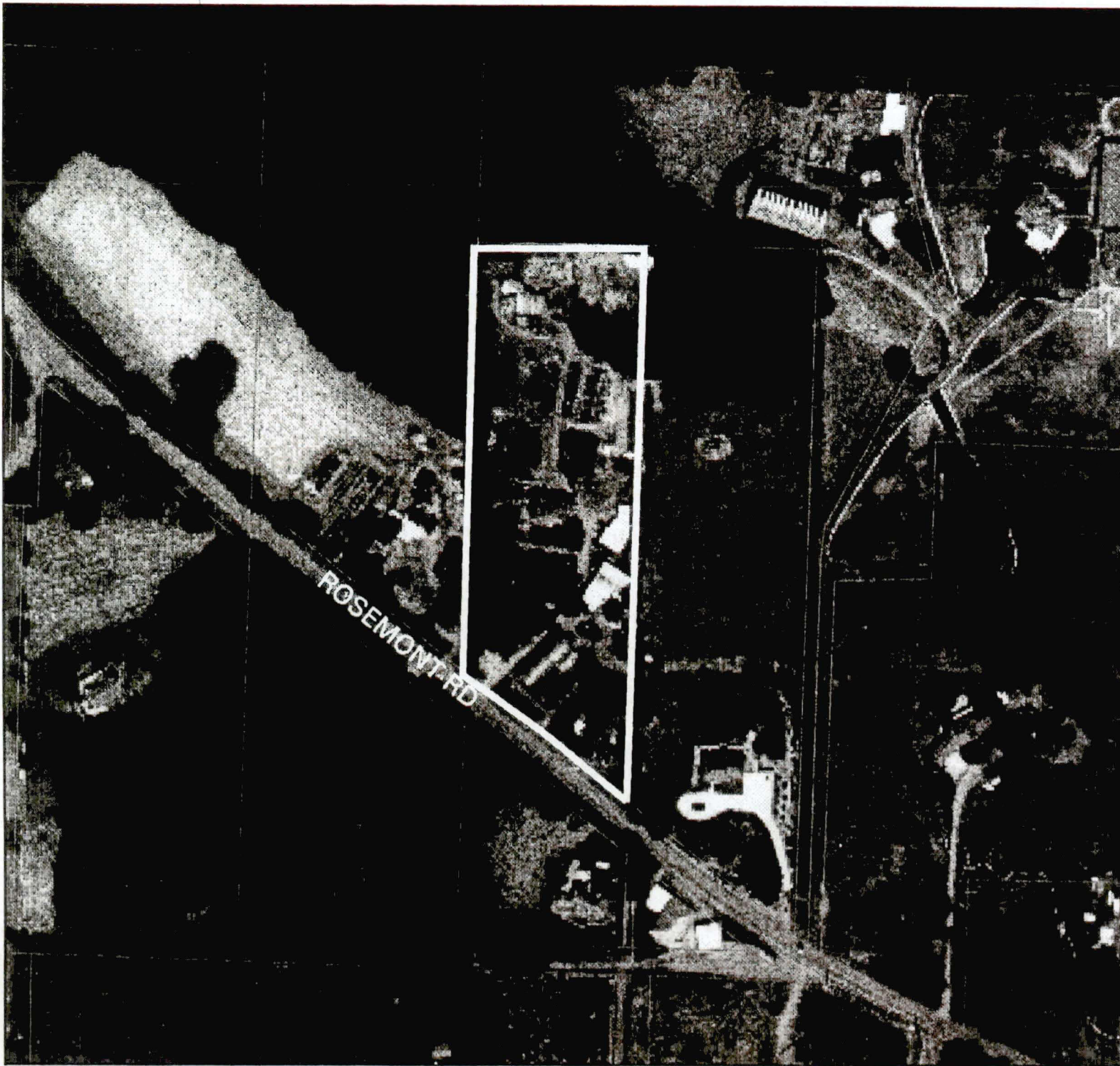
METRO

600 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 787-1909
Email drc@metrodet.or.us

Minsinger Nursery

1996 Aerial Photos

-  Metro Boundary
-  Urban Growth Boundary
-  Parks and Open Space
-  Taxlots
-  County Line
-  Subject Property



Scale: 1" = 200'

0 100 200



METRO

600 NE Grand Ave.
 Portland, OR 97232-2736
 Voice 503 797-1742
 FAX 503 787-1808
 Email drc@metro.dat.or.us

REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 98-725, FOR THE PURPOSE OF GRANTING A YARD DEBRIS PROCESSING FACILITY LICENSE TO MINSINGER'S FLORAL NURSERY, INC. TO OPERATE A YARD DEBRIS COMPOSTING FACILITY

Date: February 17, 1998 Presented by: Councilor Washington

Committee Recommendation: At its February 17 meeting, the Committee considered Ordinance No. 98-725 and voted unanimously to send the ordinance to the Council with a do pass recommendation. Voting in favor: Councilors McFarland, Washington and Chair Morissette.

Background

At the request of the region's local governments Metro has developed and is in the process of implementing a licensing program for yard debris facilities. The purpose of the program is to provide a uniform set of regional regulatory standards that must be met by a facilities. These standards include facility design, operations and odor minimization.

Committee Issues/Discussion: Bruce Warner, Regional Environmental Management Director, presented the staff report. Warner noted that the license applicant, Minsinger's Floral Nursery has been composted material for its own use for many years. The facility is inside the Metro boundary, but outside the UGB. Warner indicated that this is a very small operation, but that, under the licensing standards, it is required to obtain a license. Warner noted that facility had maintained a excellent relationship with its neighbors and that staff was unaware of any opposition to the proposed license. Because of the size of the facility, staff recommends that the customary \$300 annual fee and quarterly reporting requirements be waived.

Agenda Item Number 8.1

Resolution No. 98-2613, For the Purpose of Authorizing the Executive Officer to Contract with Trexler and Associates for Reforestation Assistance on Metro Properties.

**Metro Council Meeting
Thursday, March 5, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)
EXECUTIVE OFFICER TO CONTRACT WITH)
TREXLER AND ASSOCIATES FOR)
REFORESTATION ASSISTANCE ON METRO)
PROPERTIES)

RESOLUTION NO. 98-2613

Introduced by Mike Burton
Executive Officer

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

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance open space land acquisition and capital improvements; and

WHEREAS, the Open Spaces Implementation Plan provides for long-term stabilization measures, including reforestation to be performed by Metro on its open spaces lands; and,

WHEREAS, reforestation is necessary on specific open space acquisitions in order to "stabilize" or prevent further degradation of the property in the most cost-effective manner; and,

WHEREAS, UtiliTree Carbon Company, a subsidiary of a consortium of utility companies, is seeking to fund reforestation projects for the possible future benefits of receiving credit for sequestering carbon; and,

WHEREAS, Trexler and Associates, Inc. is the reforestation contractor for UtiliTree Carbon Company; and,

WHEREAS, a contract between Metro and Trexler and Associates has been developed that outlines tree planting and maintenance responsibilities and commits funds from Trexler for reforestation efforts; and,

WHEREAS, the contract attached to this resolution as Exhibit A sets forth management and maintenance guidelines for reforestation of Metro-owned open space properties specified in the contract; and,

WHEREAS, the reforestation projects are designed specifically for the benefit of Metro's natural areas, thereby, the Metro Policy Related to the Review of Easement Right-of-Ways, and Leases for Non-Park Uses is not applicable; now therefore,

BE IT RESOLVED,

That the Metro Council approves and authorizes the Metro Executive Officer to execute the contract between Metro and Trexler and Associates, Inc. for tree planting and maintenance on specified Metro-owned properties.

ADOPTED by the Metro Council this _____ day of _____, 1998.

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

**WESTERN OREGON CARBON OFFSET PROJECT
TREE PLANTING AND MAINTENANCE AGREEMENT**

BETWEEN: Metro
600 N.E. Grand Ave.
Portland, OR 97232

AND:
Trexler and Associates, Inc.
1131 S.E. River Forest Road
Portland, Oregon 97267-3513

DATE: _____, 1998

RECITALS

A. Metro wants to use its real property for silvicultural purposes, but is unable to do so without financial and technical assistance. Metro's property would likely remain unforested or substantially understocked for the term of this Agreement, as defined below, but for the efforts of the Parties under this Agreement.

B. In order secure rights to greenhouse gas benefits, UtiliTree Carbon Company, Inc., through a program administered by Trexler and Associates, Inc. (TAA), wishes to help Metro pay for the tree planting and other forest establishment costs associated with reforestation of some of Metro's land.

C. This Tree Planting and Maintenance Agreement is intended to cause, in accordance with UtiliTree and TAA's goals, greenhouse gases to be sequestered in the planted trees for an extended period as specified elsewhere in this Agreement and to ensure that TAA retains all rights to any greenhouse gases sequestered through this Agreement.

D TAA is willing to provide funding for the reforestation only to the extent and on the terms and conditions set forth in this Agreement.

THEREFORE, in consideration of the terms set forth in this Agreement, TAA and Metro (hereinafter jointly referred to as the Parties) agree as follows:

- 1 **Qualifying Property.** "Qualifying Property" is real property that is: a) non-industrial forest land, residentially zoned land, or agricultural land; b) not currently forested either by reason of physical disaster or due to previous use for a minimum of 10 years as agricultural or pasture land; c) not capable of near-term natural regeneration nor required

to be reforested under state or federal regulations; d) suitable for planting; and e) characterized as Site Class II and Site Class III lands as defined and rated by the Oregon Department of Forestry.

- 2 **Cost Sharing.** TAA will administer the carbon sequestration program (the Program) in cooperation with Metro.
 - 2.1 Metro and TAA and its forester will cooperatively carry out site preparation, seedling procurement, planting, and plantation oversight activities with the objective of maintaining a minimum of 350 seedlings per acre "free to grow" after five years, as more particularly set forth in the General Land Use and Management Plan, attached hereto as Exhibit C and by this reference incorporated herein.
 - 2.2 Metro and TAA will cooperatively implement measures to manage competing vegetation and control and prevent animal predation for years 1-5, with the objective of maintaining a minimum of 350 seedlings per acre "free to grow" after five years, as more particularly set forth in the Land Use and Management Plan.
 - 2.3 The Parties agree that cost-sharing under this Program will be contingent on documentation as described below.
 - 2.3.1 **Property.** Metro warrants that it owns in fee simple the property described in the deed included in Exhibit A subject only to the encumbrances described in Exhibit A. The tree planting sites (hereafter, the "sites") are shown on the map included as part of Exhibit A. Map boundaries and markings are to be in black and white only. Metro warrants that the tree planting sites on its property constitute Qualifying Property. As a condition to the advancement of cost sharing funds under this Agreement, Metro must certify in the form attached as B that the tree planting sites constitute Qualifying Property. Exhibits A and B are hereby incorporated by reference.
- 3 **Tree Ownership.** Ownership of the trees planted pursuant to this Agreement remains in Metro.
- 4 **Limits on Tree Harvesting.** Metro agrees not to damage, destroy, or harvest the trees planted pursuant to this Agreement for the normal rotation period in this region, namely 65 years. Pre-commercial thinnings between ages 12 and 15 years and commercial thinnings at approximately 20-year intervals may be performed as long as the stand remains fully stocked, and the residual trees are free to grow as defined in the Land Use and Management Plan, and thinnings are conducted within the parameters outlined in the same Plan.

4.1 Notwithstanding the above limits, TAA acknowledges, and TAA agrees that, at any time and at Metro's sole discretion, Metro's Landbanking Staff and/or Parks and Greenspaces Operations and Maintenance Staff, under the direction of the Metro Parks and Greenspaces Director and pursuant to a Metro management plan, or by virtue of any other Open Spaces or Parks objective, may remove trees planted pursuant to this Agreement. In return, Metro agrees to plant an equivalent tree species on Qualifying Property in accordance with paragraph 7 set forth below. Metro shall provide thirty days written notice before removing trees pursuant to this subsection, and shall exert best efforts to cooperate fully with TAA in the exercise of Metro's rights hereunder.

