

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: June 11, 1998
DAY: Thursday
TIME: 2:00 PM
PLACE: Council Chamber

Approx.
Time*

Presenter

- | | | | |
|----------|-----|---|--|
| 2:00 PM | | CALL TO ORDER AND ROLL CALL | |
| (5 min.) | 1. | INTRODUCTIONS | |
| (5 min.) | 2. | CITIZEN COMMUNICATIONS | |
| (5 min.) | 3. | EXECUTIVE OFFICER COMMUNICATIONS | |
| (5 min.) | 4. | AUDITOR COMMUNICATIONS | |
| (5 min.) | 5. | MPAC COMMUNICATIONS | |
| | 6. | CONSENT AGENDA | |
| 2:25 PM | 6.1 | Consideration of Minutes for the June 4, 1998
Metro Council Regular Meeting and the May 28,
1998 Metro Council/MPAC Joint Meeting. | |
| (5 min.) | 7. | ORDINANCES - FIRST READING | |
| 2:30 PM | 7.1 | Ordinance No. 98-731 , For the Purpose of Granting
a Yard Debris Processing Facility License to C.L.
Dannar Nursery to Operate a Yard Debris Processing
Facility and Declaring an Emergency. | |
| (5 min.) | | | |
| 2:35 PM | 7.2 | Ordinance No. 98-744 , For the Purpose of Adding to
Designated Urban Reserve Areas for The Portland
Metropolitan Area Urban Growth Boundary; Amending
RUGGO Ordinance No. 95-625A; and Declaring an
Emergency. | |
| (5 min.) | | | |

2:40 PM (5 min.)	7.3	Ordinance No. 98-761 , For the Purpose of Amending the Regional Solid Waste Management Plan.	
2:45 PM (5 min.)	7.4	Ordinance No. 98-762 , For the Purpose of Amending the Metro Code Chapter 5.01 regarding Solid Waste Facility Regulations and Making Related Adjustments to Chapter 5.02.	
	8.	ORDINANCES - SECOND READING	
2:50 PM (5 min.)	8.1	Ordinance No. 98-740 , An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule by transferring \$45,469 from Capital Outlay to Debt Service in the General Revenue Bond Fund for the Purpose of Correcting a Technical Error, and Declaring an Emergency.	McCaig
2:55 PM (5 min.)	8.2	Ordinance No. 98-741 , For the Purpose of Granting a Yard Debris Processing Facility to McFarlane's Bark, Inc. to Operate a Yard Debris Processing Facility, and Declaring an Emergency.	Morissette
3:00 PM (5 min.)	8.3	Ordinance No. 98-746 , An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule to Recognize \$44,000 in New Grant Revenues, Reclassify Certain Expenditures, Transfer Funds from the Regional Parks Fund Contingency to Various Line Items Within the Fund, and Declaring an Emergency.	McFarland
3:05 PM (5 min.)	8.4	Ordinance No. 98-747 , An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule Transferring \$4,000,000 from Open Space Fund Contingency to Capital Outlay in the Open Spaces Fund in the Regional Parks and Greenspaces Department To Provide Funding for Unanticipated Expenditures, and Declaring an Emergency.	McFarland
3:10 PM (5 min.)	8.5	Ordinance No. 98-749 , An Ordinance Amending the FY 1997-98 MERC Operating Fund Budget and Appropriations Schedule for the Purpose of Transferring Appropriations to Increase Operating Expenses, Debt Service and Capital Outlay, and Declaring an Emergency.	McFarland
3:15 PM (5 min.)	8.6	Ordinance No. 98-751 , An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule in the Support Services Fund and in the Building Management Fund for Various Funding Purposes, and Declaring an Emergency.	McCaig
3:20 PM (5 min.)	8.7	Ordinance No. 98-752 , An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule by transferring \$120,000 from Contingency to Personal Services in the Zoo Operating Fund to Provide for Increased Temporary Staffing at the Oregon Zoo, and Declaring an Emergency.	McCaig

3:25 PM (5 min.)	8.8	Ordinance No. 98-754 , An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule by transferring \$10,000 from Contingency to the Office of General Counsel Portion of the Support Services Fund for Various Funding Purposes, and Declaring an Emergency.	McCaig
	9.	RESOLUTIONS	
3:30 PM (5 min.)	9.1	Resolution No. 98-2640B , For the Purpose of Establishing Timelines for Meeting Metro's Obligation to Expand the Urban Growth Boundary.	Morissette
3:35 PM (5 min.)	9.2	Resolution No. 98-2649 , For the Purpose of Authorizing the Release of RFB 98B-32-REM, for the Construction of an Extension of the Main Transfer Building at Metro South Station.	Washington
3:40 PM (5 min.)	9.3	Resolution No. 98-2650 , For the Purpose of Authorizing the Release of RFB #98B-33-REM, for the Construction of a Truck Wash at Metro South Station.	McFarland
3:45 PM (5 min.)	9.4	Resolution No. 98-2653 , For the Purpose of Authorizing the Execution and Delivery of a Lease/Purchase Agreement, Declaring Intent to Reimburse Expenditures, and Related Matters.	McCaig
3:50 PM (5 min.)	9.5	Resolution No. 98-2656 , For the Purpose of Authorizing the Release of RFB #98-35-REM, for the Provision of Diesel Fuel.	McLain
3:55 PM (5 min.)	9.6	Resolution No. 98-2663 , For the Purpose of Authorizing a Request for Proposals for a Personal Services Contract to Represent Metro before the 1999 Session of the Oregon Legislature.	McFarland
	10.	CONTRACT REVIEW BOARD	
4:00 PM (5 min.)	10.1	Resolution No 98-2654 , For the Purpose of Authorizing Change Order No. 1 to the Contract for Operating Metro Central and South Transfer Stations.	McLain
4:05 PM (10 min.)	11.	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).

Agenda Item Number 6.1

Consideration of the June 4, 1998 Metro Council Regular meeting and the May 28, 1998 Metro Council/MPAC Joint meeting minutes.

Metro Council Meeting
Thursday, June 11, 1998
Council Chamber

**MINUTES OF THE METRO COUNCIL/METRO POLICY ADVISORY
COMMITTEE JOINT MEETING**

May 28, 1998

Room 370A/B

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

Councilors Absent: Jon Kvistad (Presiding Officer) - excused

MPAC Member Present: Clackamas County Commissioner Judie Hammerstad, Carol Gearin, Mike Burton, Tualatin Mayor Lou Ogden, Washington County Commissioner Kathy Christy, Washington County Commissioner Linda Peters, Oregon City Commissioner Doug Neeley, Rod Monroe, Lake Oswego City Councilor Tom Lowrey, Robert Stacey Jr., Hillsboro City Councilor John Godsey, Peggy Lynch, Jim Zehrens, Portland City Commissioner Jim Francesconi, Forest Grove City Councilor Richard Kidd, Troutdale City Councilor David Ripma, Beaverton Mayor Rob Drake, Bud Farm, Lake Oswego City Councilor Bill Atherton, Rebecca Read, Jim Sitzman

Facilitator: Debbie McCabe

Councilor McLain convened the Metro Council/MPAC Joint Meeting at 5:33 p.m.

**1. INTRODUCTIONS AND WELCOME BY COUNCIL SUSAN MCLAIN,
GOVERNMENT AFFAIRS COMMITTEE CHAIR**

Councilor McLain welcomed attendees and explained that Presiding Officer Kvistad could not attend the meeting. She introduced Debbie McCabe, the facilitator.

2. FACILITATOR INTRODUCTION AND COMMENTS

Debbie McCabe, Facilitator, introduced the process and the ground rules for the meeting. She said it would be a brainstorming session to determine needs and tools available to meet those needs. She asked for an environment of respect, to focus on ideas, new and old, and equal participation. She said that everyone would be expected to participate and she would ask for comments from some who did not speak up. She asked participants to focus on issues and avoid disruptive side conversations. She explained that things come up off topic but important items would be placed in the bin for later discussion as time permitted. She laid out the timeframes for the workshop, the first 20 minutes would focus on the needs; the next section would identify tools; and the third part, if time permitted, would identify which tools might be most useful in meeting certain needs.

She said the list she presented were pre-identified needs taken from correspondence before this session and asked if there were additions to the list.

3. ROUNDTABLE DISCUSSION ON REGIONAL FUNDING - ISSUES AND TOOLS

Richard Kidd said housing needed to be added to the list.

Peggy Lynch said that there was infrastructure development needed in the current urban growth boundary and that same laundry list was not maintenance but new stuff needed within the current urban reserves.

Jim Zehrens commented that he hoped the discussion would not get lost in details again as it had in the past. He was concerned about the lack of resources to implement the 2040 plan. He asked if there was a sense of "big" need from the Councilors and the elected officials.

Rob Drake, Mayor of Beaverton said yes, he had been working with MPAC for 5½ years and he felt there was a severe need in Oregon. He said everyone agreed that there were severe needs in the region. He felt it was a matter of what could be done, the political will, and how the problems were going to be solved.

Councilor McLain said that the Time Oriented Development grant program reviewed 8 grants at a meeting that day and found the \$2.4 million they had to approach some of the grants was not enough money to help much with the 2040 plan for building along the transit lines. She said money was needed to support the idea. She said public/private partnerships were needed to get moving on some pretty exciting projects. She hoped this committee would come up with some ideas on how to approach that.

Jim Francesconi asked if there was a strategy for public education and outreach to help meet these needs.

Linda Peters agreed that outreach and public education were important to the process. She felt without commitment for an aggressive public outreach what they were trying to do was at risk.

Debbie McCabe asked for others input. She said she understood the purpose of this meeting was to get everything on the table, everyone would be in agreement with what the discussion would be.

Judie Hammerstad asked members of the Council for their perception of the funding need since it was not their responsibility but local government's to implement. She said the local levels seemed to be a little panicky about the 2040 plan and where the funding would come from.

Councilor Naito said she felt what was being done in the region and the possibility for a partnership between the local governments and the Council was extraordinary. She felt the public was in a "don't change too quickly" cycle. She felt the major issues were how to look at the different regions and their infrastructures and needs. She commented on the importance of looking at the overlay of taxes in the regions and their impact.

Councilor McFarland said that one of the things she had faced in talking about Metro was that people weren't aware of what Metro did. She felt educational efforts were not working and there was a need to communicate better with the majority of the people about what Metro did.

Judie Hammerstad asked Burton's perception of this.

Mike Burton, Executive Officer, said that he was thinking about it that day because it was the 25th anniversary of SB 100. He said he had two points to make. One, the rate and pace of development was different that anytime before. He said there was no comparison to the last 5 years and the 20 years prior to that. He said the planning tools were what made the difference along with money to build the 2040 plan. He said Oregon was doing really well and cooperation was needed for this to continue.

Debbie McCabe stopped Mr. Burton and asked him to wait for the tools part of the discussion for further explanation.

Councilor McLain commented that she agreed that a legislative package was needed but that Metro had never effectively done that. She felt they had always been the "bone" that had been passed around.

Councilor Morissette felt that there needed to be a concerted effort to prove the current resources were being used as wisely as possible. He felt a lot of creative things were coming from Metro but they were pushing too hard and the citizens were not paying attention to what was happening.

Peggy Lynch said the problems could not be solved if everyone continued to look at themselves individually. She said belief in the 2040 plan and the urban reserves would need agreement among the partners which was not evident yet. She felt that was an issue to be discussed.

Lou Ogden, Mayor of Tualatin felt that by far the biggest need for people who live in region was to understand what was going on and try to work together. He commented that each partner would be working for the special interests of their own region. He brought up Metro Greenspaces as the perfect example of what he was talking about.

Councilor McCaig said she had an unbelievable confidence in voters even though they were not always on the same timeline as Council. She felt the challenge was to put the right measures in front of them. She said the issues needed to be agreed upon in order for them to be supported region wide. She felt it was going to take major voter support to move on with the 2040 plan.

Councilor Morissette said he would be very leery of asking the voters for \$2-5 million for this plan.

Councilor McCaig said it would take planning to do it.

Doug Bollam said there was a need for a broad scale approach to the people.

Debbie McCabe commented on her informational categories regarding tools needed to implement the plans.

Councilor Morissette added privatization to the list.

Linda Peters suggested revenue/tax base sharing.

Mayor Drake noted Francesconi's communication tools. He said 82% of the people in Beaverton read their newsletter.

Councilor McLain said it was a good idea.

Peggy Lunch said newsletters had to be geared to something people could do in their backyard as a result. She said that was what made Beaverton's so successful.

Doug Neeley said using existing neighborhood associations might be a solution.

Debbie McCabe asked about other tools.

Jim Francesconi brought up the tax reform link to land use planning.

Peggy Lynch said it was lucky that would be done for schools at least.

Tom Lowrey suggested vehicle registration fees.

Doug Neeley commented that the previous greenspaces measure that did not pass was different from the one that did pass in that the first one was not as specific as it should have been.

Councilor McCaig urged people at the meeting to think big because the effort was not that much greater for the bigger packages. She felt their role was to find solutions for 2040 and that could not be done without substantial investments. She felt any additional resources for 2040 would have to come from within the region.

Judie Hammerstad asked Councilor McCaig if she thought a package of livability, transit, parks and open spaces presented to the people would be turned down because it would encourage growth. She felt people were afraid of losing their way of life if they did anything that would help pay for some of the planning.