5 **Consideration.** In return for cost sharing, Metro agrees that the following forest establishment procedures may take place on Metro's Qualifying Property:

- 5.1 Metro and TAA will cooperatively prepare the sites for tree planting, as more particularly set forth in the Land Use and Management Plan;
- 5.2 Metro and TAA will cooperatively implement the planting of trees at a density of approximately 434 seedlings per acre on approximately a 10 foot by 10 foot spacing, as more particularly set forth in the Land Use and Management Plan;
- 5.3 Metro shall ensure that the seedlings are planted no closer than 100 feet from utility lines and feeder lines;
- 5.4 To the extent of Metro's obligation under the Land Use and Management Plan, Metro shall provide adequate protection from animals, competing vegetation and shading for the seedlings immediately after planting and during the first and second years after planting, so as to achieve the survival rates specified in Exhibit C, the Land Use and Management Plan;
- 5.5 Metro shall make reasonable efforts to comply with the Land Use and Management Plan set forth in Exhibit C and otherwise undertake efforts consistent with good silvicultural practice in the region to nurture the trees, suppress fires, thin trees, and control damage by wildlife, insect, and disease;
- 5.6 Metro shall report promptly to TAA any change in the condition of the trees that impedes implementation of the Land Use and Management Plan and seek technical assistance to mitigate the consequences of the change;
- 5.7 Metro shall allow TAA or its representatives to enter the Property at reasonable times upon reasonable notice to Metro, to periodically inspect, monitor, and gather information concerning the trees and carbon sequestration, and to assess Metro's compliance with the Land Use and Management Plan.

6 **Remedies.** The Parties acknowledge that the damages that TAA will incur if Metro damages, destroys, or harvests the trees planted pursuant to this Agreement in breach of this Agreement will be difficult to ascertain. The Parties therefore select the following liquidated damages clause and conclusively agree that the damages measured by this clause are reasonable. Except as otherwise provided in Section 7 of this Agreement, if trees planted through this program in the areas outlined in Exhibit A are damaged or destroyed because Metro fails to carry out its responsibilities under Section 2, does not exercise acceptable silvicultural practices pursuant to Exhibit C, or damages, destroys or prematurely harvests trees subject to this Agreement, Metro shall re-pay to TAA the original cost-sharing funds advanced to purchase and plant the trees on the affected acres, plus interest at the rate of five (5) percent per annum (compounded annually). This interest shall accrue starting on the date on which the funds were advanced until the date on which the trees were damaged, destroyed or prematurely harvested, or 40 years after planting, whichever is earlier.

6.1 **Notice of Failure.** If TAA determines that Metro has violated or is in violation of the terms of this Agreement or that a violation is threatened, TAA or its representatives shall give written notice to Metro of the violation and demand corrective action sufficient to cure the violation.

6.2 **Metro's Failure to Respond.** If Metro fails to cure the violation within thirty (30) days after receipt of notice from TAA, or if the violation cannot reasonably be cured within the 30-day period and Metro fails to indicate within that period how and when the violation will be cured, TAA may bring an action pursuant to Section 6 of this Agreement in a court of competent jurisdiction.

7 **Purposeful Removal.** If trees planted pursuant to the Land Use and Management Plan are removed due to Metro's, its employees', or its agents' actions consistent with paragraph 4.1 above, Metro shall replant an equivalent species of tree to those removed on Qualifying Property in another location, which species and location shall be determined by mutual agreement of Metro and TAA. Said replanting shall be at a ratio of two-to-one based on land area underlying the trees planted pursuant to the Land Use and Management Plan and later removed by Metro, and shall be consistent with the standards set forth in the Land Use and Management Plan, Section 2, and Section 5 of this Agreement. Metro shall thereafter maintain said replantings consistent with the standards set forth in the Land Use and Management Plan, Section 2 and Section 5 of this Agreement, so that they may be free to grow, at a ratio of 350 per acre, after five years.

8 **Acts Beyond Metro's Control.** If the trees are damaged or destroyed through events that could not reasonably be controlled or suppressed by Metro with prudent action, the remedies available to TAA in Section 6 shall not apply and repayment of the original cost-share shall not be required. In the case of a partial stand failure under this section, Metro shall notify TAA and shall send to TAA a stand map that appropriately represents the area of stand failure. Cumulative stand failures of less than two acres or 10 percent of

the stand in any single year shall not require notification. Acreage or portions of a stand suffering at greater than 50 percent seedling loss which is not replanted pursuant to Section 9 below shall no longer be subject to the terms and conditions of this Agreement. For stands in which more than half of the acreage is released from the conditions of this Agreement in this way, the remedies to be paid by Metro to withdraw the balance of its acreage from this Agreement will be pro-rated based on the overall seedling survival rate of the stand in question.

9 Replanting Option. TAA or its agents, at its sole expense and discretion and under the same terms governing the original planting, has the option to replant the site for two planting seasons after the trees are destroyed due to events described in Section 8, above. If TAA does so, TAA retains all rights to the greenhouse gases sequestered in the replanted trees.

10 Sequestration of Greenhouse Gases. The Parties agree that any and all rights to any greenhouse gas benefits associated with the trees planted under this Agreement are retained by TAA, regardless of the eventual regulatory characterization or valuation of greenhouse gas benefits, and regardless of whether greenhouse gas benefits are considered personal or real property. Metro shall provide evidence as may reasonably be required by TAA pursuant to any future regulatory requirements to confirm TAA's rights to the carbon offsets or credits or to enable TAA to transfer or otherwise use the carbon offsets or credits. Metro shall be compensated by TAA for Metro's reasonable expenses incurred in providing this evidence.

11 Costs, Liabilities, Taxes and Indemnification.

11.1 Liabilities. Metro retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, and maintenance of the Qualifying Property, including the trees and the tree planting sites, except as expressly provided elsewhere in this Agreement.

11.2 Taxes. Metro shall pay all taxes, assessments, and fees, if any, levied on the Qualifying Property, including the tree planting sites.

11.3 Environmental Representations and Warranties. Metro represents that to the best of Metro's knowledge, without duty to inquire:

11.3.1 There has been no release, dumping, abandonment, or migration from off-site onto the Qualifying Property of any substances or wastes that are hazardous, toxic, or harmful; which contain components that are hazardous, toxic, or harmful; or which are pollutants, as defined by any federal, state, or local law or regulation; and

11.3.2 There is no pending or threatened litigation affecting the Qualifying Property that will materially impair the purpose of this Agreement.

11.4 Metro's Indemnification. Metro agrees to defend at Metro's cost and to indemnify and hold harmless TAA and its officers, directors, employees, agents, successors and assigns, from and against any and all claims, demands, actions, and suits asserted or brought by any third party resulting from any act or omission occurring on the Qualifying Property due solely to negligence, willful misconduct, or breach of a representation under this Agreement of Metro or its representatives, subject to the limitations and conditions of the Oregon Constitution and the Oregon Tort Claims Act, ORS Chapter 30.

11.5 TAA's Indemnification. TAA agrees to defend at its cost and to indemnify and hold harmless Metro and its officers, directors, employees, agents, successors and assigns, from and against any and all claims, demands, actions, and suits asserted or brought by any third party resulting from any act or omission occurring on the Qualifying Property due solely to negligence, willful misconduct, or breach of a representation under this Agreement of TAA or its representatives.

12 Term of Agreement.

If the separate agreement between UtiliTree Carbon Company and TAA (UtiliTree/TAA Contract) should be terminated at any time, TAA's obligations to fund the Program, set forth in Section 2 of this Agreement, shall terminate, effective on the date that the UtiliTree/TAA Contract is terminated. All remaining terms and conditions of this Agreement shall remain in full force and effect.

13 General Provisions.

13.1 Headings. The headings in this agreement are for convenience only and shall not affect its interpretation. The actual wording governs interpretation.

13.2 Governing Law. This agreement shall be governed by the laws of the state of Oregon applicable to contracts executed and performed within the state.

13.3 Liberal Construction. This Agreement shall be liberally construed in favor of its terms to effect the purpose of the Agreement and its Exhibits. If any provision in this Agreement is found to be ambiguous, an interpretation consistent with the purpose of the Agreement that would render the provision valid shall be favored over any interpretation that would render it invalid.

13.4 Severability. If any provision of this Agreement or its Exhibits is found to be invalid, the remainder of the Agreement's provisions shall not be affected.

- 13.5 **Waiver.** A Party's failure to insist on the strict performance of any provisions of this Agreement, or to exercise any right, power, or remedy upon a breach of this Agreement, shall not constitute a waiver of any provision of this Agreement or limit the Party's fight thereafter to enforce any provision or exercise any right under the Agreement.
- 13.6 **Dispute Resolution.** If a dispute arises between the Parties concerning the consistency of any proposed use or activity with the purpose of this Agreement or its Exhibits, the Parties shall attempt resolution. Thereafter, either Party may refer the dispute to mediation or arbitration by request made in writing upon the other Party. The matter shall be settled in accordance with the mediation or arbitration statute in effect in Oregon.
- 13.7 **Notices.** All notices, payments, and other required or discretionary communications ("Notices") shall be in writing and shall be addressed to the receiving-party at the address set forth above or any subsequent address provided by one Party to another. All Notices shall be given by personal delivery, or by registered or certified mail return receipt requested.
- 13.8 **Entire Agreement.** This Agreement and the attached Exhibits, which are incorporated by reference, constitute the entire Agreement between the Parties. There are no other agreements, understanding, restrictions, warranties, or representations between the Parties concerning the subject matter of this Agreement and the Exhibits.
- 13.9 **Relationship of the Parties.** The relationship between the Parties is solely that of independent contract, and this Agreement shall not be interpreted to establish a partnership, joint venture, principal/agent, or any relationship other than that of independent contract.
- 13.10 **Insurance.** TAA agrees that it and its subcontractors shall maintain commercial general liability insurance and workers' compensation insurance in accordance with law. Upon request of Metro, TAA or its subcontractor shall provide a certificate of insurance for each policy.
- 13.11 **Amendment.** This Agreement may be amended only in writing and only by an instrument signed by the Parties. Any amendment to this Agreement shall be recorded in the official records of the county in which the Qualifying Property is located.
- 13.12 **Acknowledgments.** By signing and acknowledging this Agreement in the presence of a witness, Metro acknowledges having read and understood the Agreement and Exhibits, including the Land Use and Management Plan.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE DATE SET FORTH ABOVE.

METRO:

Mike Burton
Metro Executive Officer

TREXLER AND ASSOCIATES, INC.