Councilor McCaig answered that was not consistent with the polling though there were segments of that in the population.

Mike Burton said the legislature needed to discuss the fact that economic abilities and natural resources would be lost if growth was not kept up with. He said 75 people were coming to the area every day and there needed to be planning for such rapid growth.

Carol Gearin echoed Linda Peters when she said Oregon was a state where most of the people wanted the term livability defined as it was personal to each person. She felt people were not passing some of the needed measures because they were ticked about not having answers. She said they could not keep throwing things at people without telling them why they were necessary for the livability of the region.

Councilor Morissette said he felt Measure 53 failed because they had not made a good enough case to prove that the current resources were used as wisely as possible. He thought there was a likelihood of the people offering more resources. He said slowing down the growth was not the solution but backing off on the densities and creating some projects gradually and getting ownership in those before offering more opportunities was the way to go. He said you need to

walk before you can run. He said he had major concerns about the sprawl that the plan was causing.

Robert Stacey said there were some people in the area who didn't like the idea of more development and growth in the region and they might not be willing to vote for something that would make it easier for growth to happen. He said the question was could the Portland area growth costs be less because there was a growth management plan. He said one of the benefits was that the growth would cost less than elsewhere in the country because of the planning.

Debbie McCabe asked for other comments.

Jim Francesconi asked if a group of people were actively moving in this direction.

Mike Burton said there was and passed out handouts regarding the discussions he had been having with Council members and others on the issue. He said they would need to identify the particular needs of the areas in order to maintain the quality of living in each area. He said there were many elements that could go into such planning.

Councilor McLain said the Government Affairs Committee was ready to work on the legislative package.

Mike Burton reemphasized it was a big deal. He said Oregon had not changed like this since 1848. He said the planning must be done in partnership with the whole state.

Judie Hammerstad said she felt there were a number of avenues. She said she was a little leery of having MPAC presenting a package because they would be labeled Metro at the legislature. She wondered how to be as effective as possible. She felt with the name Metro attached to it, it would not work. She felt they ought to be identifying partners as well as tools.

Jim Francesconi said that in addition to money from the legislature, they had talked about going to the voters for packages from \$30 - \$600 million. He said a screening mechanism was needed if they were going to act as a unified body. He did not feel the business community should be doing the screening. He felt it needed to be MPAC. He said the private sector needed to be a part of this task force.

Jim Zehrens added that getting voter support would be necessary but they had to be careful that people knew that 2040 did not must mean more density. He said the vision for the region needed to get back to basics to make people feel their lives would be improved.

Linda Peters felt a strategic planning group was needed to look carefully and critically and with very good information both in message and at potential funding through ballot measures as well as the legislature. She felt that what Mr. Burton was organizing was essential but not sufficient. She felt they needed to pay attention to what kind of message was resonating to the public in the big picture.

Councilor McLain said the information was there to communicate with the public. She felt it was important to go back and look at the documents that started the process.

Peggy Lynch said she did not disagree with the concept of thinking big. She said you should think big in small bites.

Tom Lowrey said if you look at history, massive investments had been made in their society. He said this region would need to make a big investment to maintain or improve the quality of life, in schools to maintain education, in transportation so people can get around, and in parks for quality of life in recreation. He said it would be the same with air quality. He agreed with Mr. Burton that it would take a big investment and partnership with the state to achieve it. He felt people would understand and felt the investment message was what needed to get out to the people.

Linda Peters felt there was a common vision around the table. She felt radically high density talk worked against the community support needed to make the vision workable. She was concerned about refining and agreeing on the kind of language to be used in talking about it. She said there needed to be a coherent and consistent message.

David Ripma said they needed to be more specific about what they asked for in the legislature. He said calling this a state growth fund package it would lose in the areas of the state that weren't enjoying the growth they felt they needed. He said one way to handle this would be to focus on a couple of things to ask for that growth didn't pay for by itself. He suggested one possibility might be funding for local roads or school sites. He said sewers and water could be funded through growth itself but not these.

Mike Burton said he thought they needed to broaden the base and give specifics. He felt some strategies needed to be designed for working with all the people involved.

Councilor Morissette said he disagreed with Linda Peters. He felt they were pushing too hard and needed to back off a little. He suggested a group of people figure out where the savings would come from to make the \$200 million as opposed to just saying to them we wanted \$200 million. He said they would have a real tough time otherwise and needed to prove that what they were using was being used as wisely as possible.

Councilor Washington said he did not have a problem with the vision that had been set forth for the committee.

Peggy Lynch said that after the initial conversations about schools and school buildings, the infrastructure needs for economic deficient areas would have to be a part of the package because some areas of the state have no water supply or sewer and no money to pay for them. She said if partnerships were to be built the same livability issues needed to be addressed for all areas of the state.

Mayor Ogden said as the scope and size of a business grows so does the investment. He asked the question how would they get enough investment to meet the size of the industry that was running here right now. He said it was not entirely a swap.

Councilor Morissette said the budget was larger than the last biennium and choices were being made on how to spend that. He believed a good solution was to show why you needed the money and that you would spend it as wisely as possible. He said you would have to show why your

Metro Council Meeting

May 28, 1998

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needs would be more important than someone else's because there would not be enough money for all.

Mayor Ogden agreed and brought up the issue of the disproportionate investment. He said 60% of the income tax that went to Salem came out of this area so giving at least 50% back to the area would not cause him guilt feelings.

Debbie McCabe said she would like to know where the group wanted to go next with the discussion next time.

Peggy Lynch said somebody needed to make a commitment to a) work on a state legislative package and set strategies for investment for livability and b) talk about regionwide funding solutions.

Linda Peters said a third group was needed to focus on communication processes and the message and how to do the public education.

Debbie McCabe asked how people felt about those ideas.

Tom Lowrey said he was not sure about forming separate groups because it seemed all interrelated. He agreed that all of the aspects were important.

Councilor McLain suggested that the Coordinating Committee and others should form an agenda item for the next meeting.

Mayor Ogden said those who left early should be on the committee.

Debbie McCabe asked if the Coordinating Committee was a good suggestion for continuing the conversation.

Judie Hammerstad said the next JPACT meeting would be June 10th and asked if they should have this as the first agenda item.

Andy Cotugno, Transportation Planning Department Director, said they would like to push that to a meeting in July.

Judie Hammerstad asked if they could have this recapped on June 10th and said the committees needed to be appointed.

Mayor Ogden said a recap would be needed by June 3 if Ms. Hammerstad was talking about the Coordinating Committee meeting date.

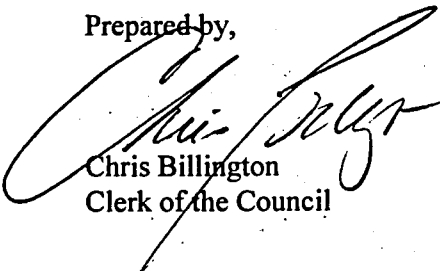
Judie Hammerstad said she would be gone during that period of time but the rest of the committee could do it.

Councilor McLain said the notes about Title 3 had been run off as well as a resolution going to Growth Committee next week and invited interested persons to take a copy.

5. ADJOURN

There being no further business to come before the Metro Council, Councilor McLain adjourned the meeting at 7:05 p.m.

Prepared by,



Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
052898mpc-01	5/28/98	Funding Issues	TO: MPAC & Metro Council FROM: Meg Bushman, Analyst	
052898mpc-02	no date	Objective: Develop a State Growth Fund package to be considered for funding by the 1999 Oregon Legislature	TO: Metro Council and MPAC FROM: Mike Burton	
052898mpc-03	no date	Objective: Develop a transportation improvement package to be considered for funding by the 1999 Oregon Legislature	TO: Metro Council and MPAC FROM: Mike Burton	
052898mpc-04	5/15/98	Will Success Spoil Portland Oregon?	TO: Mike Burton Executive Officer FROM: Unknown	
052898mpc-05	5/12/98	Letter to Jon Kvistad concerning suggesting some long range funding issues	TO: Jon Kvistad FROM: Mike Burton	

Agenda Item Number 7.1

Ordinance No. 98-731, For the Purpose of Granting a Yard Debris Processing Facility License to C.L. Dannar Nursery to Operate a Yard Debris Processing Facility and Declaring an Emergency.

First Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A YARD)
DEBRIS PROCESSING FACILITY LICENSE)
TO C. L. DANNAR NURSERY TO OPERATE)
A YARD DEBRIS PROCESSING FACILITY)
AND DECLARING AN EMERGENCY.)

ORDINANCE NO. 98-731
Introduced by Mike Burton,
Executive Officer

WHEREAS, Section 5.01.030 of the Metro Code requires an owner or operator of a yard debris processing facility to be licensed by Metro; and

WHEREAS, Section 5.01.040 of the Metro Code requires yard debris processing facilities to comply with the licensing requirements in Chapter 5.01; and

WHEREAS, Metro Code Section 5.01.060(a) requires applications for a license to be filed on forms provided by the Executive Officer, and specifies that licenses are subject to approval by the Council; and

WHEREAS, C. L. Dannar Nursery has submitted a yard debris processing facility license application to operate its existing yard debris composting facility in Gresham, Oregon as specified in Metro Code Section 5.01.060(c)(2), and

WHEREAS, the Metro Code Chapter 5.01.230 to 5.01.380 sets forth provisions relating to the licensing of yard debris processing facilities; and

WHEREAS, based on information submitted by C. L. Dannar Nursery, specified in the Staff Report or otherwise submitted, the Executive Officer has found that the facility is in compliance with applicable provisions and standards in the Metro Code related to the licensing of yard debris processing facilities; and

WHEREAS, the facility is an existing operation providing necessary services to the public; and

WHEREAS, nuisance impacts from yard debris processing facilities such as odor, dust and noise can adversely affect the health, safety, and welfare of the public; and

WHEREAS, the purpose of the licensing agreement is to protect the health, safety, and welfare of Metro area residents; and

WHEREAS, The Council finds that it is necessary for the welfare of the Metro area that this ordinance take effect immediately, pursuant to Sections 37 (2) and 39 (1) of the Metro Charter; and

WHEREAS, The Executive Officer recommends that the Council grant the attached license to C. L. Dannar 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. An emergency having been declared for the reasons stated above, this ordinance shall take effect immediately, pursuant to Sections 37 (2) and 39 (1) of the Metro Charter.

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

BM:gbc
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EXHIBIT A

YARD DEBRIS COMPOSTING FACILITY LICENSE

issued by
METRO

600 N.E. Grand Avenue
Portland, Oregon 97232-2736
(503) 797-1700

LICENSE NUMBER: YD10-98

DATE ISSUED: (see Section 2)

AMENDMENT DATE: N/A

EXPIRATION DATE: _____

ISSUED TO: CHARLES DANNAR.

NAME OF FACILITY: C.L. DANNAR NURSERY

ADDRESS: 8102 S.E. 242 AVE

CITY, STATE, ZIP: GRESHAM, OR 97080

LEGAL DESCRIPTION: (see attached application)

NAME OF OPERATOR: C.L. DANNAR NURSERY

PERSON IN CHARGE: CHARLES DANNAR, OWNER

ADDRESS: 8102 S.E. 242 AVE.

CITY, STATE, ZIP: GRESHAM, OR 97080

TELEPHONE NUMBER: (503)667-9848

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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 C.L. Dannar 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 8102 S.E. 242 Ave. Gresham, OR 97080

4. OPERATOR AND OWNER OF FACILITY AND PROPERTY

4.1 The owner of the facility is Charles Dannar.

4.2 The owner of the property underlying the Facility are Charles L. and Mary A. Dannar. Licensee warrants that owner has consented to Licensee's use of the property as described in this License.

4.3 The operator of the Facility is C.L. Dannar 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, 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 yard debris only for the production of compost for on-site use, at agronomic rates, in conjunction with the nursery operations.

5.1.3 Excessive stockpiling of compost that will not be used on-site for the nursery operations, within a reasonable timeframe, is not allowed.

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

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 Records required under this section shall be reported to Metro no later than thirty (30) days following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of Licensee.
- 6.3 The licensee shall submit to Metro pertinent duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, within 30 days 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.

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

Licensee shall pay an annual license fee of \$300, as established under Metro Code Section 5.01.320. The fee shall be delivered to Metro within thirty (30) days of the effective date of this License and on the same date for each year thereafter. Metro reserves the right to change its license fees at any time, by action of the Metro Council, to reflect license system oversight and enforcement costs.

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**S. 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 L. Dannar, Owner
C.L. Dannar Nursery
8102 S.E. 242 Ave
Gresham, OR 97080

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

Bill Metzler, Compost Facility License Administrator
Metro Regional Environmental Management Department
600 NE 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.

C.L. Dannar Nursery

METRO

Facility Owner or
Owner's Representative

Mike Burton, Executive Officer
Metro

Date

Date

BM:gbc
s:\share\dept\regs\ydl\dannar\license\license\license.doc

EXECUTIVE SUMMARY

ORDINANCE 98-731 GRANTING A YARD DEBRIS PROCESSING FACILITY LICENSE TO C.L. DANNAR NURSERY AND DECLARING AN EMERGENCY.

PROPOSED ACTION

- Grants a yard debris processing facility license to C.L. Dannar Nursery to operate its **existing** yard debris composting facility located in Gresham, Oregon.