By: _____

Printed Name: _____

Title: _____

EXHIBIT A

**WESTERN OREGON CARBON OFFSET PROJECT
TREE PLANTING AND MAINTENANCE AGREEMENT**

Ownership Documents and Description of Tree Planting Sites

To be provided by landowner

1. DEED SHOWING PROPERTY OWNERSHIP
2. LEGAL PLAT OF PROPERTY (MAP)
3. MAP SHOWING TREE PLANTING SITES AND SHOWING PROPERTY SUBJECT TO EASEMENT

WARRANTY DEED

This Space Reserved for Recorder's Use

GRANTOR: The Halton Company

GRANTEE: Metro

Until a change is requested, all tax statements shall be sent to the following address:

Metro
600 NE Grand Ave.
Portland, OR 97232

Escrow No. C637708LG Title No. C637708-TL

After recording return to:

Metro
600 NE Grand Ave.
Portland, OR 97232
Attn: April Olbrich

Recorded by TICOR-TITLE

STATUTORY WARRANTY DEED

THE HALTON COMPANY, an Oregon corporation, as to Parcel 1, and ANNA B. ALFORD, and R.C. GOHEEN, as tenants in common, as to Parcel 2 Grantor, conveys and warrants to METRO, a municipal corporation of the State of Oregon under ORS Chapter 268 and the 1992 Metro Charter Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in Clackamas County, Oregon, to wit:

SEE 'LEGAL DESCRIPTION' ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.0930. The said property is free from encumbrances except:

SEE "DEED EXCEPTIONS" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

The true consideration for this conveyance is \$2,684,857.00 (Here comply with the requirements of ORS 93.030)

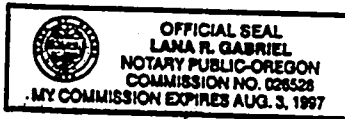
Dated this 29 day of January 19 96

Anna B. Alford
Anna B. Alford
R.C. Goheen
R.C. Goheen

The Halton Company
By: Mark J. [Signature]
Its: Treasurer

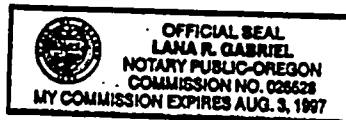
State of Oregon, County of Multnomah
The foregoing instrument was acknowledged before me this 29th day of January, 1996 by R. C. Goheen

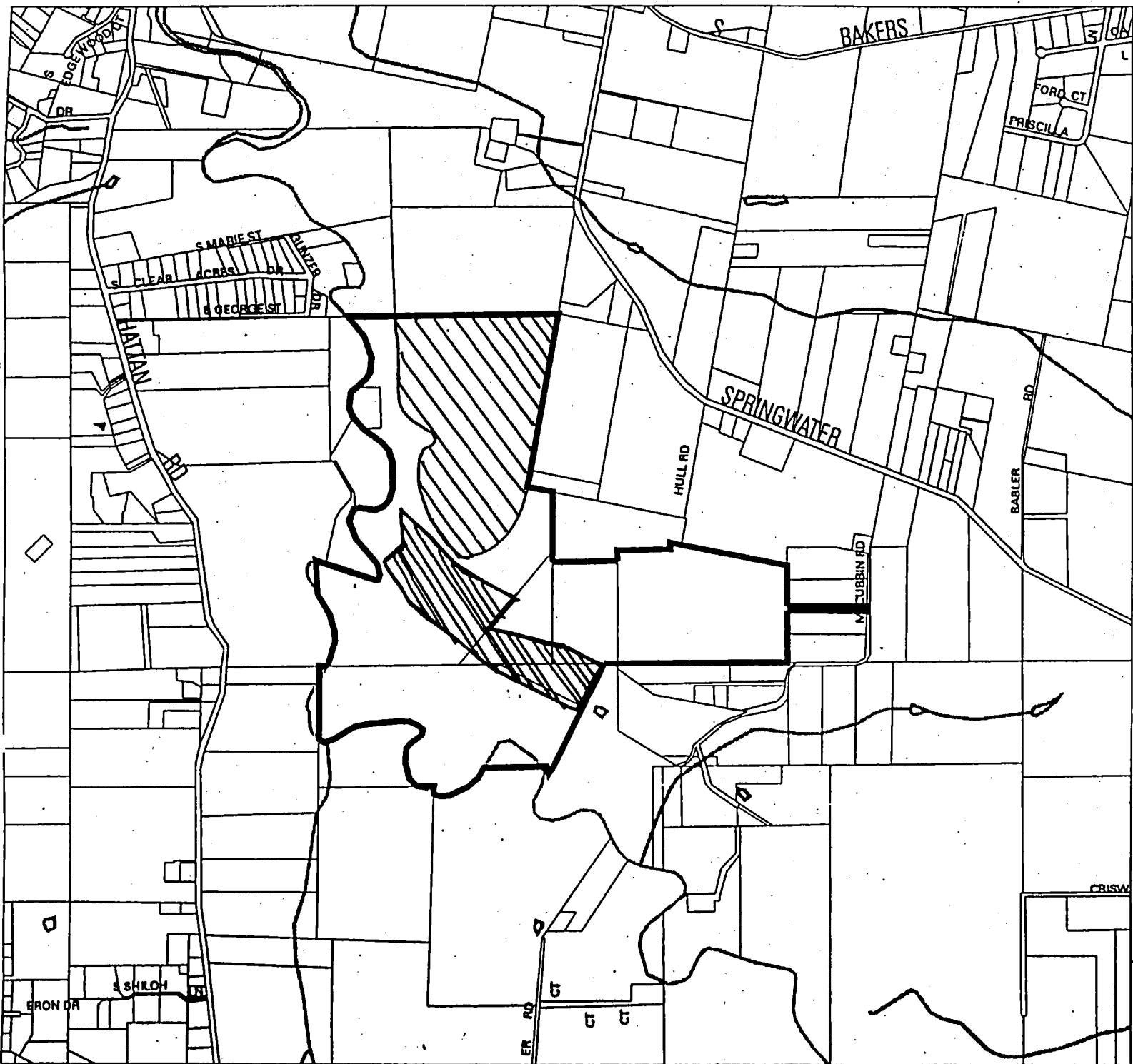
Lana R. Gabriel
Notary Public for Oregon
My commission expires:



State of Oregon, County of Multnomah
The foregoing instrument was acknowledged before me this 29th day of January, 1996, by Anna B. Alford, Personal Representative for the Estate of Robert B. Alford.

Lana R. Gabriel
Notary Public for Oregon
My commission expires:





R L I S

Clear Creek Ranch

- ▤ Ranch Boundary
- ~ Streams
- ~ Taxlots

EXHIBIT A
 Sites 1 and 2
 Clear Creek Property



 **TICOR TITLE INSURANCE**

Report No. C637708

EXHIBIT "A"**LEGAL DESCRIPTION**

PARCEL 1: A tract of land and located in Section 29, 30, 31 & 32, Township 2 South, Range 3 East, Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the one-quarter corner common to Section 29 and 32, Township 2 South, Range 3 East of the Willamette Meridian, Clackamas County, Oregon; thence South $89^{\circ} 42' 25''$ West 1883.74 feet along the section line to a $5/8$ iron rod located at the intersection of said section line with the division line of the William R. McCubbin DLC (so-called); thence South $00^{\circ} 23' 12''$ East 31.08 feet along said division line to a $5/8$ inch rod; thence North $69^{\circ} 30' 00''$ West 170.28 feet to a $5/8$ inch iron rod; thence South $26^{\circ} 00' 00''$ West 271.61 feet to a fence; thence along said fence the following: South $35^{\circ} 06' 35''$ West 262.21 feet, South $30^{\circ} 31' 11''$ West 217.57 feet, South $26^{\circ} 44' 09''$ West 341.03 feet, South $09^{\circ} 13' 04''$ West 79.05 feet, South $05^{\circ} 41' 24''$ West 115.86 feet; thence leaving said fence, South $26^{\circ} 00' 00''$ West 243.89 feet, more or less, to the centerline of Clear Creek; thence along the centerline of said creek North $01^{\circ} 34' 49''$ East 164.80 feet to the north line of the William Connell DLC #56; thence South $89^{\circ} 45' 00''$ West 688.83 feet along said North line of DLC #56 to said creek centerline thence along the centerline of said creek the following: South $27^{\circ} 23' 20''$ West 333.17 feet, South $68^{\circ} 29' 08''$ West 222.79 feet, North $86^{\circ} 47' 53''$ West 251.39 feet to the Easterly line of Government Lot 3, Section 31; thence North 160.82 feet to the Northeast corner of said Government Lot 3; thence West 250.53 feet along the Northerly line of said Government Lot 3 to the centerline of Clear Creek; thence along the centerline of said creek the following. North $25^{\circ} 44' 43''$ West 99.97 feet, North $06^{\circ} 26' 22''$ West 268.37 feet, North $23^{\circ} 22' 23''$ East 167.55 feet, North $51^{\circ} 26' 47''$ East 178.96 feet, North $64^{\circ} 19' 17''$ West 149.57 feet, South $82^{\circ} 38' 23''$ West 143.83 feet, North $72^{\circ} 58' 51''$ West 132.84 feet, North $86^{\circ} 11' 36''$ West 155.87 feet, South $72^{\circ} 01' 58''$ West 193.46 feet, South $56^{\circ} 49' 26''$ West 369.99 feet, North $65^{\circ} 30' 08''$ West 116.56 feet, North $43^{\circ} 26' 57''$ West 112.00 feet to the Westerly line of Government Lot 2, Section 31; thence North 698.59 feet to the one-quarter corner common to Sections 30 and 31; thence North $88^{\circ} 07' 35''$ East 1626.73 feet along the South line of Section 30; thence North $38^{\circ} 20' 29''$ East 1708.79 feet to the South $1/16$ corner located on the Westerly line of Section 29; thence South $00^{\circ} 12' 08''$ West 111.67 feet along said Westerly section line to a $5/8$ inch iron rod; thence North $89^{\circ} 23' 56''$ East 780.82 feet to a $5/8$ inch iron rod located on the division line of the William R. McCubbin DLC (so-called); thence North $00^{\circ} 23' 12''$ West 111.66 feet along said division line to a $5/8$ inch iron rod located on the South $1/16$ section line of said Section 29; thence North $89^{\circ} 23' 56''$ East 552.00 feet along said South $1/16$ section line to a $5/8$ inch iron rod; thence North $00^{\circ} 05' 45''$ West 57.92 feet to a $5/8$ inch iron rod; thence South $78^{\circ} 57' 07''$ East 1350.13 feet to a $5/8$ inch iron rod located on the North-South centerline of Section 29; thence South $00^{\circ} 48' 26''$ East 465.10 feet; thence North $89^{\circ} 11' 21''$ East 918.27 feet to an iron pipe located on the Westerly right of way of McCubbin County Road #1363; thence South $00^{\circ} 54' 45''$ East 64.97 feet along said Westerly right of way to a $5/8$ inch iron rod; thence South $89^{\circ} 10' 33''$ West 918.39 feet to the North-South centerline of Section 29; thence South $00^{\circ} 48' 26''$ East 575.02 feet to the point of beginning.

TOGETHER WITH a right of way to and from said land as described in deed recorded in Book 75, page 415, records of Clackamas County, Oregon.

PARCEL 2: A tract of land located in Sections 29, 30, Township 2 South, Range 3 East, Willamette Meridian, in the County of Clackamas State of Oregon.