WHY NECESSARY

- Metro Code Section 5.01.030 requires an owner or operator of a yard debris processing facility to be licensed by Metro.
- The terms of the license will be to protect public health, safety, and welfare. The declaration of an emergency is pursuant to the Metro Charter and is required for the license agreement to take effect immediately.

DESCRIPTION

- The 30-acre site is zoned EFU (Exclusive Farm Use District), with a portion of the property (ten acres) allocated for a yard debris composting operation and the remaining 20 acres for a landscape nursery farm.
- The facility accepts loads of yard debris from commercial and residential sources. The facility is open to the public.
- The facility accepts approximately 5,000 cubic yards of yard debris per year for processing.

ISSUES/CONCERNS

- The site is zoned Exclusive Farm Use (EFU), and located in unincorporated Multnomah County.
- The facility is an approved use, provided that the compost is used on-site for the nursery operations.
- The license agreement contains two special conditions consistent with the land use approval for this type of composting operation in an EFU zone.
- These conditions will prevent the operation from accepting yard debris in quantities inconsistent with the allowed use, and prevent the excessive stockpiling of compost that cannot be used for the nursery operations.

BUDGET/FINANCIAL IMPACTS

- There will be a slight increase in revenues from the annual license fee of \$300 per year paid by the licensee. Current staffing levels are expected to be adequate to handle any technical assistance or enforcement requirements that might arise from licensing this facility.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 98-731 FOR THE PURPOSE OF GRANTING A YARD DEBRIS PROCESSING FACILITY LICENSE TO C.L. DANNAR NURSERY TO OPERATE A YARD DEBRIS PROCESSING FACILITY AND DECLARING AN EMERGENCY.

May 19, 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 C.L. Dannar Nursery be awarded a license to operate a yard debris composting facility located in Gresham, Oregon. The license agreement is attached to Ordinance No. 98-731 as Exhibit A.

This report is divided into four main parts as follows: 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 any specific conditions to be contained in the license agreement.

The purpose of the licensing program is to 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:

- Yard debris processing facilities are licensed by the Metro Council if they submit the required plans and show compliance with applicable provisions in Metro Code Chapter 5.01 Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities (Sections 5.01.230 - 5.01.380).
- Staff has reviewed all required submittals and has determined that C.L. Dannar Nursery meets the requirements of the Metro Code related to licensing yard debris processing facilities.
- The license agreement contains conditions consistent with Multnomah County Planning Department allowances for this type of composting operation. The conditions are related to composting operations in an Exclusive Farm Use (EFU) zone. According to the Multnomah County Planning Department, this operation is allowed in an EFU zone as a farm use, as long as the yard debris accepted is composted and used only on-site for the nursery operations. If the facility owner wants to pursue larger scale composting for commercial production, Multnomah County will require the applicant to apply for a conditional use permit.
- The declaration of an emergency is pursuant to Section 37 (2) and 39 (1) of the Metro Charter. It is necessary for the welfare of the Metro region that this agreement be effective immediately. The facility is an existing operation providing necessary services to the public.

FACILITY AND APPLICANT INFORMATION

Location:

- Facility address: 8102 SE 242 Ave. Gresham, OR 97080
- The facility lies in Section 23, Township 1S, Range 3 East, Multnomah County, Oregon

Zoning and Permitting:

- The site is zoned Exclusive Farm Use (EFU), and located in unincorporated Multnomah County. The facility is inside the Metro Boundary, but outside the Metro Urban Growth Boundary.
- According to the Multnomah County Planning Department, this operation is allowed in an EFU zone as a farm use, as long as the yard debris accepted is composted and used only on-site for the nursery operations. If the facility owner wants to pursue larger scale composting for commercial production, Multnomah County will require the applicant to apply for a conditional use permit.
- The soils at the site are currently classified as "III(e)" and are not considered "high-value farmland" and, therefore, the statutory siting restrictions for certain composting facilities on EFU high-value farmland are not an issue with this operation.

General Facility Description:

- This facility covers approximately thirty acres used for a privately owned nursery business. Ten acres are utilized for the composting operation. The incoming compostables are grass clippings, leaves, sod, and small diameter limbs. The facility accepts approximately 5,000 cubic yards of yard debris per year for processing.

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 has been determined to be complete and adequate.

Applicant Qualifications

C.L. Dannar Nursery is a locally owned and operated facility and has been composting at the current location for over two years. Mr. Dannar has been practicing composting for over fifteen years as an organic farmer.

II. LIST OF SUBMITTALS / STAFF REPORT ATTACHMENTS

Attachment 1 - Site Map/Aerial Photograph (1997 RLIS)

Attachment 2 - Application for a Yard Debris Processing Facility License

III. ANALYSIS OF LICENSE APPLICATION

A license will be granted if the Metro Council finds that the applicant complies with Metro Code Chapter 5.01 - *Solid Waste Facility Regulation* and the specific standards set forth in Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities (Sections 5.01.230 - 5.01.380).

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, with conditions related to the composting of yard debris for on-site use on EFU zoned land. The following table summarizes staff's analysis:

Key Metro Code Licensing Provisions	Acceptable	Unacceptable	See details in analysis below
5.01.260 General Yard Debris Facility Design Requirements & Design Plans	X		1
5.01.270 General Operating Requirements for Yard Debris Facilities	X		2
5.01.280 Yard Debris Processing Operations Plan	X		2
5.01.290 Yard Debris Facility Odor Minimization Plans	X		3

In addition, staff offers the following details regarding the application, which are contained in three main parts:

1. FACILITY DESIGN (corresponds to Metro Code Section 5.01.260 - General Yard Debris Facility Design Requirements & Design Plan).

The facility design requirements are intended to ensure that the facility is designed and constructed in a safe and suitable manner that can support the type of processing and the quantity of material that the applicant is proposing to process.

Staff has found that this facility is designed and constructed in a manner suitable for maintenance and processing operations, visual inspection of piling areas, and fire fighting operations. The facility meets the requirements for effective barriers to unauthorized entry, all-weather access roads, and has sufficient processing and storage capacity to handle incoming volumes of yard debris.

General Description

An all-weather asphalt road provides access to the facility. This facility will process vegetation such as grass clippings, sod, leaves and small-diameter limbs into compost and mulch. The only entrance to the facility is secured with a locked gate. The facility has signs at the entrance, directing traffic flow and providing other business information.

The facility uses the windrow composting method with dimensions of 100'(length) x 12'(height) x 12'(width) and accepts approximately 5,000 cubic yards of yard debris per year. The processing time from receipt to finished product is approximately 365 days. The estimated capacity in cubic yards of the

facility storage area for incoming materials is 500 cubic yards. The estimated capacity for finished product storage is 10,000 cubic yards.

Storm water run-off is routed through a series of roads and swales on the east, south, and north property lines and drain into a large pond on the northern property line.

Comments:

- The applicant's completed license application and submittals constitute the Design Plan, and meet all applicable Metro Code requirements for Section 5.01.260 - General Yard Debris Facility Design Requirements & Design Plans.

2. **OPERATIONAL PLAN** (corresponds to Metro Code Section 5.01.270 - General Operating Requirements for Yard Debris Facilities and Section 5.01.280 - Yard Debris Processing Operations Plan).

The purpose of the operational plan requirements is to ensure that the facility minimizes nuisance impacts on surrounding communities and businesses, while protecting public health and safety.

Staff have found that this facility is operated in a manner that meets Metro Code operational requirements and that the operating plan submitted as part of the license application, sufficiently addresses process management and monitoring procedures for yard debris composting facilities. The composting operation accepts yard debris for the productions of soil amendment products for on-site use at the nursery operations.

General Description

Incoming loads are visually inspected at the receiving area and estimated cubic yardage of the load is used to assess the unloading fee by facility staff. Most loads are covered with a tarp and drivers of vehicles of uncovered loads are verbally instructed that loads should be covered prior to transport on a public road. All incoming loads are visually inspected for non-compostables, and loads not in compliance are rejected. Any non-compostable material delivered to the facility is identified by staff and deposited in a container for disposal.

Incoming material is stockpiled in windrows upon delivery to site. The incoming yard trimmings are not ground up before placed into the windrow. To monitor and adjust pile temperature, a thermometer probe is inserted at various locations of the windrow and results are documented. If oxygen or moisture is required, the windrows are turned via a track-loader with a bucket, and water added as needed. Finished compost is then screened with the larger woody material being separated out and incorporated into a new windrow.

- Noise: All equipment meets DBA noise requirements. In addition, site topography provides both a visual and sound buffer for noise abatement.
- Vector control: Vectors are controlled by rapidly processing (within 1 day) the incoming materials. Active compost piles and finished product rarely attract or harbor vectors.
- Dust control: All roads are watered down to control dust. In addition, compostable materials are watered down during processing to control dust.
- Litter: The facility grounds are maintained on a regular basis.

- Fire protection: Fire inspections are done on a daily basis. A fire trailer is on standby with all equipment needed to fight a fire. Excavator and bulldozer operators are trained to respond to any potential fire problem. All incoming yard debris is processed on a regular basis to keep the pile size manageable. Monitoring of pile temperature, oxygen, and moisture levels are performed on a regular basis.

Comments:

- The applicant's completed license application and submittals constitutes the Operations Plan, and meets all applicable Metro Code requirements for Section 5.01.270 - General Operating Requirements for Yard Debris Facilities and Section 5.01.280 - General Yard Debris Facility Design Requirements & Design Plans.

3. ODOR MINIMIZATION PLAN (corresponds to Metro Code Section 5.01.290 - Yard Debris Facility Odor Minimization Plan).

The Odor Minimization Plan requirement is designed to ensure that the facility is operated in a manner that minimizes and mitigates odor impacts on surrounding communities and businesses.

Staff has found that this facility is operated in a manner that meets the applicable Metro Code requirements and has submitted an odor minimization plan as part of the license application. The odor minimization plan sufficiently addresses all processing, odor management and monitoring procedures for this type of operation.

General Description

Since deliveries of accumulated grass clippings from landscape companies can be a primary source of odor, loads of bad-smelling grass clippings are immediately processed. Grass clippings are blended with drier, woody yard trimmings (carbon source). The yard debris is not ground prior to incorporating it into a windrow in order to promote air space in the pile.

Odor complaints: Complaints are documented and investigated by facility staff. Wind speed and direction are noted. Odor control procedures are implemented to include material mixing, and changing the time of day the material is turned.

Comments:

- The applicant's completed license application and submittals constitutes the Odor Minimization Plan, and meets all applicable Metro Code requirements for Section 5.01.290 - Yard Debris Facility Odor Minimization Plans.

IV. CONCLUSIONS

Staff has reviewed all required submittals, and has determined that the C.L. Dannar Nursery meets the requirements of the Metro Code related to licensing yard debris processing facilities. In addition, staff has discussed the land use status and approval of this facility with the Multnomah County Planning Department. The facility is an approved use, provided that the compost is used on-site for the nursery operations. Staff recommends including two special conditions in the license agreement. The conditions will provide consistency with the Multnomah County land use approval for this composting operation pertaining to its location in an EFU zone without a high-value farmland designation.

Special Conditions

In order to maintain consistency with the Multnomah County Planning Department provisions for composting in EFU zoned land, the License Agreement (Section 5 - Authorized and Prohibited Activities and Wastes) contains the following conditions:

- Licensee shall accept yard debris for the production of compost for only on-site use, at agronomic rates, in conjunction with the nursery operations.
- Excessive stockpiling of compost that will not be used on-site for the nursery operations, within a reasonable timeframe, are not allowed.

These conditions will prevent the operation from accepting yard debris in quantities inconsistent with the allowed use, and prevent the excessive stockpiling of compost that cannot be used for the nursery operations.

V. BUDGET IMPACTS

There will be a slight increase in revenues from the annual license fee paid by the licensee of \$300 per year. 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 upon the preceding analysis, it is the opinion of staff that C.L. Dannar Nursery should be granted a yard debris processing facility license in accordance with the provisions of the license agreement attached to Ordinance No. 98-731 as Exhibit A.

VII. EXECUTIVE OFFICER'S RECOMMENDATION







The Executive Officer recommends adoption of Ordinance No. 98-731.