CONTINUED

Beginning at an aluminum disc monument located at the Easterly Southeast corner of the Mark Hatton DLC #53, said point also being located on the Westerly line of the Solomon Wheeler DLC #40; thence South 10° 23' 49" West 1943.61 feet along said Westerly line of DLC #40 to an aluminum disc monument located at the Southwest corner of said DLC #40; thence South 78° 52' 15" East 267.97 feet along the South line of said DLC #40 to a 5/8 inch iron rod located at the intersection of said South line of DLC #40 with the Westerly line of Section 29; thence South 00° 12' 08" West 659.26 feet to the South 1/16 corner located on said Westerly line of Section 29; thence South 38° 20' 29" West 1708.79 feet to the South boundary of Section 30; thence South 88° 07' 35" West 1554.52 feet, more or less, along said South boundary of Section 30 to the centerline of Clear Creek; thence along the centerline of said creek the following: North 29° 55' 17" East 460.71 feet, North 01° 08' 07" West 185.80 feet, North 35° 42' 34" West 126.01 feet, North 25° 07' 56" West 532.47 feet to the North-South centerline of Section 30; thence North 00° 04' 06" West 105.39 feet along said section centerline; thence continuing along said creek centerline the following: North 84° 09' 55" East 108.66 feet, South 66° 04' 32" East 604.80 feet, South 89° 03' 36" East 159.44 feet, North 07° 44' 49" East 112.16 feet, North 25° 57' 02" West 234.75 feet, North 58° 58' 46" West 220.05 feet, North 36° 39' 41" West 167.52 feet, North 06° 51' 32" West 162.59 feet, North 48° 11' 01" East 220.23 feet, South 84° 36' 04" East 294.10 feet, North 25° 43' 51" East 168.82 feet, North 01° 33' 27" West 155.36 feet, North 19° 49' 03" West 359.72 feet, North 54° 10' 20" West 608.98 feet, North 00° 30' 41" West 200.59 feet, North 46° 40' 05" East 157.30 feet, North 34° 08' 38" East 391.98 feet, North 03° 44' 52" West 161.36 feet, North 47° 14' 09" West 210.63 feet, North 72° 31' 14" West 254.69 feet, North 39° 21' 06" West 137.22 feet to the South line of the Mark Hatton DLC #53; thence North 89° 55' 36" East 891.23 feet along said DLC line; thence leaving said DLC line, South 89° 28' 49" East 482.05 feet; thence South 89° 34' 21" East 1186.05 feet; thence North 00° 04' 24" West 15.36 feet to said South line of DLC #53; thence along said DLC line North 89° 55' 36" East 45.79 feet to the point of beginning.

TOGETHER WITH a non-exclusive 64 foot wide easement for ingress, egress and utility purposes, lying 32 feet on each side of the following described center line:

Beginning at the intersection of the West line of the Solomon Wheeler Donation Land Claim No. 40 in Sections 20, 29 and 30, Township 2 South, Range 3 East of the Willamette Meridian, with the Southerly line of Market Road No. 28, said point being 700 feet, more or less, Southerly from the Northeast corner of the Mark Hatton Donation Land Claim; thence Southwesterly along the West line of the Wheeler Donation Land Claim to a point that is 150 feet Southwesterly of the Easterly Southeast corner of the Mark Hatton Donation Land Claim No. 53, in Sections 19, 20, 29 and 30, Township 2 South, Range 3 East of the Willamette Meridian.

EXCEPT that portion of said easement lying within the boundaries of a tract of land conveyed to Alfred E. Aus, et ux, by Warranty Deed recorded July 1, 1968, Fee No. 68 12334.

EXCEPTING from the above Parcel 2 a tract of land in Section 30, Township 2 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a 4 inch hand-split cedar post on the Easterly bank of Clear Creek, said post being 788.20 feet South and 331.12 feet East of the re-entrant corner of the Mark Hatton Donation Land Claim No. 53; thence East 216.00 feet to a hand-split 4 inch cedar post; thence South at a 90° angle

CONTINUED

TICOR TITLE INSURANCE

Report No. C637708

from the first described line, a distance of 462.00 feet to another hand-split 4 inch cedar post; thence West at a 90° angle from the last described line, a distance of 146.42 feet to the Easterly bank of Clear Creek to a 4 inch hand-split cedar post; thence 45 feet, more or less, to the center line of Clear Creek to a point; thence Northerly following the meandering center line of Clear Creek, down-stream to a point, on said center line, which is approximately 45 feet due West of the point of beginning; thence East 45 feet, more or less, to the point of beginning.

RESERVING over and across the above described Parcel 2 an easement sufficient for ingress and egress for pedestrian and vehicular traffic to a tract of land described as follows:

A tract of land in Section 30, Township 2 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a 4 inch hand-split cedar post on the Easterly bank of Clear Creek, said post being 788.20 feet South and 331.12 feet East of the re-entrant corner of the Mark Hatton Donation Land Claim No. 53; thence East 216.00 feet to a hand-split 4 inch cedar post; thence South at a 90° angle from the first described line, a distance of 462.00 feet to another hand-split 4 inch cedar post; thence West at a 90° angle from the last described line, a distance of 146.42 feet to the Easterly bank of Clear Creek to a 4 inch hand-split cedar post; thence 45 feet, more or less, to the center line of Clear Creek to a point; thence Northerly following the meandering center line of Clear Creek, down-stream to a point, on said center line, which is approximately 45 feet due West of the point of beginning; thence East 45 feet, more or less, to the point of beginning.

LEGAL DESCRIPTION

Government Lot 1 of Section 6, Township 2 North, Range 1 West of Willamette Meridian and Government Lot 3 of Section 1, Township 2 North, Range 2 West of the Willamette Meridian, and all those portions of the following described property lying Easterly of the Easterly line of the Spokane, Portland & Seattle Railway Co. right of way as relocated in 1972, to wit:

Government Lot 2, the Northeast one-quarter of the Southeast one-quarter and the Southwest one-quarter of the Southeast one-quarter of Section 1 and the West one-half of the Northeast one-quarter and Government Lot 1 of Section 12, Township 2 North, Range 2 West of the Willamette Meridian, in the County of Multnomah and State of Oregon.

EXHIBIT A

Site 3

Multnomah Channel

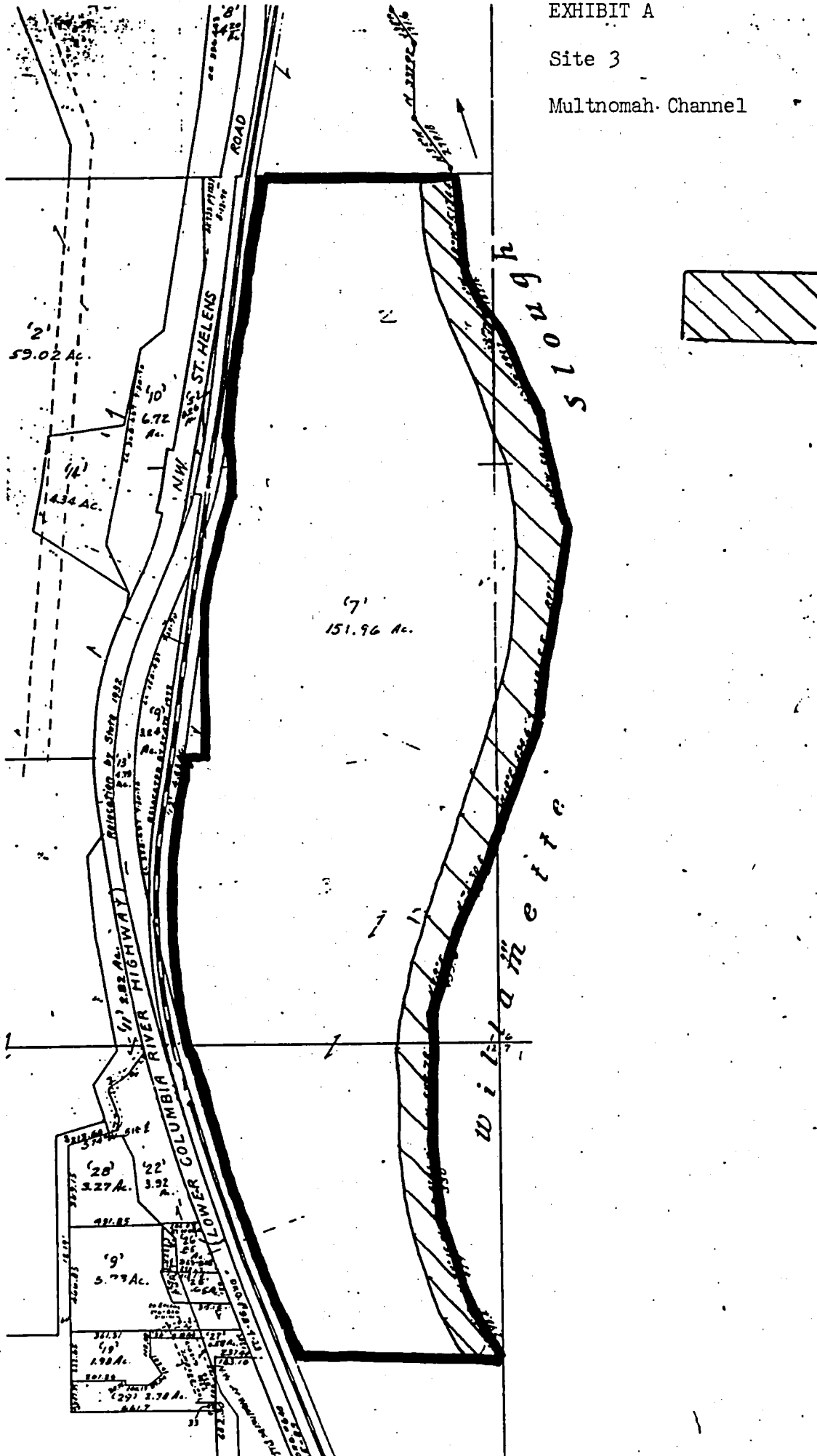


EXHIBIT B

**WESTERN OREGON CARBON OFFSET PROJECT
TREE PLANTING AND MAINTENANCE AGREEMENT**

Notice of Qualifying Property

This notice serves to notify TAA that the Owner and property listed below qualify for reforestation cost-sharing funds as described in the Agreement executed between Trexler and Associates, Inc. and UtiliTree Carbon Company. Reforestation of the Qualifying Property described below is expected to sequester carbon and therefore further the overall objective of the carbon sequestration program.

"Qualifying Property" is real property that is: a) non-industrial private forest or agricultural land; b) not currently forested either by reason of physical disaster or due to previous use for a minimum of 10 years as agricultural or pasture land; c) not capable of near-term natural regeneration nor required to be reforested under state or federal regulations; d) suitable for planting; and (e) characterized as Site Class II and Site Class III lands as defined and rated by the Oregon Department of Forestry.

Owner

Property

The above Owner has executed the Tree Planting and Maintenance Agreement and has been fully apprised of the carbon sequestration program objectives and the guidelines contained in the Land Use and Management Plan.

TAA Forester

EXHIBIT C

**WESTERN OREGON CARBON OFFSET PROJECT
TREE PLANTING AND MAINTENANCE AGREEMENT**

General Land Use and Management Plan

The primary objective of the TAA greenhouse gas sequestration program is that a stand of trees enrolled in the Program shall remain fully stocked and free to grow at all times. "Fully stocked" is defined as the specified basal area for each site, included as part of this Exhibit. TAA recognizes that natural impacts such as weather, pests, or other unforeseen events may require minor plan modifications. Modifications to the Land Use and Management Plan should be made in consultation with TAA or its designated foresters.

The planted trees will be managed using a sustainable approach to forestry and harvesting. The implementing phase of the Land Use and Management Plan will involve planting approximately 434 tree seedlings per acre. Depending on the location of the site, site class, soil type, soil depth, slope, aspect, and vegetation of the site, TAA's designated forester will make the species specification. Species will include but not be limited to Douglas fir, grand fir, western red cedar, ponderosa pine, western larch, and white pine. The anticipated survival rate, defined as the number of living trees two seasons after planting, is 90 percent, but the planting will be considered a success with an overall survival rate of 350 trees per acre.

Pre-commercial and commercial thinning are important elements of forest management to mitigate fire hazard as well as maximize tree growth and health. At a minimum, commercial thinnings should be carried out on approximately a 20-year schedule to achieve the specified basal area. Pre-commercial and commercial thinnings are permitted if the specified basal area is exceeded. Wood volumes above this threshold level can be removed at the Owner's discretion. All proceeds from a wood sale permitted by this plan are the property of the Owner.

The survival rate achieved is integrally tied to the frequency of thinning that is allowable during the first 40 years. If a lower survival rate occurs, the number of trees that can be removed in the early years of stand management is reduced. Stand thinning must be designed so as to achieve the projected specific 65-year total cubic feet per acre volume as indicated below. The number of trees, cubic feet of wood per acre, and dbh are, individually and in combination, measurements of total stand wood volume. TAA recognizes the wide range in variables that could affect these parameters. Considering a diverse possibility of expected rates of mortality, however, the basal area should fall within ± 15 percent of indicated stocking by age group.