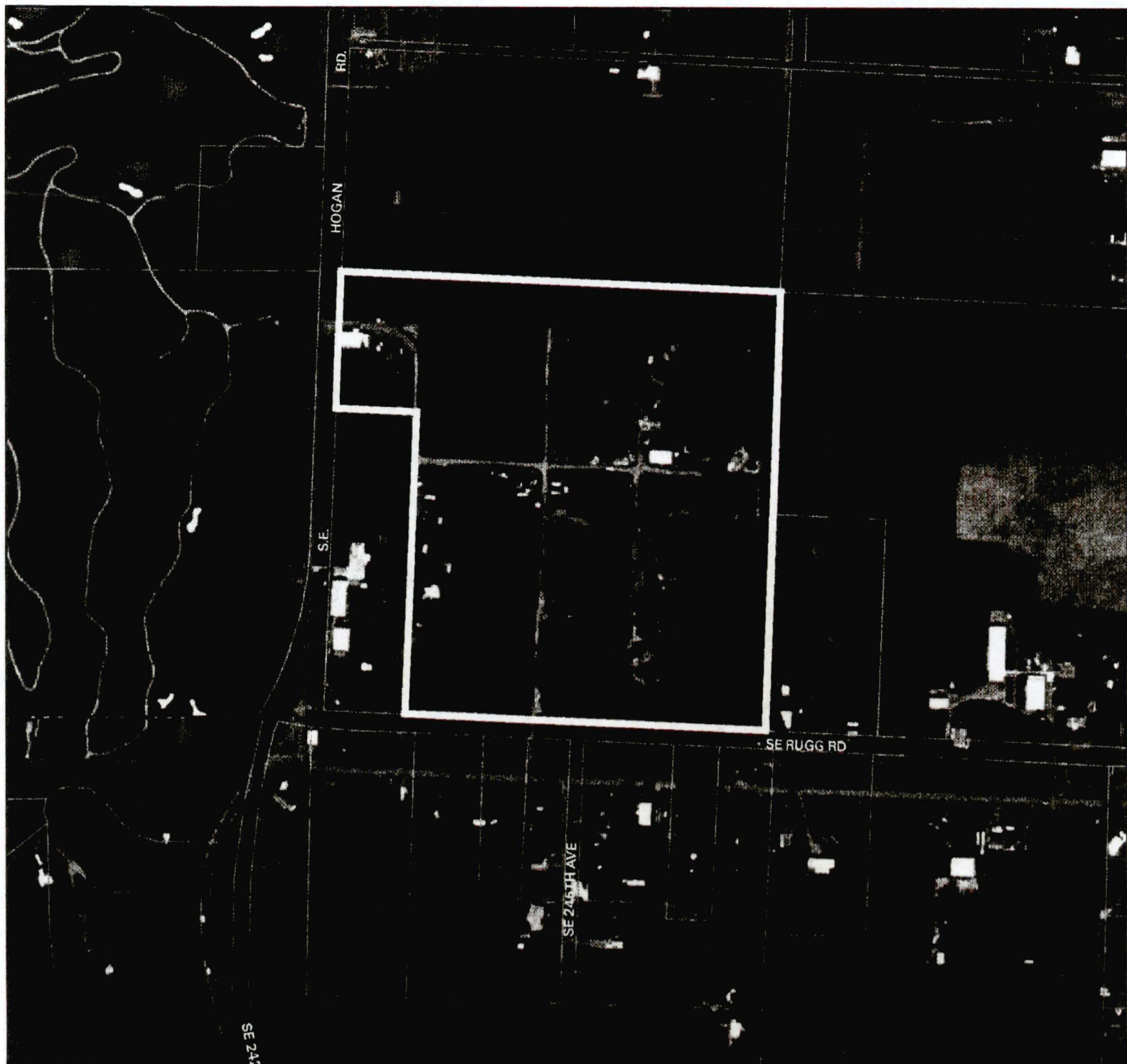
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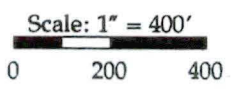
C L Danner Nursery

1997 Aerial Photos

-  Metro Boundary
-  Urban Growth Boundary
-  Parks and Open Space
-  Taxlots
-  County Line
-  Subject Property (white boundaries)



Attachment 1



METRO
600 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 797-1908
Email drc@metro.dst.or.us

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
MAR 18 1993

LICENSE APPLICATION FORM METRO REGIONAL ENVIRONMENTAL MANAGEMENT
YARD DEBRIS PROCESSING FACILITY

Check all that apply:

- Yard Debris Composting _____
- Other (specify) _____

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: _____

PART 1

1. NAME OF FACILITY: C, L. DANNAR NURSERY

Facility Address: 8102 S.E. 242 AVE.
GRESHAM, OR 97080

2. PROSPECTIVE LICENSEE

Public Agency: _____ Private: _____

Name of Licensee: CHARLES L. DANNAR

Mailing Address: 8102 S.E. 242 AVE.
GRESHAM, OR 97080

Phone Number: (503) 667-9848

3. OWNER(S) OF PROPERTY

Name: CHARLES L. + MARY A. DANNAR

Mailing Address: 8102 S.E. 242 AVE
GRESHAM, OR 97080

Phone Number: (503) 667-9848

4. SUBCONTRACTOR(S)

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

NONE

5. SITE LEGAL DESCRIPTION

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

#1300-15, 3E, SEC. 23

SECTION 23 TOWNSHIP 15 RANGE 3E

6. ZONING

Present Land Use Zone: EFU

Restrictions: _____

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

Yes _____ No X

If required, has the permit been obtained?

Yes _____ No X

8. PUBLIC HEARING(S)

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

NONE

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:

NONE

Permit(s) Received:

NONE

10. ESTIMATED QUANTITY OF YARD DEBRIS TO BE ACCEPTED

Annually: 5,000 cubic yards

Daily: _____ cubic yards

Annually: _____ tons (optional)

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?

Yes X No _____

12. OPERATING HOURS AND TRAFFIC VOLUME

OPERATING HOURS	PUBLIC	COMMERCIAL
Hours Per Day	8-5 PM	8-5 PM
Days Per Week (CLOSED SUN. AM.)	6 1/2	?
Estimated Vehicles Per Day	10	1

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 ?

PART 2

GENERAL FACILITY DESIGN PLAN

1. Describe how stormwater is managed at the facility.

POND CATCH BASIN

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

Yes X No _____

Describe ROAD + DITCH FLOW DIVERTS 85%
PRECIPITATION

b. Is run-off from the facility controlled?

Yes X No _____

Describe POND FLOW

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

TOTAL FENCED - GATE AND SECURITY GUARD.

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):

1. MAIL BOX ADDRESS

2. (SIGN) NAME 2' LETTERS END OF BARN

3. A-FRAME 2' FT. SIGN

4. SIGN FOR PRICING + DUMP LOCATION MARKERS

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

500 YDS.

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

10,000 YDS.

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

1. MATERIAL RECEIVED, INSPECTED AS RECEIVED,

ROLLED + SORTED, PILED + RE-PILED AS

NECESSARY.

PART 3

GENERAL OPERATING PLAN

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

VISUAL INSPECTION & DETERMINATION AS
TO CLASS & QUANTITY.

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

WEEKLY

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

SUGGEST TO PUBLIC, NEED THERE OF WITH
SIGN

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

VISUAL INSPECTION, AGREEMENT WITH PARTIES
DELIVERY THAT NON-COMPOSTABLES HAVE A CHARGE-
BACK &/OR UP CHARGE FEE & REQUIREMENT FOR
MATERIAL TO BE REMOVED.

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

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

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

- a. Yard debris ? 24-48 hrs
- b. Grass clippings ? 24-48 hrs.

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

1 yr.

a. How long do you cure the finished product?

6 mo.'s

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

100' x 12' x 12'

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

BY TURNING PROCESS WITH KOMATSU
TRACKHOE. I DO NOT RUN ANY EQUIPMENT
ONTO THE PILES.

11. Describe how you control the following:

a. Noise (from machinery and equipment):

TREE BARRIERS + MUFFLERS ON MACHINERY

b. Vectors (insects, birds, rodents):

GEESE, DUCKS, CHICKEN, CATTLE, LLAMAS, GOATS,
CONSTANT TURNING OF PILES, RODENT BAIT,

c. Dust:

IRRIGATION AS NECESSARY

d. Litter:

SORTING + ELIMINATION OF SAME

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

SPRINKLERS + WATER AVAILABLE ALL AREAS,

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>X</u>	No <u> </u>
Hours of operation?	Yes <u>X</u>	No <u> </u>
List of materials that will and will not be accepted?	Yes <u>X</u>	No <u> </u>
Schedule of charges?	Yes <u>X</u>	No <u> </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:

THERMOMETER'S & WATER INJECTION AS NECESSARY,
CONSTANT TURNING.

b. Oxygen levels:

VISUAL & TURNING

c. Moisture levels:

VISUAL & WATER APPLICATION

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

FARM USE - PRODUCT NEEDED FOR 10 ACRES OF
GREEN HOUSES.

PART 4

ODOR MINIMIZATION PLAN

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

MOVEMENT + AERATION, PLUS FIBER ADDED WITH AIR.
THIS SITE, SPECIFIC LOCATION IS NOT BOTHERED BY HIGH
WINDS, IN GENERAL THERE IS AN AIR-FOIL LIFT
CREATED BY THE SANDY RIVER GORGE WHICH LIFTS ALL
HIGH WINDS DIRECTLY ALOFT TO DILUTE RAISE ODORS
OUT OF THE AREA.

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

NEVER HAD ANY

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

CURTAIN OF TREES GROWING, CHANNEL AIR FLOW
UP + OUT OF AREA + DISPERSED BY AIR DILUTION

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

ALL WEATHER EQUIPMENT

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

a. Time of day:

HAVE NOT NEEDED TO CONSIDER, NEVER HAD PROBLEMS.

b. Wind direction:

NO PROBLEMS (SEE ITEM #1 - PART #4)

c. Percent moisture:

TALLER WINDROWS IN WINTER, SHORTER WINDROWS IN SUMMER

d. Estimated odor potential:

NONE, OR VERY MINIMAL

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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.

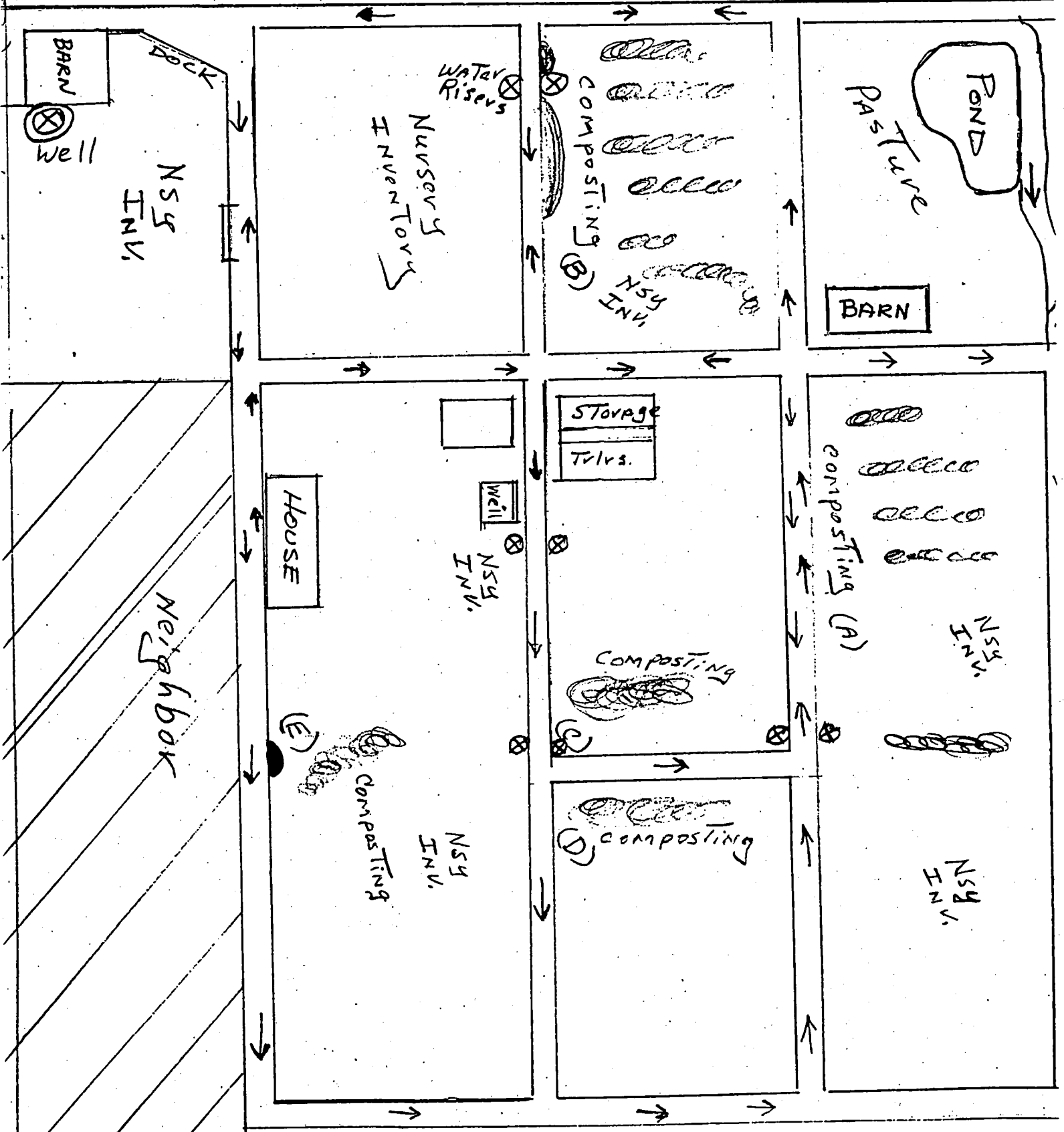
Signature and title of person completing this application:

SIGNATURE *Charles R. ...* TITLE OWNER

DATE 3-6-98 PHONE (503) 667-9848

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8102 S. E. 242nd Ave
Gresham, Oregon 97030
Phone (503) 867-8048



RUGG ROAD

Agenda Item Number 7.2

Ordinance No. 98-744, For the Purpose of Adding to Designated Urban Reserve Areas for the Portland Metropolitan Area Urban Growth Boundary, amending RUGGO Ordinance No. 95-625A; and declaring an emergency.

First Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADDING TO) ORDINANCE NO 98-744
DESIGNATED URBAN RESERVE AREAS FOR)
THE PORTLAND METROPOLITAN AREA) Introduced by Executive Officer
URBAN GROWTH BOUNDARY; TO PROVIDE) Mike Burton
FOR A STATE PRISON; AMENDING RUGGO)
ORDINANCE NO. 95-625A; AND DECLARING AN)
EMERGENCY)

WHEREAS, ORS 197.298(1)(a) requires that land designated as urban reserve land by Metro shall be the first priority land for inclusion in the Metro Urban Growth Boundary; and

WHEREAS, the Land Conservation and Development Commission's (LCDC's) Urban Reserve Area Rule at OAR 660-21-020 requires Metro to designate the location of urban reserve areas for the Portland Metropolitan area within two miles of the regional Urban Growth Boundary; and

WHEREAS, LCDC's Urban Reserve Area Rule, at OAR 660-21-020, requires that urban reserve areas designated by Metro shall be shown on all applicable comprehensive plan and zoning maps; and

WHEREAS, LCDC's Urban Reserve Area Rule, at OAR 660-21-030(1), requires that urban reserve areas shall include at least a 10 to 30 year supply of developable land beyond the 20 year supply in the Urban Growth Boundary; and

WHEREAS, LCDC's Urban Reserve Area Rule, at OAR 660-21-030(2), requires that Metro study lands adjacent to the Urban Growth Boundary for suitability as urban reserve areas; and

WHEREAS, LCDC's Urban Reserve Area Rule, at OAR 660-21-030(3), requires that land found suitable for an urban reserve area must be included according to the Rule's priorities and that first priority lands are those lands identified in comprehensive plans as exception areas

plus those resource lands completely surrounded by exception areas which are not high value crop areas; and

WHEREAS, Resolution No. 95-2244 established urban reserve study areas as the subject of Metro's continued study for possible designation as urban reserve areas consistent with LCDC's Urban Reserve Area Rule; and

WHEREAS, urban reserve study areas are shown on the 2040 Growth Concept Map in Ordinance No. 95-625A adopting the Regional Urban Growth Goals and Objectives (RUGGO) which was acknowledged by LCDC Compliance Order 96-ACK-010 on December 9, 1996; and

WHEREAS, Metro adopted Ordinance No. 97-655E on March 6, 1997, designating approximately 18,600 acres as urban reserve areas; and

WHEREAS, the "special need" land use of a state prison in the Metro region had not been considered at that time; and

WHEREAS, an area of "exception," non-farm lands adjacent to north Wilsonville to Day Road was included in designated urban reserves; and

WHEREAS, the siting process for state prisons has now resulted in a proposed prison site on approximately 40 acres of that currently designated urban reserve area and about 60 additional acres of "exception," non-farm lands north of Day Road; and

WHEREAS, Metro has encouraged the location of the proposed state prison at this site as an alternative to land at Dammasch Hospital inside the UGB and adjacent urban reserves in Resolution No. 98-2633A; and

WHEREAS, notice of adoption of this proposed addition to urban reserve areas and the proposed postacknowledgment amendments to the acknowledged RUGGO ordinance have been given consistent with ORS 197.610(1); now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. The area indicated on the map attached as Exhibit "A," and incorporated herein, is hereby designated as an additional urban reserve area for the Metro Urban Growth Boundary for the purpose of compliance with the Urban Reserve Area Rule at OAR 660-21-020 and for the purpose of identifying lands of first priority for inclusion in the Metro Urban Growth Boundary as required by ORS 197.298.

Section 2. The urban reserve area on Exhibit "A" shall be shown on all applicable county comprehensive plan and zoning maps as required by the Urban Reserve Area Rule at OAR 660-21-020.

Section 3. Ordinance No. 95-625A is hereby amended to add the urban reserve area indicated in Exhibit "A" to the 2040 Growth Concept Map as a designated urban reserve area.

Section 4. The findings of fact in Exhibit "B", attached and incorporated herein, explain how the additional urban reserve area designated in Section 1 of this Ordinance complies with the Urban Reserve Area Rule and the acknowledged Regional Urban Growth Goals and Objectives.

Section 5. The designation of this additional urban reserve area to be available for amendments to the Metro Urban Growth Boundary is necessary to preserve the health, safety or welfare of the Metro region; therefore, an emergency is hereby declared to exist, and this Ordinance shall take effect upon passage.

Section 6. The provisions of this ordinance are separate and severable. The invalidity of any clause, sentence, paragraph, section, subsection, or portion of this ordinance or the invalidity of the application thereof to any city, county, person or circumstance shall not affect

the validity of the remaining provisions of this ordinance or its application to other cities,
counties, persons or circumstances.

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

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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April 3, 1998

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 98-744, FOR THE PURPOSE OF ADDING TO DESIGNATED URBAN RESERVE AREAS FOR THE PORTLAND METROPOLITAN AREA URBAN GROWTH BOUNDARY; TO PROVIDE FOR A STATE PRISON; AMENDING RUGGO ORDINANCE NO. 95-625A; AND DECLARING AN EMERGENCY.

Date: June 2, 1998

Prepared by: Mary Weber, Growth Management

Proposed Action

Ordinance No. 98-744 would amend Metro's designation of urban reserve areas to add approximately 72 acres to adopted Urban Reserve No. 42 in compliance with the Urban Reserve Area Rule at OAR 660-21-020 for the purpose of accommodating a special land need, a women's prison and intake center, to be sited by a State agency.

Factual Background and Analysis

The Executive Officer proposes an amendment to Urban Reserve No. 42 to address and mitigate siting of a women's prison and intake center in the north Wilsonville area rather than the current approved Dammasch State Hospital site in Urban Reserve No. 41. The Executive Officer recommends that Metro Council approve the addition of approximately 72 acres to Urban Reserve No. 42 consistent with the State's preliminary siting plan (see Map No. 5, attached). Metro has no authority in making the prison siting decision or the decision criteria. The State will make the final decision on the location of the prison.

Metro urban reserves are affected by the prison siting decision because Urban Reserves No. 39, No. 41 and No. 42 were designated as urban reserves to be developed to meet regional job and housing needs. The City of Wilsonville adopted the Dammasch Area Transportation Efficient Land Use Plan (Dammasch Plan) for Urban Reserve No. 41 in January 1997. The Dammasch Plan is a mixed-use urban village that includes housing, commercial and retail services, civic uses, neighborhood parks and an elementary school. The City's plan is an efficient use of the Dammasch State Hospital site for housing and it is consistent with the region's growth management strategies. If the women's prison and intake center were located at the Dammasch State Hospital site, the housing and jobs planned for this area, both inside of the current Urban Growth Boundary (UGB), and in the first tier portion of Urban Reserve No. 41, would be displaced. On March 19, 1998, Metro Council unanimously passed Resolution No. 98-2623A supporting the Governor in evaluating an alternative prison site near Day Road, Urban Reserve No. 42, in the north Wilsonville area.

The site to be added to Metro's urban reserves is located in the northern Wilsonville area. The site is bounded on the north by Clay Street, on the east by Grahams Ferry Road, by the Burlington Northern Railroad on the west and is contiguous on the south to Urban Reserve No. 42. It consists of approximately 72 acres. More than two-thirds of the area is exception land and is zoned as agriculture farm/forest (5-acre minimum lot size) under Washington County's Comprehensive Plan. The remainder of the site is zoned land extensive industrial (see attached Map No. 1).

Four types of analyses were used in the Metro's 1997 designation of urban reserves (Ordinance No. 96-655E):

1. Utility feasibility study examine the relative cost of urban water, sewer and stormwater facilities;
2. Road network analysis look at the current network of local and regional roads and compare it to future needs;
3. Traffic congestion analysis consider likely improvements to the road system and then rate the resulting road system and its congestion for each site; and
4. School analysis determine the distance to existing public schools and vacant school-owned land.

The analysis that follows supplements the analysis done for Ordinance No. 96-655E when the Metro Council adopted urban reserves on March 6, 1997. The Land Conservation and Development Commission's (LCDC) Urban Reserve Area Rule, at OAR 660-21-030(1), requires that designated urban reserve areas include at least a 10- to 30-year supply of developable land beyond the 20-year supply in the UGB. The special land need for a women's prison and intake center was not specifically considered either in the analysis or in the adoption of the urban reserves. In addition, the special need land use, of a correctional facility, will be sited under state law regardless of LCDC's Urban Reserve Area Rule and Metro's 1997 designated Urban Reserve Areas (see Attachment No. 1).

The Oregon Department of Corrections (ODOC) siting process initially selected the Dammasch State Hospital site in southwest Wilsonville for a women's prison and intake center. The City of Wilsonville proposed an alternative to the Dammasch State Hospital site for evaluation. The alternative site, located north of Dammasch, covers approximately 112 acres including approximately 40 acres of land in the northern part of Urban Reserve No. 42 and approximately 72 acres of contiguous land to the north of the urban reserve. These events occurred after Metro's designation of urban reserve areas.

Consistent with Metro's urban reserve and land use coordination responsibilities, the impact of this prison siting, by the State, on Metro's urban reserves and growth management strategies must be considered. Metro's coordination of land uses in response to the changes since it designation of urban reserves begins with this amendment of Urban Reserve No. 42 to add 72 acres to provide for a women's prison and intake center. This report assesses this proposed amendment. Subsequent reports will address the UGB amendments for Urban Reserves No. 41 and No. 42.

The proposed amendment to Urban Reserve No. 42 assumes that a women's prison and intake center will be sited at this location consistent with the preliminary site layout, engineering and condition studies in the record. Approval of this proposed urban reserve amendment is to be conditioned on the prison siting at this location. If the prison is not sited in Urban Reserve No. 42, as amended, this amendment would be automatically revoked by the terms of the adopting ordinance. An additional condition of approval, as outlined on page 9 of this report, is that Clay Street becomes the permanent northern most boundary of Wilsonville.

Applicable criteria for the proposed action include State and regional regulations and objectives. The primary applicable criteria are in LCDC's Urban Reserve Area Rule.

State Requirements

OAR 660-021-0030, states that inclusion of land within an urban reserve area shall be based upon Factors 3 through 7 of Goal 14 of the Oregon Statewide Planning Goals & Guidelines and the criteria for exceptions in Goal 2 of the State Goals and ORS 197.732. A discussion and analysis of those factors follows.

Goal 14 - Factor 3 - Orderly and economic provision for public facilities and services.

Two related analyses were used to address Factor 3 in the original designation of urban reserves in Ordinance No. 96-655E. The "Efficiency" analysis rated relative suitability, based on the area within each urban reserve area, which was relatively free of development limitations. The second analysis that was applied was a series of discount rates based on steep slopes, landlocked parcels, small lot limitations and environmentally constrained land which was removed.

The site analysis conducted by ODOC provided much more specificity as to how development could occur and services could be provided to the amended Urban Reserve No. 42 area. The ODOC has noted that electricity can be provided to the north Wilsonville site, Urban Reserve No. 42, as proposed to be amended, by Enron/PGE with natural gas backup. The City of Wilsonville or other municipal/public utility will provide sanitary sewer and storm drainage water. Preliminary engineering studies for the alternative prison site indicate the following for the area, as proposed to be amended:

- Sanitary sewer can be provided – most likely at the intersection of Cahalin Street and the railroad tracks.
- Water service for domestic use and fire protection can be provided, with some improvements, in the short-term. However, long-term water service will require continued discussion between stakeholders. The issue of long-term water service has equal impact on both the Dammasch State Hospital site and the alternative site area, giving neither an advantage as far as this issue is concerned.
- Storm sewer for this site will require improvements – notably the addition of on-site detention with a new outlet draining west. Off-site storm drainage, preferably running from the north to the southwest toward Coffee Lake, may also be necessary.
- Street improvements will be required at two intersections: Day Road crossing Boones Ferry Road and Day Road crossing Grahams Ferry Road (including realignment of Garden Acres Road).

A site visit indicates that the land in Urban Reserve No. 42 will likely be used primarily for industrial uses when the land is brought into the UGB, whether a prison is sited there or not. This is assumed because of how the land in the urban reserve area has been used in the past as well as the existing industrial uses that currently surround the urban reserve (see Map No. 4, attached). Similar transportation improvements will need to be made whether the area develops with a prison use or industrial uses because of the similar trip generation and fewer trips per acre than residential uses (see Attachment No. 2).

Therefore, development of a women's prison and intake center in Urban Reserve No. 42, as proposed to be amended, would facilitate additional and needed industrial development by bringing infrastructure to the surrounding area.

Goal 14 - Factor 4 - Maximum efficiency of land uses within and on the fringe of the existing urban area.

Attachment No. 2 summarizes the ratings for Urban Reserve No. 42 in Metro's 1997 designation decision. Since the site is relatively flat with few environmental constraints, it received a very high score for Factor 4. The 72-acre area proposed for addition to Urban Reserve No. 42 is similar to the rest of the adopted urban reserve and the high scoring the area received with the additional acreage would not have been significantly different.

In comparison, the growth management implications of siting the women's prison and intake center on the Dammasch State Hospital site would displace the use of the site for a mixed use center and development of the women's prison at the north Wilsonville alternative site.