The plan objective would be to carry management of planted trees through age 65.

EXHIBIT C

*Western Oregon Carbon Offset Project
Landowner Agreement
Trexler and Associates, Inc. /*

Land:Site Class

Major Soils Group

CMAI cu. ft./ac./yr.

Specified Basal Area by Age Group

Projected total cu.ft./ac. at age 65

0 - 20

20 - 40

40 - 60

60+

EXHIBIT C

FORESTRY PRESCRIPTION

Landowner: Metro

Date: Feb.5,1998

Legal Desc: T2S,R3E,Sec30 (Upper Meadow Clear Creek)

I. Site Preparation **Completion Date Feb 16,1998**
Spray field to kill grass with tractor and boom sprayer. Follow spraying with subsoiler to break ground in order to increase new seedling root growth.

Site Preparations Methodologies:

1. Spray with 2.0 quarts of Accord and 1.0 quart of surfactant per acre
2. Rip with 26 inch winged subsoiler- Fracture top 21 inches of soil

II. Seedlings

Species: Douglas Fir, Grand Fir, Western Red Cedar, Big-leaf Maple, Red Alder
Stock type 1-1 transplants Breeding zone: D-fir :6
Elevation: 500-1,000 Seedlings: D-fir 21,750
Nursery Order: Phipps/ Oregon State Nursery, Elkton Oregon

III. Planting Practices **Completion Date: Feb/March 1998**

Tool: hoedad or shovel Scalp dia.: Site prepped
Trees/ acre: 430 per acre
Spacing: 10 x 10 Microsite:
Planting date: February/March 1998
Weather guidelines: High soil moisture content, air temperatures from 34-60

Concurrent Treatments:

Tubing: None

Animal control: Monitor for deer depredation, using BGR repellent if necessary

Shading: None
Other

Comments: Replant as required with information from stocking survey analysis

IV. Maintenance Operations:

Stocking survey: Plot count survey

Survey Schedule: 10/1998: 10/1999; 10/2000-2002

V. Moisture Conservation/Animal Control:

Anticipated vegetation control treatments and date: Grass control treatments with 4-5' diameter hand spray in April or May (before budbreak) of 1999 and 2000 or as required from information from stocking survey analysis.

Anticipated animal control treatment and date: Keeping the grass 3 feet away from the seedlings will help reduce the mice cover and help to keep the mice from girdling the trees. . Big game repellent if needed will prevent further deer browsing.

Other maintenance operations:

NOTES:

1. Free to grow is the condition whereby the seedlings planted under this agreement no longer require silvicultural intervention in order to survive and grow. In this instance, "free to grow" would be the condition whereby the terminal leaders on 350 seedlings per acre have grown above the deer browse range, approximately 3-3.5 feet above ground level.
2. The above forestry prescription constitutes the reforestation activities required to qualify as "acceptable silvicultural practices" as stated in the Western Oregon Carbon offset treeplanting and maintenance agreement.

Rick Herson

CARBON OFFSET STEWARDSHIP FOREST PRESCRIPTION (Cost share responsibilities)

**METRO-Clear Creek Upper Meadow
(52 acre site class 3)**

		Cost-\$	Provided by: Ore. Woods	Provided by: Landowner
Year #1: 1998				
Site prep:(grass eradication)	53 acres	1000	1000	
Site prep: (subsoil rip)	53 acres	6200	6200	
Seedlings:	21750	7643	7643	
Seedling handling and storage	21750	1088		1088
Tree planting	21750	6500	6500	
Survival survey and administration	53 acres	1155	1155	
	Total-yr#1	23586	23586	
Year#2				
Vegetation control(Oust and Velpar-spot spray)	\$50/acre	2650		2650
Survival survey and administration	53 acres	152		152
	Total-yr#2	2802	2802	
Years 3,4&5				
Vegetation control(Oust and Velpar-spot spray)	\$50/acre	2650		2650
Survival survey 3,4 &5	53 acres	152		152
	total3,4&5	2802	2802	
	total 1-5		29190	
		Share totals=	22498	6692
		total \$/acre=\$551		
		Cost share totals=	owner's share=\$6,692	carbon share=\$22,498

****TREE SEED ZONE #261**

Mailing address:600 NE Grand Ave., Portland OR 97232-2736

Site address: Clear Creek Upper Meadow

tel:(503) - 797-1850

EXHIBIT C

EXHIBIT C

Landowner:			
Metro-(Site)Clear Creek Upper Meadow 600 NE Grand Ave., Portland OR 97232-2736 tel:(503) - 797-1850			
Forestry Provider:			
Oregon Woods Inc. P.O. Box 11680, Eugene OR 97440 tel:(541)334-6634			
Year #1: 1998	Quantity:	Provided by:	
Site prep:(grass eradication)	53 acres	Oregon Woods	
Site prep: (subsoil rip)	53 acres	Oregon Woods	
Seedling handling and storage	21750	landowner	
Seedlings:purchase	21750	Oregon Woods	
Tree planting	21750	Oregon Woods	
Survival survey,analysis&protection supervision	53 acres	Oregon Woods	
Year#2	Quantity:	Provided by:	
Vegetation control(Oust and Velpar-spot spray)	53 acres	landowner	
Survival survey	53 acres	landowner	
Years 3,4&5	Quantity:	Provided by:	
Vegetation control(Oust and Velpar-spot spray)	53 acres	landowner	
Survival survey	53 acres	landowner	
<p>I have reviewed the forestry prescriptions for the Utilitree cost sharing program and agree to provide the material and services designated to the landowner, in a timely fashion as requested by Oregon Woods Inc. If vegetative management is not concluded by the 15th of April each year I agree to have Oregon Woods perform these services and pay Oregon Woods for these services at the above quoted rates.</p>			
(landowner)	(date)	(forestry provider)	(date)

EXHIBIT C

FORESTRY PRESCRIPTION

Landowner: Metro

Date: Feb 5, 1998

Legal Desc: T2S, R3E, Sect 31 (Lower Meadow Clear Creek)

I. Site Preparation **Completion Date Feb. 20, 1998**
Hand scalp existing trees planted in 1997. Scalp approximately 12 inches radius around each living tree. Additionally prepare approximately 6,000 interplant sites for new planting for 1998.

II. Seedlings

Species:

Stock type

Elevation: 500-1,000

Nursery Order:

Breeding zone:

Seedlings:

III. Planting Practices

Completion Date: Feb/March 1998

Tool: hoedad or shovel

Scalp dia.: 24"

Trees/ acre: 430 per acre

Spacing: 10 x 10

Microsite: Oregon Ash planted in wet soils

Planting date: February/March 1998

Weather guidelines: High soil moisture content, air temperatures from 34-60

Concurrent Treatments:

Tubing: None

Animal control: Monitor for deer and mice deprecation, use deer repellent if necessary

Shading: None

Other

Comments: Replant as required with information from stocking survey analysis

IV. Maintenance Operations:

Stocking survey: Plot count survey

Survey Schedule: 10/1998: 10/1999; 10/2000-2002

EXHIBIT C

V. Moisture Conservation/Animal Control:

Anticipated vegetation control treatments and date: Grass control treatments with 4-5' diameter hand spray with Oust in April or May (before budbreak) of 1999 and 2000 or as required from information from stocking survey analysis.

Anticipated animal control treatment and date: Keeping the grass 3 feet away from the seedlings will help reduce the mice cover and help to keep the mice from girdling the trees. Big game repellent if needed will prevent further deer browsing.

Other maintenance operations:

NOTES:

1. Free to grow is the condition whereby the seedlings planted under this agreement no longer require silvicultural intervention in order to survive and grow. In this instance, "free to grow" would be the condition whereby the terminal leaders on 350 seedlings per acre have grown above the deer browse range, approximately 3-3.5 feet above ground level.

2. The above forestry prescription constitutes the reforestation activities required to qualify as "acceptable silvicultural practices" as stated in the Western Oregon Carbon offset treeplanting and maintenance agreement.

Rick Herson

EXHIBIT C

PROVIDED BY/PERFORMED BY:

Landowner:

Metro-(Site) Clear Creek Lower Meadow
 600 NE Grand Ave., Portland OR 97232-2736
 tel:(503) - 797-1850

Forestry Provider:

Oregon Woods Inc.
 P.O. Box 11680, Eugene OR 97440
 tel:(541)334-6634

Year #1: 1997

	<u>Quantity:</u>	<u>Provided by:</u>
Site prep:(Blackberry and Scotch Broom)	45 acres	
Seedlings:purchase	19575	landowner
Seedling handling and storage	19575	landowner
Tree planting	19575	landowner
Animal protection(vexar tube for deer)	7000	landowner
Survival survey and administration	45 acres	landowner landowner

Year#2 1998

	<u>Quantity:</u>	<u>Provided by:</u>
Seedlings:purchase	6000	
Seedling handling and storage	6000	Oregon Woods
Tree planting	6000	landowner
Hand scalp existing trees	45 acres	Oregon Woods
Vegetation control(Oust and Velpar-spot spray)	45 acres	Oregon Woods
Survival survey and administration	45 acres	Oregon Woods Oregon Woods

Years 3,4&5

	<u>Quantity:</u>	<u>Provided by:</u>
Vegetation control(Oust and Velpar-spot spray)	45 acres	
Survival survey	45 acres	landowner landowner

I have reviewed the forestry prescriptions for the Utilitree cost sharing program and agree to provide the material and services designated to the landowner, in a timely fashion as requested by Oregon Woods Inc. If vegetative management is not concluded by the 15th of April each year I agree to have Oregon Woods perform these services and pay Oregon Woods for these services at the above quoted rates.

(landowner)

(date)

(forestry provider)

(date)

CARBON OFFSET STEWARDSHIP FOREST PRESCRIPTION (Cost share responsibilities)

**METRO-Clear Creek Lower Meadow
(45 acre site class 3)**

		Cost-\$	Provided by: Ore. Woods	Provided by: Landowner
Year #1: 1997				
Site prep:(Blackberry and Scotch Broom)	45 acres	880		880
Seedlings:purchase	19575	6346		6346
Seedling handling and storage	19575	979		979
Tree planting	19575	5747		5747
Animal protection(vexar tube for deer)	7000@0.58	4130		4130
Survival survey and administration	45 acres	904		904
	Total-yr#1	18986	18986	
Year#2 1998				
Seedlings:purchase	6000	1442	1442	
Seedling handling and storage	6000	300		300
Tree planting	6000	2025	2025	
Hand scalp existing trees	45 acres	6750	6750	
Vegetation control(Oust and Velpar-spot spray)	45 acres	2250	2250	
Survival survey and administration	45 acres	623	623	
	Total-yr#2	13390	13390	
Years 3,4&5				
Vegetation control(Oust and Velpar-spot spray)	45 acres	2250		2250
Survival survey 3,4 &5	45 acres	128		128
	total3,4&5	2378	2378	
	total 1-5	34754		
	Share totals=		13090	21664
	total \$/acre=\$772			
**TREE SEED ZONE #261		Cost share totals=	owner's share=\$21,664	
Mailing address:600 NE Grand Ave., Portland OR 97232-2738			carbon share=\$13,090	
Site address: Clear Creek Lower Meadow				
tel:(503) - 797-1850				

EXHIBIT C

EXHIBIT C

FORESTRY PRESCRIPTION

Landowner: Metro

Date: Feb 5, 1998

Legal Desc: T2N,R2W, Sec 1 (Multomah Channel)

I. **Site Preparation** **Completion Date Feb 20, 1998**
Spray field to kill grass with herbicide application with tractor and boom sprayer. ..