Significant land use planning has been completed for the development of the Dammasch State Hospital site as a mixed-use center. The planning area includes both the hospital site, which is currently in the UGB and, tier one, Urban Reserve No. 41. The mixed-use center would realize the principles of efficient urban growth, including residential and employment development patterns capable of encouraging pedestrian, bicycle and transit use. Implementation of the Dammasch Plan would help the City of Wilsonville to meet its employment and dwelling unit target capacities required in the Metro Urban Growth Management Functional Plan (Functional Plan). If the site were instead developed as a women's prison and intake center, the 2,300 dwelling units and 1,200 jobs from the Dammasch Plan would be displaced. The prison and surrounding development would produce an estimated 650 dwelling unit equivalents (see Attachment No. 3) and 500 jobs, a net loss of potentially 1,650 dwelling units and 700 jobs (see Attachment No. 2).

It is unlikely that the mixed-use center could be moved to Urban Reserve No. 42 due to existing and surrounding uses. The elements of efficient land use and mixed-use development are more easily accommodated in the Dammasch State Hospital area. In addition to the planning work already done, the two sites provide very different opportunities. The Dammasch State Hospital site is more accessible to schools and other residential uses. Currently, there are 237 dwelling units within one-quarter mile of the Dammasch State Hospital site.

The north Wilsonville site, Urban Reserve No. 42, as proposed to be amended, currently contains about 60 residential properties within one-quarter mile. The north Wilsonville site is largely rural industrial in character with a number of separate ownerships. With or without a prison, it is unlikely to support densities or a mix of uses comparable to the mixed-use center planned for the Dammasch State Hospital area. Current land uses adjacent to Urban Reserve No. 42, include gravel-mining operations, peat moss processing and waste wood processing. The utility and road extensions, as part of siting the women's prison and intake center in this area would facilitate necessary infrastructure for additional industrial development consistent with these surrounding uses.

Finally, it should be noted that Metro established Urban Reserve No. 39 south of Urban Reserve No. 41, at the request of the City of Wilsonville and the West Linn-Wilsonville School District. District voters have approved a bond to finance construction of a public school at this site. The Oregon Division of State Lands, the current owner of the property, has requested a waiver of Metro's Location Adjustment (UGB amendment) filing application deadline in order to prepare an amendment application for the possible construction of a primary school on the site.

The addition of a school in Urban Reserve No. 39, in conjunction with a mixed-use center in the Dammasch State Hospital area, would promote the goal of efficient land use providing complimentary uses in close proximity. By contrast, the north Wilsonville alternative site and Urban Reserve No. 42 fall into the Sherwood School District; no additional school sites have been proposed for this area.

Goal 14 - Factor 5 – Environmental, energy, economic and social consequences.

Three analyses were used for Factor 5, in Ordinance No. 96-655E. First, an "Environmental Constraints" analysis identified steep slopes, floodplains, floodprone soils, wetlands and riparian corridors. Slopes over 25 percent, 100-year floodplain (not currently developed or committed), NRCR floodprone soils (not committed), National Wetlands Inventories wetlands and mapped riparian corridors were considered. The percentage of environmentally constrained land was calculated. These percentages were converted to ratings of 1 to 10 with low percentages of environmentally constrained lands receiving a higher rating of suitability for future urbanization.

The second and third analyses, Energy and Social Consequences were evaluated by an "Access to Centers" approach; distances along public rights-of-way to the central city, regional centers and town centers identified in the 2040 Growth Concept. Raw scores were developed for accessibility within 12 miles of the central City, 6 miles of a regional center and 3 miles to a town center. These raw scores were converted to a 1 to 10 rating with greater access given a higher rating.

The urban suitability ratings in Metro's Urban Reserve Study Areas analysis (URSA Analysis II), described above, addressed this factor. Urban Reserve No. 42 and Urban Reserve No. 41 both received an average rating for environmental, energy, economic and social consequences. The rating for Urban Reserve No. 42, however, was one point higher, indicating that it contains less resource land than Urban Reserve No. 41. The area proposed to be added to Urban Reserve No. 42 is similar to the land currently in the urban reserve (see Attachment No. 2).

The area in the proposed amendment to Urban Reserve No. 42 neither contains nor abuts any resource land. It is not located within a 100-year floodplain, and it does not contain any National Wetlands Inventory (NWI) wetlands.

Goal 14 - Factors 6 and 7 - Agricultural Land.

Two agricultural land factors were analyzed, without subfactors, for Ordinance No. 96-655E. Retention of agricultural land was addressed by rating each study area for exception land, agricultural soils, land uses, including parcelization and access to irrigation. Agricultural compatibility was analyzed for areas where farming is the most dominant activity. An error discovered in the computation on this factor was corrected in the URSA reanalysis as explained in the staff memo in the record.

The "Agricultural Retention" analysis was done on the basis of raw scores for the kinds of lands in the study area. Exception lands received varying points based on parcel size. Farm and forest lands (resource lands) received varying points based on parcel size. Additional points were given for class I-IV soils, available irrigation and for prime or unique agricultural lands. The raw scores were converted to ratings of 1 to 10 with study areas containing less agricultural land receiving a higher rating for future urbanization.

As noted above, the north Wilsonville site, Urban Reserve No. 42, contain no prime agricultural land (see Map No. 3, attached). Urban Reserve No. 42 received a high suitability rating (a score of 9 out of 10) in Metro's URSA analysis for Factor 6, indicating its strong potential to accommodate new development without encroaching upon agricultural land. The area proposed to be added is similar to the Urban Reserve No. 42. Including it in the initial analysis would likely not have affected the overall score.

While some agricultural activities are present within and around Urban Reserve No. 42 and its proposed amendment, this area has been designated in Washington County's Comprehensive Plan as exception land, consisting of rural industrial and rural agriculture/forest uses (5-acre minimum lot size). Land uses near the proposed amendment currently include gravel-mining operations, peat moss processing and waste wood processing (see Map No. 4, attached).

In addition, the north Wilsonville alternative prison site in Urban Reserve No. 42 and its proposed amendment is isolated from other rural Washington County properties to the west by the Burlington Northern Railroad line, and immediately west of the railroad by extensive quarry operations and the Coffee Lake wetlands, which was recently purchased by Metro for openspace. This makes development activities within the area less likely to have significant impacts on surrounding uses, agriculture or non-agriculture related.

For Goal 2:

- *The land need identified cannot be reasonably accommodated within the current UGB;*

The State OAR 291-073-0010 through OAR 291-073-0040 establishes the criteria to be used in the nomination of sites for the construction and operation of Oregon correctional facilities. The criteria include locational and site factors, infrastructure requirements and access needs. This State supersiting process prevents Metro consideration of an alternative site to meet the prison land need within the current UGB (see Attachment No. 1).

Given the supersited women's prison and intake center, the best opportunity for the City of Wilsonville to develop a mixed use center, and consequently, meet its regional housing and employment targets in the Functional Plan is to fully implement the Dammasch Plan. Due to its current rural industrial character and remoteness, a mixed-use center is unlikely to take hold in the vicinity of Urban Reserve No. 42. It is reasonable, therefore, to make an addition to Urban Reserve No. 42 to accommodate a women's prison and intake center, if sited there by the State, and take advantage of the likely industrial uses that will develop from the added infrastructure in this area.

- *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts;*

The City of Wilsonville's draft urban reserve concept plan for the North Wilsonville Industrial Area and ODOC's site plans show that plans for the proposed women's prison and intake center site include buffering from surrounding properties through the construction of walls and berms as well as the use of dense landscaping.

In addition, the proposed north Wilsonville alternative prison site in Urban Reserve No. 42 and its proposed amendment, is isolated from other rural Washington County properties to the west by

the Burlington Northern Railroad line, and immediately west of the railroad by extensive quarry operations and the Coffee Lake wetlands, recently purchased by Metro. This makes development activities within the urban reserve area less likely to have significant impacts on surrounding uses, agriculture or non-agriculture related.

In addition, mitigation of the impact of this supersited prison on the adjacent Rural Reserves and separation of the communities of Wilsonville and Tualatin can be enhanced by an approval condition making Clay Street the permanent northernmost boundary for the City of Wilsonville.

The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas than the proposed site and requiring an exception.

The State's supersiting process prevents Metro consideration of this criterion to locate the supersited prison site at an alternative site (see Attachment No. 1).

Regional Requirements

Consistency with Regional Urban Growth Goals and Objectives and the Functional Plan

In addition to State requirements governing urban reserves, Metro has adopted policies and regulations that guide its decisions on growth management issues. These documents include the Regional Urban Growth Goals and Objectives (RUGGO's) and the Functional Plan.

RUGGO's

The RUGGO's were developed to provide a policy framework for guiding Metro's regional planning program, principally functional plans and management of the region's UGB. Several RUGGO's objectives apply to the proposed ordinance. These objectives are listed below with the reasons demonstrating how the proposal is consistent with these objectives.

- *Goal II, Objective 15: Natural Areas, Parks, Fish and Wildlife Habitat – sufficient openspace protected and managed for access to passive and active recreation; and an openspace system for enhancing wildlife and plant populations.*

Sufficient open space and recreational opportunities exist and are planned for in the adjacent areas to the proposed 72-acre urban reserve addition to meet Objective 15. Metro has targeted the Tonquin Geologic Area immediately west and south of Urban Reserve No. 42 for purchase of about 277 acres as part of its master plan for regional greenspaces. The Tonquin Trail, a Metro proposed regional trail, is a proposal to connect the Tualatin Valley National Wildlife Refuge to the north with Coffee Lake to the south. About 113 acres of land within the Coffee Lake Creek wetland area has been purchased under Metro's openspace acquisition program (see Map No. 2, attached).

- **Goal I, Objective 16: Protection of Agricultural and Forest Land – the protection of these lands from urbanization.**

Washington County designates all of the land proposed for addition to Urban Reserve No. 42 as exception land. The nearest exclusive farm or forest land is approximately one-third mile to the northwest of the site. The proposed addition will not reduce or adversely impact this agricultural land (see Map No. 3, attached).

- **Goal II.2.ii: Built Environment – the provision of infrastructure concurrent with the pace of urban growth and which supports the 2040 Growth Concept.**

In providing infrastructure to an expanded Urban Reserve No. 42 site, for a women's prison, this subgoal will be met in two ways. First, the public services and facilities needed to serve the women's prison and intake center, a special land need, will also serve the surrounding industrial land in a timely manner. Second, the use of Urban Reserve No. 42 as a prison will enable Urban Reserve No. 41 to be used for a planned mixed-use center. This center will provide for much needed housing in the Wilsonville area.

- **Goal II.2.iv: Built Environment - the coordination of public investment with local comprehensive and regional functional plans.**

Assuming that Urban Reserve No. 42 is expanded and a prison located there, public investment could be leveraged to facilitate the efficient development of an industrial area that is identified in Wilsonville's proposed concept plan and is consistent with regional objectives (see Goal II, Objective 18.vi).

- **Goal II, Objective 18.vi: Public Services and Facilities - shape and direct growth to meet local and regional objectives.**

The proposed addition would facilitate the siting of a women's prison and intake center, which is considered a special land need for the region. The provision of public facilities and services to the site would enable the surrounding industrial area to be better utilized and served in a more efficient manner, than without the prison siting. The City of Wilsonville is in the process of developing a concept plan, as required in Metro code to develop Urban Reserve No. 42 as an industrial area.

- **Goal II, Objective 19.3.3: Transportation – develop a regional system that includes balancing alternative forms of transportation, protecting freight movement throughout the region, supporting a balance of jobs and housing, encouraging bicycle and pedestrian movement through the location and design of land uses.**

Expanding Urban Reserve No. 42 to accommodate the women's prison and intake center and facilitate industrial development in this area would help to accomplish these objectives. The urban reserve area would be planned with a more efficient transportation system to both accommodate pedestrians and bicycles as well as protect freight movement. The siting of a prison would be in a compatible industrial area. Urban Reserve No. 41 would be developed according to the Dammasch Plan. This plan includes a balanced transportation system through encouraging alternate modes, placement of jobs and housing adjacent to each other, and promoting bicycling and pedestrian movement.

- **Goal II, Objective 22: Urban/Rural Transition – inclusion of land within an urban reserve area shall generally be based upon the location factors of Goal 14. Lands adjacent to the UGB shall be studied for suitability for inclusion within urban reserves as measured by Factors 3 through 7 of Goal 14 and by the requirements of OAR 660-04-010.**

Compliance with this objective is specifically addressed in the analysis of Goal 14 and Goal 2 at the beginning of this report.

- **Goal II, Objective 22.3.3: Separation of Communities**

As the maps of the surrounding area indicate, the separation of the Cities of Wilsonville and Sherwood is accomplished by the rural industrial uses and Coffee Lake wetlands openspace.

The separation of the Cities of Wilsonville and Tualatin would be impacted by the supersiting of the prison at Urban Reserve No. 42. As indicated above, the design of the prison site includes buffers and berms on that property. There have been some developments that aid the separation of these cities. However, to mitigate the negative impact of the supersiting of this special need land use on this RUGGO's Objective, a condition could be added to this urban reserve amendment making Clay Street the permanent northern most boundary of City of Wilsonville.

Functional Plan

Applicability of the proposed North Wilsonville Industrial Area Concept Plan and Dammasch Plan to the Functional Plan.

- **Title 1: Requirements for Housing and Employment Accommodation**

The adopted Dammasch Plan conceives the Dammasch State Hospital area as a mixed-use center, though it is not a 2040 Growth Concept mixed-use area. Metro has flexibility in its plan to accommodate mixed-use areas as defined at the local level. This area is planned for housing, commercial/retail services, civic uses, neighborhood parks and an elementary school. Residential development of the area locates higher density housing within one-quarter mile of the village center, with lower density housing providing the appropriate transition to rural land uses. The average housing density is 10.2 units per net developable acre. As a large portion of the Dammasch Plan area is outside of the UGB, in Urban Reserve No. 41, the Dammasch Plan also addresses and meets the requirements of the Functional Plan and the Metro Code chapter 3.01.012(e) for urban reserve planning.