Site Preparations Methodologies:

1. Spray with 2.0 quarts of Accord and 1.0 quart of surfactant per acre

II. **Seedlings**

Species: Ash, Cottonwood, Maple, Willow, Douglas Fir, Western Red Cedar
Stock type: Breeding zone: D-fir :6
Elevation: 500-1,000 Seedlings:
Nursery Order:

III. **Planting Practices** **Completion Date: Feb/March 1998**

Tool: hoedad or shovel Scalp dia.: 12"
Trees/ acre: 890 per acre
Spacing: 7X7 Microsite:
Planting date: February/March 1998
Weather guidelines: High soil moisture content, air temperatures from 34-60

Concurrent Treatments:

Tubing: 3,000

Animal control: 3,000 vexar tubes

Shading: None

Other

Comments: Replant as required with information from stocking survey analysis

EXHIBIT C

IV. Maintenance Operations:

Stocking survey: Plot count survey

Survey Schedule: 10/1998: 10/1999; 10/2000-2002

V. Moisture Conservation/Animal Control:

Anticipated vegetation control treatments and date: Grass control treatments with 4-5' diameter hand spray in April or May (before budbreak) of 1999 and 2000 or as required from information from stocking survey analysis.

Anticipated animal control treatment and date: Keeping the grass 3 feet away from the seedlings will help reduce the mice cover and help to keep the mice from girdling the trees. Tubing the highly impacted areas will also prevent the mice from girdling the trees.

Other maintenance operations:

NOTES:

1. Free to grow is the condition whereby the seedlings planted under this agreement no longer require silvacultural intervention in order to survive and grow. In this instance, "free to grow" would be the condition whereby the terminal leaders on 350 seedlings per acre have grown above the deer browse range, approximately 3-3.5 feet above ground level.
2. The above forestry prescription constitutes the reforestation activities required to qualify as "acceptable silvacultural practices" as stated in the Western Oregon Carbon offset treeplanting and maintenance agreement.

Rick Herson

CARBON OFFSET STEWARDSHIP FOREST PRESCRIPTION (Cost share responsibilities)

**METRO-Multnomah Channel
(24 acre site class 3)**

		Cost-\$	Provided by: Ore. Woods	Provided by: Landowner
Year #1: 1998				
Site prep:(grass)	24 acres	800		800
Seedlings:purchase	21360	9027	9027	
Seedling handling and storage	21360	1068		1068
Tree planting	21360	4800		4800
Animal protection(vexar tube for deer)	3000@0.58	1770	1770	
Survival survey and administration	24 acres	331		331
	Total-yr#1	17796	17796	
Year#2				
Vegetation control(Oust and Velpar-spot spray)	\$50/acre	1200		1200
Survival survey and administration	24 acres	331		331
	Total-yr#2	1531	1531	
Years 3,4&5				
Vegetation control(Oust and Velpar-spot spray)	\$50/acre	1200		1200
Survival survey 3,4 &5	24 acres	331		331
	total3,4&5	1531	1531	
	total 1-5		20858	
		Share totals=	10797	10061
		total \$/acre=\$869		

****TREE SEED ZONE #261**

Mailing address:600 NE Grand Ave., Portland OR 97232-2736

Site address: Multnomah Channel

tel:(503) - 797-1850

Cost share totals=

owner's share=\$11831

carbon share=\$10797

EXHIBIT C

EXHIBIT C

PROVIDED BY/PERFORMED BY:

Landowner:

**Metro-(Site) Multnomah Channel
600 NE Grand Ave., Portland OR 97232-2736
tel:(503) - 797-1850**

Forestry Provider:

**Oregon Woods Inc.
P.O. Box 11680, Eugene OR 97440
tel:(541)334-6634**

Year #1: 1998

Quantity: Provided by:

Site prep:(grass)	24 acres	landowner
Seedlings:purchase	21360	Oregon Woods
Seedling handling and storage	21360	landowner
Tree planting	21360	landowner
Animal protection(vexar tube for deer)	3000	Oregon Woods
Survival survey and administration	24 acres	landowner

Year#2

Quantity: Provided by:

Vegetation control(Oust and Velpar-spot spray)	24 acres	landowner
Survival survey and administration	24 acres	landowner

Years 3,4&5

Vegetation control(Oust and Velpar-spot spray)	24 acres	landowner
Survival survey 3,4 &5	24 acres	landowner

I have reviewed the forestry prescriptions for the Utilitree cost sharing program and agree to provide the material and services designated to the landowner, in a timely fashion as requested by Oregon Woods Inc. If vegetative management is not concluded by the 15th of April each year I agree to have Oregon Woods perform these services and pay Oregon Woods for these services at the above quoted rates.

(landowner)

(date)

(forestry provider)

(date)

EXHIBIT C

COST SHARE SUMMARY		
METRO THREE SITES		
	COST SHARE	
	METRO	UTILITREE
CLEAR CREEK UPPER MEADOW-53 acres	\$6,692	\$22,488
CLEAR CREEK LOWER MEADOW-45 acres	\$21,664	\$13,090
MULTNOMAH CHANNEL-24 acres	\$11,831	\$10,797
TOTALS	\$40,187	\$46,375
Price per acre based on 122 acres	\$329/acre	\$380/acre
Cost share percentages:	46%	54%

Staff Report

CONSIDERATION OF RESOLUTION NO. 98-2613 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO CONTRACT WITH TREXLER AND ASSOCIATES FOR REFORESTATION ASSISTANCE ON METRO PROPERTIES.

Date: February 6, 1998

Presented by:

**Charles Ciecko
Jim Desmond**

PROPOSED ACTION

Resolution No. 98-2613 requests authorization for the Executive Officer to contract with Trexler and Associates to assist in reforestation of specific Metro properties.

BACKGROUND AND ANALYSIS

As open space land is acquired by Metro using funds from the Open Spaces Bond Measure 26-26, particular land parcels need reforestation. As part of the interim management responsibilities referred to as "stabilization", Metro plants trees at appropriate sites because (1) it is required by the Oregon Forest Practices Act or (2) it is the most cost-effective means to prevent further degradation of the property. Stabilization funds for planting and maintaining these trees come from the open spaces bond revenue.

PacifiCorp recently proposed to provide Metro with reforestation assistance under its carbon sequestration program. Through its subsidiary, UtiliTree Carbon Company, and its reforestation contractor, Trexler and Associates, Inc., up to 75% of the costs to reforest portions of Metro's open space lands has been offered. In exchange, the utilities will receive credit to any future "greenhouse gas mitigation benefits" or "carbon sequestration credits" associated with the stands of trees planted, and Metro contractually agrees not to destroy or harvest the trees for a 65-year period.

Approximately 122 acres of open spaces land that need to be reforested in 1998 are eligible for funding under the reforestation cost-sharing program with Trexler and Associates. Their proposed contribution is approximately \$46,000, which will pay for more than half the cost of reforestation on these areas. With their contribution occurring entirely in the first year of the 5-year reforestation program for each site, Metro assumes maintenance responsibilities thereafter.

FINDINGS

Entering into a contractual agreement with Trexler and Associates, Inc. will have the following effects:

1. Offsets costs of necessary reforestation.

With cost-sharing ranging from 50-75% contribution from Trexler and Associates, less revenue is needed from bond proceeds to complete the necessary reforestation projects on Metro property.

2. Increases reforestation opportunities.

Additional reforestation projects can be justified when the project is only 1/4 of the cost that results from the expected cost-sharing.

3. UtiliTree contribution is assured.

UtiliTree contributes all their cost-share in the first year, with Metro assuming the cost of maintenance. If the carbon sequestration credits never become a viable program or if UtiliTree withdraws from the program, Metro will have not incurred any losses.

4. Restricts removal of trees.

Areas to be planted under the contractual agreement will be selected where anticipated future use does not conflict with reforestation efforts. For example, riparian areas or inaccessible slopes have less potential for future park development that would require tree removal. The penalty for replacing tree removed is to re-plant at a 2-to-1 ratio based on land area, and an agreement not to harvest the substitute plantings for a sixty-five year period, which is manageable on anticipated sites.

5. The Agreement may result in the sale or conveyance of an interest in Metro's real property.

If future federal regulation require that the credits be supported by a real property interest in the land underlying the tree plantings (likely a silvicultural easement), or find that carbon sequestration agreements constitute a transfer of real property, UtiliTree could argue that Metro is obligated to formally grant such an interest in Metro's real property to UtiliTree.

6. Commits Metro for a 65 year period.

The Agreement commits Metro to nurture the trees, suppress fires, thin trees, and control damage by wildlife, insects and disease, and otherwise undertake efforts consistent with good silvicultural practices to protect the trees planted pursuant to the Agreement for a period of sixty-five years. The Agreement does allow Metro to conduct pre-commercial thinnings between 12 and 15 years and commercial thinnings at 20-year intervals, which can be a revenue source.

7. Tree maintenance cost is estimated on limited available data.

Converting agricultural lands to forest lands is historically not a standard practice, so maintenance costs estimates are based on best professional judgment. Research continues on problems and techniques for converting agricultural lands.

No other offers for reforestation assistance for "carbon sequestration credit" were obtained for the following reasons:

1. Competitive bidding for these credits is not practical at this time. Carbon sequestration credits are now in the conceptual stage of their development, and are not currently a

marketable commodity. The future value, if any, of the credits is yet to be determined. The utilities assume the risk that no market for carbon sequestration credits will develop.

2. There is a limited number of utilities venturing into this speculative market. UtiliTree Carbon Company serves a consortium of utilities nationwide, including PacifiCorps. The other major utility serving the Metro region, PGE, was contacted regarding potential partnership with Metro in reforestation efforts. No interest was expressed.

BUDGET IMPACT

The contractual agreement with UtiliTree outlines a substantial contribution, estimated approximately \$46,000 in the first year, to Metro's reforestation efforts. This reduces by approximately the same amount the revenue demand on the open spaces bond proceeds.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends passage of Resolution No. 98-2613.

REGIONAL FACILITIES COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 98-2613, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO CONTRACT WITH TREXLER AND ASSOCIATES FOR REFORESTATION ASSISTANCE ON METRO PROPERTIES.

Date: February 25, 1998

Presented by: Councilor McFarland

Committee Action: At its February 17, 1998 meeting, the Regional Facilities Committee unanimously recommended Council adoption of Resolution 98-2613. Voting in favor: Councilors McCaig, Naito and McFarland.

Council Issues/Discussion: Charles Ciecko and Jim Morgan made the staff presentation on behalf of the Regional Parks and Greenspaces Department. This proposal allows Metro to be able to plant trees in areas it could not otherwise afford to do, as part of a stabilization and landbanking strategy. In this case, Metro is entering into agreement with a consortium, associated with utilities, which hopes to be able to benefit from "carbon credits", should future federal legislation pass.

The contract with Trexler and Associates will authorize planting and maintenance of trees on 122 acres, in the Clear Creek and Multnomah Channel areas. Trexler will contribute \$46,000 to the effort. Metro agrees to maintain the trees for 65 years, while Trexler will benefit from the carbon credits, if they become authorized.

Chair McFarland said that after speaking with legal counsel, she was comfortable with the stipulation that Metro not cut the trees for the 65 year period.

Resolution No. 98-2614, For the Purpose of Amending the 1997-02 Capital Improvement Plan.

**Metro Council Meeting
Thursday, March 5, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
THE FY 1997-02 CAPITAL)
IMPROVEMENT PLAN)

RESOLUTION NO. 98-2614

Introduced by Mike Burton

WHEREAS, the Metro Council adopted the FY 1997-02 Capital Improvement Plan (CIP); and

WHEREAS, the adopted CIP presents all capital improvement projects with a total cost in excess of \$50,000 which Metro plans to undertake over a five year period; and

WHEREAS, from time to time it will be necessary to initiate a project not included in the CIP; and

WHEREAS, the Metro Washington Park Zoo has an opportunity to obtain two koalas on loan for a conservation/education program from the San Diego Zoo, beginning in April 1998; and

WHEREAS, the Metro Washington Park Zoo needs to modify an existing structure to house the koalas; and

WHEREAS, this modification is expected to cost \$100,000; and

WHEREAS, the FY 1998-02 CIP should be amended to include the koala project; now, therefore,

BE IT RESOLVED,

The FY 1997-02 CIP is amended to include the koala project as shown on attachment A to this resolution.

ADOPTED by the Metro Council this _____ day of _____, 1998.

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

i:\CIP\Zoo\Koala.doc

CAPITAL PROJECT REQUEST
PROJECT TITLE: KOALA EXHIBIT

EXHIBIT A

TYPE OF PROJECT: <input type="checkbox"/> NEW <input type="checkbox"/> EXPANSION <input checked="" type="checkbox"/> REPLACEMENT			DEPARTMENT/DIVISION METRO WASHINGTON PARK ZOO				TYPE OF REQUEST: <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION		DATE FEBRUARY 6, 1998		
SOURCE OF ESTIMATE: <input type="checkbox"/> BASED ON DESIGN <input type="checkbox"/> PRELIMINARY <input checked="" type="checkbox"/> ACTUAL BID DOCUMENTS			PROJECT START DATE FEBRUARY 1998		PROJECT COMPLETION DATE MARCH 1998		DEPARTMENT PRIORITY 1		PREPARED BY KATHY KIAUNIS		
PROJECT ESTIMATES		PRIOR YEARS	1997-98	1998-99	1999-2000	2000-01	2001-02	BEYOND 2002	TOTAL		
CAPITAL COST:											
PLANS & STUDIES LAND & RIGHT-OF-WAY DESIGN & ENGINEERING CONSTRUCTION EQUIPMENT/FURNISHINGS PROJECT CONTINGENCY 1% FOR ART OTHER			\$100,000						\$100,000		
TOTAL			\$100,000						\$100,000		
FUNDING SOURCE:											
FUND BALANCE GRANTS G. O. BONDS REVENUE BONDS OTHER			\$100,000						\$100,000		
TOTAL			\$100,000						\$100,000		
PROJECT DESCRIPTION/JUSTIFICATION: Modification of Zoomer barn to house temporary exhibits. Changes include mechanical upgrade, some electrical work, two viewing areas with new windows, and a cleanable surface added to walls.						ANNUAL OPERATING BUDGET IMPACT:					
						PERSONAL SERVICES COSTS MATERIALS & SVCS. COSTS CAPITAL OUTLAY COSTS OTHER COSTS (REVENUES)					
						NET ANNUAL OPERATING COSTS					
						RENEWAL & REPLACEMENT CONTRIBUTION					none
						FIRST FULL FISCAL YEAR OF OPERATION:					FY 1997-98
FUND(s):						Zoo Operating					

STAFF REPORT

A RESOLUTION AMENDING THE FY 1997-02 CAPITAL IMPROVEMENT PLAN

Date: February 26, 1998

Presented by Craig Prosser

Background

Resolution 98-2614 amends the FY 1997-02 Capital Improvement Plan to add a project to remodel the Zoomer Barn at the Metro Washington Park Zoo to house koalas on loan from the San Diego Zoo for a conservation/education program. This project was not anticipated in the FY 1997-02 CIP. San Diego offered the loan of these animals after the FY 1997-02 CIP was adopted, and the loan arrangement has just been finalized. The Metro Washington Park Zoo notified the Metro Council of this project and gave the Council the opportunity to review bid and contract documents as provided in Metro Code. The Council did not ask to review these materials, and so the bid documents were released and a contractor has been selected.

At the January 21 Finance Committee meeting, the committee agreed to a procedure to amend the existing CIP to add projects which are identified during the course of the fiscal year. That procedure allows amendments to be processed as part of another Council action on a project (approval of bid documents or contracts), or by separate resolution in the absence of other Council action. Since Council did not ask to review this project, there is no other Council action required, and it is necessary to pass a separate resolution to amend the CIP.

Ideally, the CIP amendment should be processed in advance of, or in conjunction with the initiation of a project. This project, however, is currently underway. This occurred because the amendment procedures and the project were both developed relatively recently. In the future, amendments will be processed in advance of project start.

In order to house the koalas, the Metro Washington Park Zoo plans to remodel the existing building used to store the Zoomer when not in use. This remodel is expected to cost \$100,000. The Zoo has funds available within existing appropriations from savings on other projects to pay for this project.

Executive Officer Recommendation

The Executive Officer recommends approval of Resolution 98-2614, amending the FY 1997-02 CIP.

FINANCE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 98-2614, FOR THE PURPOSE OF AMENDING THE FY 1997-02 CAPITAL IMPROVEMENT PLAN (CIP)

Date: February 19, 1998 Presented by: Councilor Morissette

Committee Recommendation: At its February 18 meeting, the Committee considered Resolution No. 98-2614 and voted 6-0 to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors Kvistad, McFarland, McLain, Morissette, Naito, and Chair McCaig. Councilor Washington was absent.

Committee Issues/Discussion: Craig Prosser, Financial Planning Manager, presented the staff report. He noted that the purpose of the resolution was to amend the CIP to recognize a current construction project at the zoo that will provide for a temporary exhibit for koalas. He explained that the exhibit was being constructed in response to an offer from the San Diego Zoo to loan the koalas to the zoo for a limited period. The potential for the exhibit was not finalized at the time the Council adopted the CIP. The resolution is coming before the Council in accordance with the CIP amendment process recently approved by the committee. Prosser noted that staff had provided the Council with the required 10-day notice related to the project and that no Councilor had requested Committee review. Therefore, work on the exhibit has already begun.

Chair McCaig noted that, since work on the project had already begun, the scheduling of the resolution had been delayed due to her belief that committee members would not desire a committee meeting for the sole purpose of considering this resolution.

Agenda Item Number 9.1

Resolution No. 98-2612, For the Purpose of Authorizing Exemptions for the Competitive Bidding Procedures and Pursuant to Metro Code, Chapter 2.04.056 Authorizing a Design/Build RFP for Contracting with an Exhibit Fabricator for a New Exhibit Interpretives at Metro Washington Park Zoo.

Contract Review Board

**Metro Council Meeting
Thursday, March 5, 1998
Council Chamber**

BEFORE THE METRO COUNCIL CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION) RESOLUTION NO 98-2612
TO THE COMPETITIVE BIDDING PROCEDURES AND)
PURSUANT TO METRO CODE CHAPTER 2.04.056)
AUTHORIZING A DESIGN/BUILD RFP) Introduced by Mike Burton
FOR CONTRACTING WITH AN EXHIBIT FABRICATOR) Executive Officer
FOR NEW EXHIBIT INTERPRETIVES AT METRO)
WASHINGTON PARK ZOO)

WHEREAS, \$1.2 million of the Oregon project budget has been earmarked in the Capital Fund for the interpretive portion of the exhibit; and

WHEREAS, The purpose of exhibitry is provide an educational message to visitors through the creative development of signs, interpretive panels and interactive visitor experiences, known as interpretive exhibitry; and

WHEREAS, The Metro Code would require that this contract be subject to competitive bidding unless an exemption is obtained from the Metro Contract Review Board; and

WHEREAS, Metro Code Section 2.04.054 (c) authorizes, where appropriate, the use of alternative contracting and purchasing practices to affect real cost savings for the public without compromising competition for public contracts, and

WHEREAS, The most cost effective way of procuring interpretive exhibitry is a design/build RFP process with 40% evaluation based on low bid and 60% evaluation based on adherence to schedule and qualifications of designers; and

WHEREAS, The alpine exhibit is slated to open in September of 1998, and the interpretive exhibitry for this phase of the project is estimated at \$215,000; and

WHEREAS, Metro's staff will ensure that this contract shall not preclude joint ventures between any general contractors and design professionals; and

BE IT RESOLVED,

1. That the Metro Contract Review Board adopts the findings included in the attached Staff Report.
2. That the Metro Contract Review Board exempts the Zoo Oregon Project exhibit fabricator contract from the sealed bid process and authorizes Metro staff to employ an RFP process that will meet the goal of encouraging competition through alternative contracting and purchasing practices.
3. That the Metro Contract Review Board authorizes the Executive Officer to execute a contract for exhibit fabricator services with the selected proposer which is substantially similar to the one contained in the RFP.

ADOPTED by the Metro Contract Review Board this _____ day of _____, 1998.

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

STAFF REPORT

FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE BIDDING PROCEDURES AND PURSUANT TO METRO CODE CHAPTER 2.04.056 AUTHORIZING A DESIGN/BUILD RFP FOR CONTRACTING WITH AN EXHIBIT FABRICATOR FOR NEW EXHIBIT INTERPRETIVES AT METRO WASHINGTON PARK ZOO

Date: March 5, 1998

Presented by: John Fraser

In September, 1996, voters approved the Oregon Project bond measure and the Metro Council authorized the construction of the Oregon Project at the Metro Washington Park Zoo.

An important part of the overall experience provided by the Oregon Project will be the interpretive elements, which are part of the animal exhibits.

The exhibit "interpretives" help create the themed environment that reinforces the unique educational messages for visitors. This includes signage, audio-visual elements and tactile learning opportunities. These interpretives are usually very unique and specialized in fabrication for the message they intend to convey. Most zoos and museums use a design/build contract to develop interpretives as the most cost effective method.

Development of interpretives is unlike other capital improvements because the construction methods, materials and delivery techniques may vary widely to achieve the desired effect.

The material used in the design and assembly methods require special skills, knowledge and creativity in the final installations.

The specialization of this kind of work and the coordination required from its inception to placement in the zoo exhibit make the design/build method of contracting the most cost effective. The chimp climbing structure is an example of where the design/build method was used with outstanding results through the collaboration of a local architect and contractor. This method of contracting encourages the widest competitive bidding for a very unique projects.

Staff will evaluate this process after it is complete and provide the Contract Review Board with a briefing on this evaluation

FINDINGS

1. The use of an RFP process to procure the design and installation of interpretive exhibitry will provide the most cost effective method of delivering interpretive programming to the Metro community and all visitors to its zoo.
2. The use of an RFP process to procure a design/build method for interpretive exhibitry will ensure the widest possible competitive market because it allows for the joint venture of general contractors not experienced in exhibits and environmental designers in creating the zoo's public programming.
3. Use of an RFP rather than a bid process will ensure effective time and quality management by the project management team currently in place at the zoo. Pursuant to ORS 279 the budget for this project is clearly defined and estimates have been received for the design component of this project. This has been defined through bids and estimates by two different firms, allowing staff to track directly the cost savings achieved by Metro.
4. This project requires specialized expertise of design and installation of interpretive exhibitry including working with the artist community and fragile material.
5. A design/build RFP benefits the public by assuring only qualified, experienced exhibit fabricators are selected for this important public display.

BUDGET IMPACT

\$215,000 has been set aside in the Oregon Project budget for the Exhibit Fabrication Consultant, including liaison with the artists working with the Percent for Arts program for the alpine exhibit and the main entry.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No.98-2612.

**REQUEST FOR PROPOSALS TO
EXHIBIT FABRICATION FIRMS
FOR INTERPRETIVES FOR THE
METRO WASHINGTON PARK ZOO'S NEW EXHIBITS**

I. INTRODUCTION/PROJECT BACKGROUND

The Metro Washington Park Zoo is constructing new exhibits featuring Oregon habitats which will include animal exhibits, new retail, food and banquet areas and a new entrance to be relocated across from the West Side Light Rail Zoo Station. Metro is requesting proposals from exhibit fabricators with a minimum of five years experience working in the field of interpretive exhibits to create design and fabrication of exhibits meeting the intent shown for the entry plaza and alpine exhibit.