The total Dammasch area is planned for a capacity of approximately 2,300 housing units, 1,170 of which are likely to be accommodated on land currently within the UGB. Development capacity on the remaining area (for privately-owned and State-owned land outside of the UGB) may reach an additional 1,130 dwelling units. The proposed development on land outside of the UGB, however, meets dwelling unit and employment targets established specifically for urban reserve areas, not for current Functional Plan targets.

Metro staff have conducted preliminary dwelling unit and jobs capacity estimates for the Dammasch Plan area as part of the City of Wilsonville's request for assistance in evaluating their zoning code/comprehensive plan with respect to Functional Plan requirements. Metro's capacity analysis for the City of Wilsonville modeled the Dammasch Plan area under two scenarios: 1) as a correctional facility, and 2) as a mixed-use center.

Metro's preliminary estimates indicate that even accounting for land that does not get credited towards the City's target capacity (being outside of the UGB), the City of Wilsonville comes significantly closer to meeting its Functional Plan capacity targets when the Dammasch State Hospital area is planned as a mixed-use center than when it is planned for a women's prison and intake center. Specifically, Metro's estimates found that the City would achieve approximately 200 dwelling units in excess of its target if the Dammasch State Hospital area were to become a planned mixed-use center. By contrast, the City would come approximately 300 dwelling units short of its Functional Plan dwelling unit target if the Dammasch State Hospital area was developed as a women's prison.

While the two estimates for jobs capacity under the mixed-use center option and the women's prison option for the Dammasch State Hospital area did not show a great discrepancy, Metro staff found that the City would come slightly closer to achieving its jobs target capacity with full implementation of the Dammasch Plan than with a women's prison on the site.

Additional employment growth in the north Wilsonville area will likely need other development (such as the women's prison) to set the infrastructure (see Fregonese Calthorpe & Associates, *Urban Reserve Area Status Report*, 1997, p. 23). While this employment growth is not likely to help the City accommodate a large portion of its employment targets as per Title 1 of the Functional Plan, it will provide an employment resource for the region. In addition, a women's prison and intake center at the north Wilsonville alternative site area would allow the City of Wilsonville to proceed with plans for implementation of a mixed use center at the Dammasch State Hospital area. This would help the City to accommodate its share of the regional growth targets as per the Functional Plan.

- ***Title 2: Regional Parking Policy***

To encourage more efficient land use and to reduce per capita VMT, Title 2 of the Functional Plan has set minimum and maximum parking requirements for all cities and counties. This element would apply to all land in the UGB. While the Dammasch Plan does not address parking requirements specifically, this plan does address the elements of mixed use planning and transit oriented development that contribute to achieving the above objectives.

The City of Wilsonville has noted that as industrial sites develop in Urban Reserve No. 42, a requirement to examine blended parking options will be implemented; this is also likely to increase the land use efficiency for employment uses in and around Urban Reserve No. 42.

The requirements of Title 2 apply to both the Dammasch State Hospital area and to the north Wilsonville area and do not create an apparent advantage or disadvantage for either site under either scenario.

- ***Title 3: Water Quality and Flood Management Conservation***

There are no water quality areas within the proposed addition to Urban Reserve No. 42, or within the entire north Wilsonville alternative prison site.

The City of Wilsonville has acknowledged the existence of water quality areas in the eastern part of Urban Reserve No. 42 and will apply the applicable Title 3 requirements when Metro Council adopts them.

There are also water quality areas in the Dammasch State Hospital area, for which mitigation measures have been addressed in the Dammasch Plan.

- ***Title 4: Retail in Employment and Industrial Areas***

The City of Wilsonville has noted that industrial areas brought into the UGB (and into current city limits) will be subject to the provisions of Title 4 of the Functional Plan, limiting big box commercial uses, where applicable. Considering the proposed land uses in this vicinity, this is unlikely to be a difficult provision for the City.

- ***Title 5: Neighbor Cities and Rural Reserves***

As stated in a memo from the City of Wilsonville dated May 28, 1998, the Concept Plan for the North Wilsonville Industrial Area does not propose any changes to the rural area north of the property to be included within Urban Reserve No. 42. This encourages the continuation of a "green corridor," a separation, between Wilsonville and Tualatin which is described in the 2040 Growth Concept. Metro's purchase of 113 acres within the Coffee Lake Creek wetland area also helps to retain a separation between cities. Infrastructure planning for the area does not include plans for water or sewer service north of Clay Street, the proposed northern boundary of Urban Reserve No. 42.

- ***Title 6: Regional Accessibility***

According to a June 1, 1998, memo from Kim White, Metro staff (see Attachment No. 2), the transportation impacts and mitigation measures identified in both prison site traffic analyses (i.e., for the Dammasch State Hospital site and for the north Wilsonville alternative site and its proposed amendment) are relatively similar. Therefore, the issue of which site is more appropriate for a prison should not be driven by potential transportation impacts. As stated in a background report from the City of Wilsonville dated May 28, 1998, the City will request necessary amendments to the Regional Transportation Plan Update, and will integrate Title 6 design standard provisions in its planning for new streets and internal circulation within Urban Reserve No. 42.

- **Title 7: Affordable Housing**

The majority of Title 7 of the Functional Plan is not a requirement for local jurisdictions. The City of Wilsonville, in the background report above, has noted that it will aim to implement requirements of Title 7 through the development of housing in Urban Reserve No. 41.

Conclusion

Application of the Urban Reserve Area Rule factors at ORS 660-21-030 to the additional 72 acres contiguous to Urban Reserve No. 42, result in a similarly high suitability rating to the original rating of Urban Reserve No. 42, in Ordinance No. 96-655E. Loss of separation of the communities of Wilsonville and Tualatin by the supersited prison is mitigated by a second condition of approval that is recommended below. State supersiting of a prison on amended Urban Reserve No. 42 would allow greater consistency with RUGGO's and the Functional Plan than siting the facility on Urban Reserve No. 41 at the Dammasch State Hospital Site. This amendment is consistent with the acknowledged RUGGO's and the Functional Plan

Executive Officer's Recommendation

The Executive Officer recommends Metro Council approve Ordinance No. 98-744 amending Urban Reserve No. 42 adding an additional 72 acres to the north. Approval should be conditioned on: 1) the State of Oregon Women's Prison and Intake Center being sited in the area encompassing approximately 112 acres in the vicinity of Day Road and Grahams Ferry Road, and 2) establishment of Clay Street as the permanent northern most boundary for the City of Wilsonville.

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METRO

Attachment 1

DATE: June 2, 1998

TO: Mike Burton, Executive Officer
Metro Council

FROM: ^{lls} Larry Shaw, Senior Assistant Counsel
Office of General Counsel

SUBJECT: Prison Supersiting Effect on Metro Urban Reserve Amendment

Dammasch Supersited On Urban Reserves

The Corrections Facility Siting Act of 1989 provides an expedited process for siting prison facilities. ORS 421.611-.630. The Department of Corrections adopted siting criteria. OAR 291-073-0010 to -0040. In order E-97-06 on January 7, 1997, the Governor initiated the siting process for a women's prison/intake center in the tri-county area. The Correction Facilities Siting Authority selected the Dammasch site on May 5, 1997 with numerous conditions that include consultation with land use planning agencies about the impact of the siting (I.D.), and maintaining a connection between open spaces (#504),

ORS 421.628(1) states that the Siting Authority decision "shall bind the state and all counties, cities and political subdivisions in this state as to the approval of the sites and the construction and operation of the proposed corrections facilities. (All governments) shall issue the appropriate permits, licenses and certificates . . . as necessary for construction and operation of the facilities . . ." This means that the correction facility may be built regardless of whether the site is outside the urban growth boundary or displaces housing planned for urban reserve areas.

Metro Coordination Role - ORS 195.025(1)

Metro's land use responsibilities include "coordinating all planning activities affecting land uses within (the district) . . . to assure . . . integrated comprehensive plan(s) for the entire area of (the district)." Therefore, the displacement of housing capacity in a mixed use area for the Dammasch site portion of Urban Reserve #41 and the City of Wilsonville's desire to site the facility on Urban Reserve #42 are appropriate issues for the Metro Council to consider.

Review of Urban Reserves #41 and #42

Metro's urban reserve decision of March 6, 1997 was based on a region wide analysis comparing future urban suitability with the general information available at that time. Metro planning will be affected by the supersiting of a correction facility in either urban reserve area subsequent to that original designation. Examining the net effect of the events and more specific information gathered since the original urban reserve decision is appropriate to Metro Council consideration of the City of Wilsonville's request for the Metro Council to amend its urban reserve decision. This examination must include Metro Council application of its policy on separation of communities to the total circumstances of such an amendment to Urban Reserve #42.

Application of LCDC's Urban Reserve Rule and Metro's adopted policies, including the separation of communities policy, are significantly affected by the prison supersiting authority. The purpose of Goal 2 alternatives analysis in urban reserve designations are one example. The location of the prison is determined by the state siting process, regardless of LCDC's Rule and Metro policies. Therefore, the siting decision prevents Metro consideration of alternative sites for the prison in this land use decision.

Conclusion

Metro has a responsibility to coordinate land uses in response to new developments, such as state siting of a prison on lands planned for future urban uses. Metro Council consideration of amendments to urban reserves to address and mitigate the effect of a prison siting on designated urban reserves is consistent with such coordination. The application of LCDC and Metro policies to an urban reserve amendment is significantly affected by the state prison siting authority to override any conflicting policy or rule.

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M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1794



Date: June 1, 1998
To: Mary Weber, Senior Program Supervisor
From: Kim White, Associate Transportation Planner *Kim*
Subject: Transportation Implications of Urban Reserve Sites #41 and #42

DKS and Associates prepared a traffic analysis of Urban Reserve (UR) site #41 and UR #42 as a prison use for the City of Wilsonville. This memo summarizes my findings with regard to the potential transportation implications of siting a prison on each site.

In general, prison/industrial uses generate fewer trips per acre than residential uses. However, despite the fact that traffic generation rates for prison/industrial uses are lower than traffic generation rates for residential uses, the transportation impacts and mitigation measures identified in both prison site traffic analyses are relatively similar.

My evaluation considered each site as a prison and non-prison use and the overall impact of those uses on the City of Wilsonville and implementation of the 2040 Growth Concept. Specific issues to consider relate to timing with regard to when the urban reserve land is developed, whether the Dammasch site is developed as industrial uses or as residential uses and the city's jobs/housing imbalance.

With regard to the timing issue, the land in UR #42 (North Wilsonville Alternate Site) will likely be used for industrial uses when the land is brought into the UGB, whether a prison is sited there or not. This is assumed because of how the land has been used in the past as well as the existing industrial uses that currently surround UR #42. Similar transportation improvements will need to be made under both scenarios because of the similar industrial land use that is likely to occur in each scenario.

If UR #42 is brought into the UGB as part of the prison site, the transportation impacts will be immediate. Specific transportation improvements will need to be made to address intersection failures identified in the traffic analysis of the site as a prison use.

The more important issue to consider seems to be whether UR #41 (including the Dammasch site) is developed as residential uses or prison/industrial uses. The transportation impacts of these two land uses are different in terms of their affect on the existing transportation system. A prison at the Dammasch site will result in fewer trips than if the Dammasch site is developed with residential uses. However, traffic analysis of both scenarios has shown that Wilsonville Road will exceed current LOS standards at several intersections. Therefore, regardless of how UR #41 is developed, traffic congestion on Wilsonville Road will need to be addressed.

Metro's policy is to support town centers. Clustering residential, mixed-use development close to town centers (such as at the Dammasch site) supports that policy. In addition, the Regional Transportation Plan update has identified a list of transportation improvements aimed at addressing traffic congestion on Wilsonville Road by providing alternate east-west and north-south travel routes that better connect the town center with surrounding neighborhoods on both sides of I-5. Metro supports including these improvements in the region's 20-year plan for transportation, regardless if the Dammasch site is developed as a prison use or as residential uses.



METRO

TO: Larry Shaw, Office of General Counsel

FROM: Carol Krigger, Growth Management Services

DATE: June 2, 1998

Subject: *Urban Reserves #41 and #42*

This memo is in response to your request for information regarding Urban Reserves #41 and #42 and the proposed amendment to site #42 in the Wilsonville area. The first part of the memo provides general information about these adopted Urban Reserves and their estimated capacity for households and jobs. It also examines the proposed amendment to Site #42 to include approximately 72 acres. The second part of this memo lays out displacement in terms of capacity gain or loss with siting of a prison in two alternative locations within Urban Reserves #41 and #42 (with amendment).