The Metro Washington Zoo seeks to convey specific educational objectives and concepts through the exhibit. These concepts have been identified through a discussion process with regional and national experts, educators and artists. The basic concept is that alpine ecosystems show, in a very clear fashion, the relationship of plants to their environment.

As the entry experience for the zoo's guests, the alpine exhibit will be the most prominent exhibit in the zoo and will establish the tone and quality for the rest of the guest's zoo experience.

Metro reserves the right to amend any of the following descriptions or costs to the interpretive packages, and to omit items should any discrepancies exist between the proposal documents and the cost for fabrication. Proposals are due no later than 12:00 noon, March 24, 1998, to the Design Coordinator, Metro Washington Park Zoo, 4001 SW Canyon Road, Portland, OR 97221-2799. Details concerning the project and proposal are contained in this document.

A contract will be let as a Design/Build Contract, inclusive of, but not limited to, all necessary meetings, materials, submittals, shipping and installation, to the satisfaction of Metro Washington Park Zoo. A budget of \$215,000 has been established for this project.

Through a separate selection process Metro Washington Park Zoo will be commissioning artists to provide interpretive artworks within the alpine exhibit area. The successful exhibit fabrication firm will be expected to coordinate installation and support for these artworks.

II. PROPOSED SCOPE OF WORK/SCHEDULE

A. Proposed Scope of Work

1. Metro is seeking proposals from qualified exhibit fabricators to perform the following services and to deliver the products described. The selected firm shall be contracted and shall base their work on the descriptions and media messages in Appendices A and C, and coordinate installation of those described in Appendix B.

2. All elements must be designed with the Americans with Disabilities Act in mind, so that the installations are safe and accessible, and so that wherever possible they

incorporate elements that will have appeal to persons who are hearing or sight impaired, or physically or mentally disabled.

3. All work shall be durable and guaranteed for a minimum of ten year's use in an outdoor Zoo setting. Any proposed changes in materials or in length of life of the artwork shall be approved in writing by Metro prior to any work proceeding on the exhibit in question.

4. Metro will contract with artists described in Appendix B independently, to provide the needed artwork at locations throughout the exhibit. Some artwork will be installed by this exhibit fabricator. Individual items are identified in Appendix A and a schedule is attached as Appendix B. These Exhibits identify the general intent of the artwork and how it relates to the exhibit, although the artist's interpretation and delivery mechanisms are within the purview of the artist.

5. Metro Washington Park Zoo will provide access to the zoo, and background material on the project animals.

6. All work shall be installed by the Interpretive Exhibit Fabricator using a submittal and review process, and shall be approved by Metro Washington Park Zoo.

B. Project schedule

1.	Request for proposals advertised	3/6/98
2.	Site visit, 1:00 p.m.	3/10/98
3.	Proposals due for exhibit fabrication	3/24/98
4.	Metro awards interpretive exhibit project	3/26/98
5.	Metro awards artwork projects	3/5/98
6.	First design submission	5/1/98
7.	Fabrication commences	6/1/98
8.	1st Alpine Exhibit installation starts	8/1/98
9.	Interpretive exhibitry and artwork installation and mechanical installation begins	8/7/98
10.	Mechanical installation complete	8/28/98
11.	Trouble shooting period	9/1-17/98
12.	Alpine exhibit opens	9/18/98

III. QUALIFICATIONS/EXPERIENCE

A. The firm must have a minimum of five years experience, under the same name, constructing exhibits for public museums and attractions in the United States.

B. The firm must have experience organizing, coordinating and installing exhibits in projects of equivalent size and scope to this contract.

C. The project lead proposed by the applicant will have previous experience working in a collaborative team on a minimum of three projects of a similar scale.

D. The successful firm shall demonstrate through previous work the ability to ascertain project cost, to provide exhibitry on time and on budget, while reflecting the integrity of the exhibit as a whole.

IV. PROJECT ADMINISTRATION

Metro's contact for this project is John Fraser, Metro's Zoo Design Coordinator.

V. PROPOSAL INSTRUCTIONS

A. Pre-proposal meeting:

Proposers are invited to attend an optional site visit at 1:00 p.m. on March 10, 1998. Meet at the zoo's main entrance/reception area.

B. 1. Mail or deliver one original and three copies all contained in one envelope of a proposal by noon on March 24, 1998 to:

Metro Washington Park Zoo
4001 SW Canyon Road
Portland, OR 97221-2799
Attn: Design Coordinator

2. The proposal should be submitted on recyclable, simply bound, double-sided recycled paper. No waxed paper dividers, plastic covers nor non-recyclable materials should be included in the proposal. Where color or photographs are desired, provide one copy with the original and include black and white copies in all other sets.

C. Metro Washington Park Zoo or its representatives will let a contract to a single company. Any individuals or joint ventures shall name the contracting firm in their proposal.

D. RFP as Basis for Proposals:

This Request for Proposals represents the most definitive statement that Metro will make concerning the information upon which Proposals are to be based.

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 provision 2.04.100.

Copies of that document are available from the Risk and Contracts Management Division of Administration Services, Metro, Metro Center, 600 NE Grand Avenue, Portland, OR 97232, or call (503) 797-1717.

VI. PROPOSAL CONTENTS

Contents of the Proposal shall be limited to the following.

A. Letter of Transmittal: A statement that the Proposal will be valid for sixty (60) days. Indicate the receipt and review of any addendum, if relevant.

B. Approach/Project Work Plan: A Design Statement no longer than 350 words which explains how the proposer works with its clients to ensure the exhibitry delivers the

intended message on time and within budget. Specific reference to approvals process and submittal expectations should be included in this section.

- C. A Project Schedule outlining required meetings, copy review schedule, and graphic production and installation for each of the major exhibit components outlined.
- D. Staffing/Project Manager: A summary list of team members including project manager, designers, fabricators, copywriters and graphic artists and a short portfolio (not to exceed ten pages) illustrating samples of work for the project manager, exhibit fabricator, copywriter(s) and graphic artist(s). Identify specific personnel assigned to the work required, percent of their time on the project, and special qualifications they may bring to the project. Attach resumes of individuals proposed for this contract.

Metro intends to award this contract to a single firm to provide the services required. Proposals must identify a single person as project manager to work with Metro. The consultant must assure responsibility for any subconsultant work and shall be responsible for the day-to-day direction and internal management of the consulting effort.

- E. Proposed Cost: Present the proposed cost of the project, if different that outlined in the Appendix, and the proposed method of compensation. List hourly rates for personnel assigned to the project, total personnel expenditures, support services, and subconsultant fees (if any). Requested expenses not covered in this contract should be listed as well.
- D. Exceptions and Comments: To facilitate evaluation of proposals, all responding will adhere to the format outlined within this RFP. Persons wishing to take exception to, or comment on, any specified criteria within this RFP are encouraged to document their concerns in this part of the 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 accept or reject, in whole or in part, any and all proposals received as a result of this request, and to cancel all or part of this RFP.
- B. Contract Type: Metro intends to award a design/build agreement to an individual or group for the services requested. A copy of this standard agreement which the successful Proposer will be required to execute is attached as Appendix D.
- C. Billing Procedures: Contractor will be compensated for each phase of the project according to the lump sum fees established in the contract. Contractor may invoice Metro monthly for the percentage of completion mutually agreed upon by Contractor and the Zoo Design Coordinator. Each invoice shall be supported by a general description of the individuals performing services or such other evidence of Contractor's right to payment as Metro may direct.
- D. Validity Period and Authority: Proposals shall be considered valid for a period of at least sixty (60) days and shall contain a statement to that effect. Proposals shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contracted during the period in which Metro is evaluating the proposal
- 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 and 200.

Copies of that document are available from the Risk and Contracts Management Division of Administration Services, Metro, Metro Center, 600 NE Grand Avenue, Portland, Or 97232 or call (503) 797-1717.

F. Prevailing Wage

The contractor, and all subcontractors and suppliers, shall be required to comply with ORS 279.350 through 279.354 and ensure that all workers are paid not less than, and in accordance with, the Prevailing Wages published by the Oregon Bureau of Labor and Industries.

The contractor is required to pay a fee equal to one-tenth of one percent (.1 percent) of the price of the contract, but not less than \$100 nor more than \$5,000, under ORS 279.352 (2) and section 5 (1), ch 594, 1995 Oregon Laws. The fee shall be paid on or before the first progress payment or 60 days from the date work first began on the contract, whichever comes first. The fee is payable to the Bureau of Labor and Industries at the following address:

Bureau of Labor and Industries
Wage and Hour Division
Prevailing Wage Unit
800 NE Oregon Street, #32
Portland, OR 97232

VIII. EVALUATION OF PROPOSALS/CONTRACT AWARD

A. Evaluation Procedure: Proposals will be evaluated by a selection committee consisting of zoo personnel. Metro intends to award a design/build contract to the Proposer which, after considering the recommendations of the selection committee, Metro finds best meets the criteria specified in the RFP.

B. Evaluation Criteria: Criteria which will be used to evaluate proposals submitted to accomplish the work defined in the RFP are:

- | | | |
|----|---|-----|
| 1. | Project Work Plan/Approach | 20% |
| a. | Demonstration of understanding project objectives | |
| b. | Performance methodology | |
| 2. | Project Staffing Summary | 35% |
| a. | Project lead | |
| b. | Designers | |
| c. | Copywriters | |
| d. | Fabricators | |
| 3. | Budget/Cost Proposal | 40% |
| a. | Projected cost/benefit of proposed work plan/approach | |

4. MBE/WBE/ESB subcontractors

5%

IX. INSURANCE REQUIREMENTS

- A. The Contractor shall purchase and maintain, at the Contractor's expense, the following types of insurance covering the Contractor, its employees and agents:
1. Broad form comprehensive general liability insurance covering bodily injury, property damage, and personal injury with automatic coverage for premises and operations and product liability. This policy must be endorsed with contractual liability coverage.
 2. Automobile bodily injury and property damage liability insurance.

This insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000. Metro, its councilors, departments, employees and agents shall be named as an additional insured. Notice of any material change of policy or policy cancellation shall be provided to Metro thirty (30) days prior to the change or cancellation.
- B. The Contractor shall comply with ORS 656.017 for all employees who work in the state of Oregon for more than ten (10) days. The Contractor shall provide Metro with certification of Workers' Compensation Insurance including employers liability.
- C. The Contractor shall provide professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be a minimum of \$500,000. Metro shall receive thirty (30) days notice of a material change or cancellation.

END OF RFP DOCUMENT

REGIONAL FACILITIES COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 98-2612, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE BIDDING PROCEDURES AND PURSUANT TO METRO CODE CHAPTER 2.04.056 AUTHORIZING A DESIGN/BUILD RFP FOR CONTRACTING WITH AN EXHIBIT FABRICATOR FOR NEW EXHIBIT INTERPRETIVES AT METRO WASHINGTON PARK ZOO.

Date: February 26, 1998

Presented by: Councilor McCaig

Committee Action: At its February 18, 1998 meeting, the Regional Facilities Committee unanimously recommended Council adoption of Resolution No. 98-2612. Voting in favor: Councilors McCaig, Naito and McFarland.

Council Issues/Discussion: John Fraser, Design Coordinator for the Zoo, made the staff presentation. The Zoo is looking for a contractor with special expertise in design as well as installation, primarily related to the Oregon Project exhibits. The contractor will be expected to perform content as well as construction work.

Council members clarified that what is being asked in this resolution, is an exemption from competitive, low bid procedures, which will allow other factors, such as expertise, and prior history to be taken into account.