Adopted Urban Reserves

Each urban reserve study area was rated according to how well it met specific criteria outlined in Factors 3 through 7 of the Urban Reserve Rule. Urban Reserve #41 encompasses an area of approximately 423 acres (including the Dammasch site), of which 279 acres are identified as first tier. The site received an urban suitability rating of 33 points in the Urban Reserve Study Area (URSA) analysis performed. This score was the overall minimum qualifying rating for the 18,600 acres of urban reserves chosen by the Metro Council. Exclusive Farm Use (EFU) zoning within and in proximity to the site contributed in large part to the low urban suitability rating. A total of only 8 points were received for Factors 6 and 7 of the Urban Reserve Rule, which relate to retention of agricultural land and compatibility with nearby agricultural activities. The entire site contains approximately 285 acres of land zoned EFU. Site #41 received average scores for Factor 3 (orderly and economic provision for public facilities and services) and Factor 5 (environmental, energy, economic and social consequences).

According to the initial analysis performed on urban reserve study areas, Site #41 could accommodate an estimated 2,560 households and 985 jobs. First-tier lands could accommodate a proportion (66 percent) of the total households and jobs estimated for Site #41 - approximately 1,690 households and 650 jobs. First-tier land in Site #41 is part of the proposed Dammasch Area Master Plan developed for the city of Wilsonville, which also includes land inside the urban growth boundary, and is estimated to accommodate 2,300 households and 550 jobs. About 1,130 of the 2,300 households are planned in the first-tier portion of Site #41; the remainder is planned for inside the urban growth boundary. The Dammasch Master Plan is a site-specific plan, whereas the Urban Reserve Study Area Analysis was a general estimate. The difference between Metro's initial higher capacity estimate and the master plan estimate on first-tier lands (1,130 compared to 1,690) is due to this fact.

Site #42 received a high urban suitability rating - 64.5 points - in the URSA analysis performed, almost twice the minimum qualifying rating (33) for the 18,600 acres of urban reserves designated by the Metro Council in March 1997. This rating was received for a couple of reasons. First, the site, which consists of approximately 250 acres, is relatively flat with few environmental constraints. Because of this, a total of 16 points was received for Factor 4 (maximum efficiency of land uses within and on the fringe of the existing urban area). Second, a total of 32 points was received for Factors 6 and 7, which relate to retention of agricultural land and compatibility with nearby agricultural activities. Site #42 is zoned for rural residential use (AF5 - Agriculture Farm/Forest 5) and industrial uses (MAE - Land Intensive Industrial; RI - Rural Industrial). There is no exclusive farm use zoning designation within Site #42. The urban reserve is mostly surrounded by industrial and rural residential zoning, except for one area in the southwestern portion of the urban reserve. Site #42 received average scores for Factor 3 (orderly and economic provision for public facilities and services) and Factor 5 (environmental, energy, economic and social consequences). The estimated household and job capacity for Site #42 is 1,770 households and 670 jobs.

The area under consideration for inclusion in Urban Reserve #42 (approximately 72 acres) is similar to the land area inside the urban reserve. The zoning consists of Rural Residential and Industrial designations. The land is also relatively flat with few environmental constraints, making it efficient for urban development. Similarly zoned lands also surround the area; there is no EFU zoning. It is unlikely that the scoring outcome would have been significantly different had this area been part of Site #42 in the initial analysis. Based on methodology used in to determine capacity in the URSA analysis¹, the 72-acre proposed amendment could accommodate 480 households and 190 jobs.

Displacement Analysis

As mentioned earlier, first-tier land, as well as land inside the urban growth boundary west of Wilsonville, is included in the City's proposed Dammasch Area Master Plan. The master plan proposes to locate a Town Center on state-owned land inside the boundary, which the State has approved for a prison site. The city of Wilsonville has requested that the State consider an alternative site located just north and adjacent to Urban Reserve #42. This site is approximately 115 acres and includes a part of Site #42 - approximately 43 acres - and the 72-acre parcel described above.

The prison is intended to house 1,600 people and provide approximately 500 jobs. For the purpose of this analysis, the 1,600 prison population is converted to equivalent households for comparison purposes with the state-proposed prison site (Damasch) and the Wilsonville-proposed alternative prison site. The equivalent units for this exercise would be about 650 households.²

The table on the next page summarizes the estimated household and job capacity for the alternative sites and shows the net gain or loss in terms of housing units and jobs if a prison is sited at either of the locations described above.

¹ Applying discounts for environmental constraints (2%); efficiency factor (10%) and gross-to-net reduction (25% for future streets, parks and other public facilities) estimated buildable land is about 48 acres. Capacity is based on 10 households and 4 jobs per net acre.

² Households are calculated by dividing the expected prison population (1,600) by the regional average number of persons per household (2.52).

Mix-use Development – Dammasch Master Plan	Households	Jobs
Capacity Estimates: <i>Dammasch Area Transportation-Efficient Land Use Plan</i> <i>(January, 1997) – West of Wilsonville</i> <ul style="list-style-type: none"> • Inside UGB • First-tier Urban Reserve #41 (279 acres) 	1,170 <u>1,130</u> 2,300	550 <u>650*</u> 1,200
Prison located at Dammasch Site	650	500
Capacity Estimate:		
Net gain or (loss) in capacity:	(1,650)	(700)*

*This is a general estimate of job capacity from the Urban Reserve Study Areas Analysis.

Northwest Wilsonville Site	Households	Jobs
Approximately 115-acre site northwest of Wilsonville <ul style="list-style-type: none"> • Portion of Urban Reserve #42 (43.4 acres) included in alternative prison site • 72-acres site proposed to be added to Urban Reserve #42 	310* <u>480</u> 790	120* <u>190</u> 310
Prison located at NW Wilsonville Site		
Capacity Estimate:	650	500
Net gain or (loss) in capacity:	(140)	190

*Proportion of total capacity (17%) estimated for Site #42 from the Urban Reserve Study Area Analysis.

If you need additional information, please let me know.



METRO

Attachment 4

Date: June 1, 1998

To: Mary Weber, Senior Program Supervisor
Community Development Section
Growth Management Services Department

From: Dick Bolen, Manager *db*
Data Resource Center

Re: *Population Estimates of Group Quarters in the Metro Region and the 2015/2020 Metro Regional Forecast*

Who belongs in Group Quarters?

The Census Bureau definition of persons in group quarters includes persons living in:

1. Institutional Group Quarters: classified as inmates or patients (e.g., prisons and other correctional institutions – for adults and juveniles, nursing homes and hospitals for chronically ill, physically handicapped, drug rehabilitation and mental institutions).
2. Noninstitutional Group Quarters: includes rooming houses, group homes, religious quarters, college dormitories, military quarters, farm and other workers dormitories, emergency shelters for the homeless, runaways and abused persons, dormitories for nurses and interns in general and military hospitals.

The 1990 Census

Counties	Population	In Households	In Group Quarters	Percent in Group Quarters
Multnomah	583,887	570,508	13,379	2.29%
Clackamas	278,850	276,280	2,570	0.92%
Washington	311,554	308,071	3,483	1.12%
Tri-County	1,174,291	1,154,859	19,432	1.65%

Forecast Assumptions and Methodology

The Census categorizes people as either in households (family or non-family) or in group quarters. Based on the 1990 Census, less than 2 percent of the persons living in the Metro area belong in group quarters.

Memorandum
June 1, 1998
Page 2

The Metro Regional Forecast does not distinguish future population in terms of persons in group quarters. The forecast of population assumes that all persons living in the region reside in households. At the time, this assumption did not seem to be a very harsh assertion given the fact that over 98 percent of the region's total population belonged outside of institutions or group quarters.

Furthermore, TAZ allocations also ignore or subsume the group quarter element of the population in the allocation of persons in households and dwelling units.

Forecasting total population is not an easy matter, but when you try to forecast an even smaller segment of total population such as persons in group quarters, this problem is even more difficult. As we are faced today, prison sitings and sitings of other institutional homes is a highly subjective matter not often determined by macroeconomic forces. Where they eventually get located are often beyond statistical modeling or econometric predictions.

On a regional scale, not explicitly enumerating future persons in group quarters does not change the accuracy of the forecast. However, in terms of allocating population to TAZ's this can make a significant difference. Persons in group quarters are normally unevenly distributed across the region and, therefore, some TAZ's will have a much higher proportion of persons in group quarters.

Technical Resolution

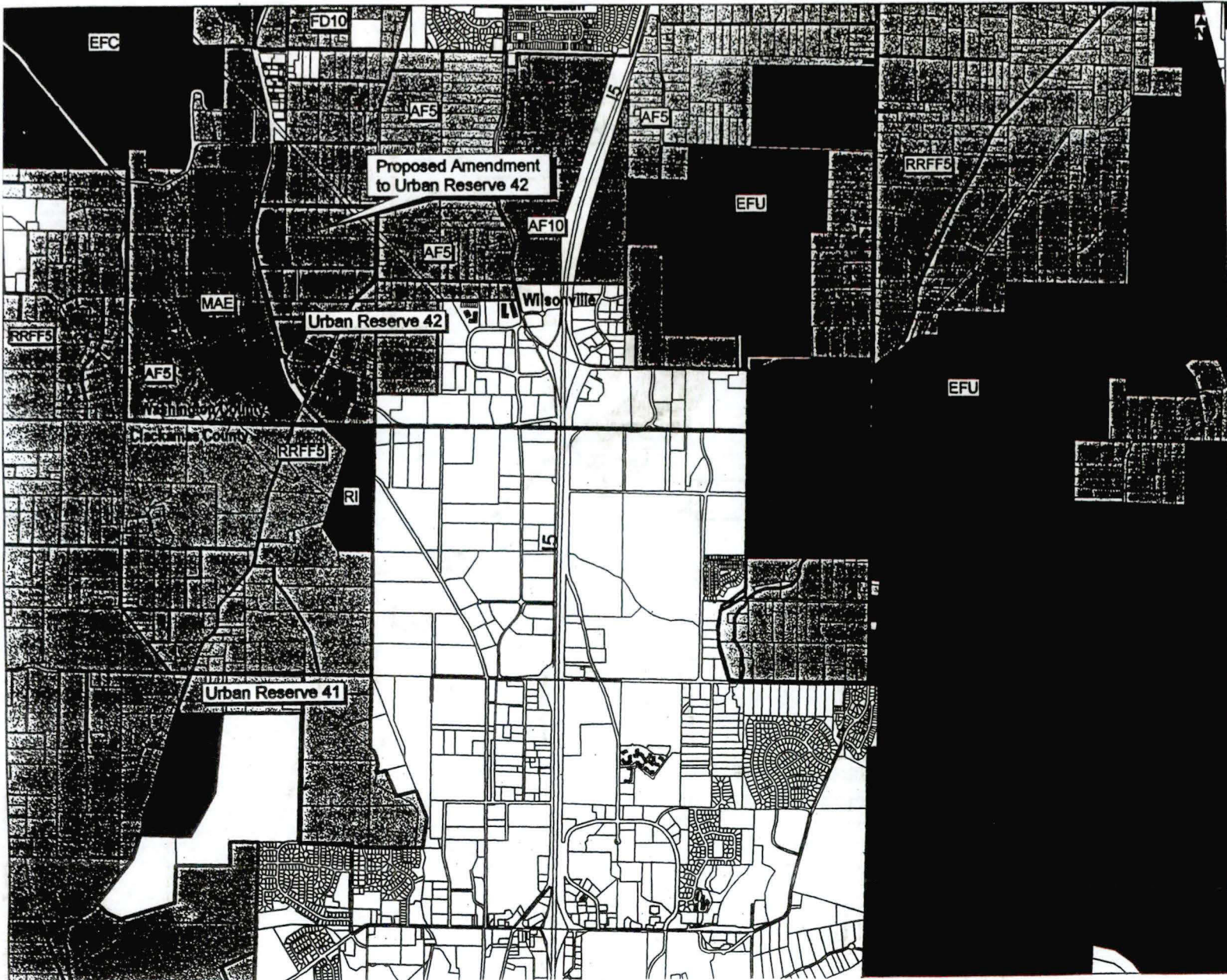
The dilemma appears to be how do we make an ex-post adjustment to the regional forecast and growth allocation to which the ex-ante forecast made no explicit distinction between persons in households and persons in group quarters. The problem is unexpectedly a prison (or group quarter institution) is to be located where the forecast allocated households. The simple solution is to convert each inmate(s) into a household and each prison cell into an equivalent dwelling unit in order to satisfy Title 1 and Table One requirements of the Functional Plan.

This problem can be handled (at least) in one of three ways by converting the expected number of inmates (and prison cells) into households or dwelling units based on:

1. The 1990 or current estimate of average household size in the region,
2. The 1990 average household size in the City of Wilsonville or
3. A household size equal to one.

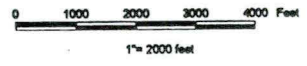
My recommendation is to choose either option 1 or 2.

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Urban Reserve #42 and County Land Use Districts





- Urban Growth Boundary
- First Tier
- Other Reserves
- Alternative Site Area
- County Lines
- (AF10) Agriculture Farm/Forest 10 Acres
- (AF20) Agriculture Farm/Forest 20 Acres
- (AF5) Agriculture Farm/Forest 5 Acres
- (EFC) Exclusive Forest Conservation
- (EFU) Exclusive Farm Use
- (FU10) Future Urban 10 Acres
- (I) Industrial
- (MAE) Land Extensive Industrial
- (RI) Rural Industrial
- (RRFF5) Rural Residential/Farm Forest 5 Acres




R L I S
 REGIONAL LAND INFORMATION SYSTEM

Proposed Wilsonville

Urban Reserve Amendment

-  Metro Purchased Open Space
-  URBAN RESERVE # 42
-  URBAN RESERVE AMENDMENT
-  Urban Growth Boundary

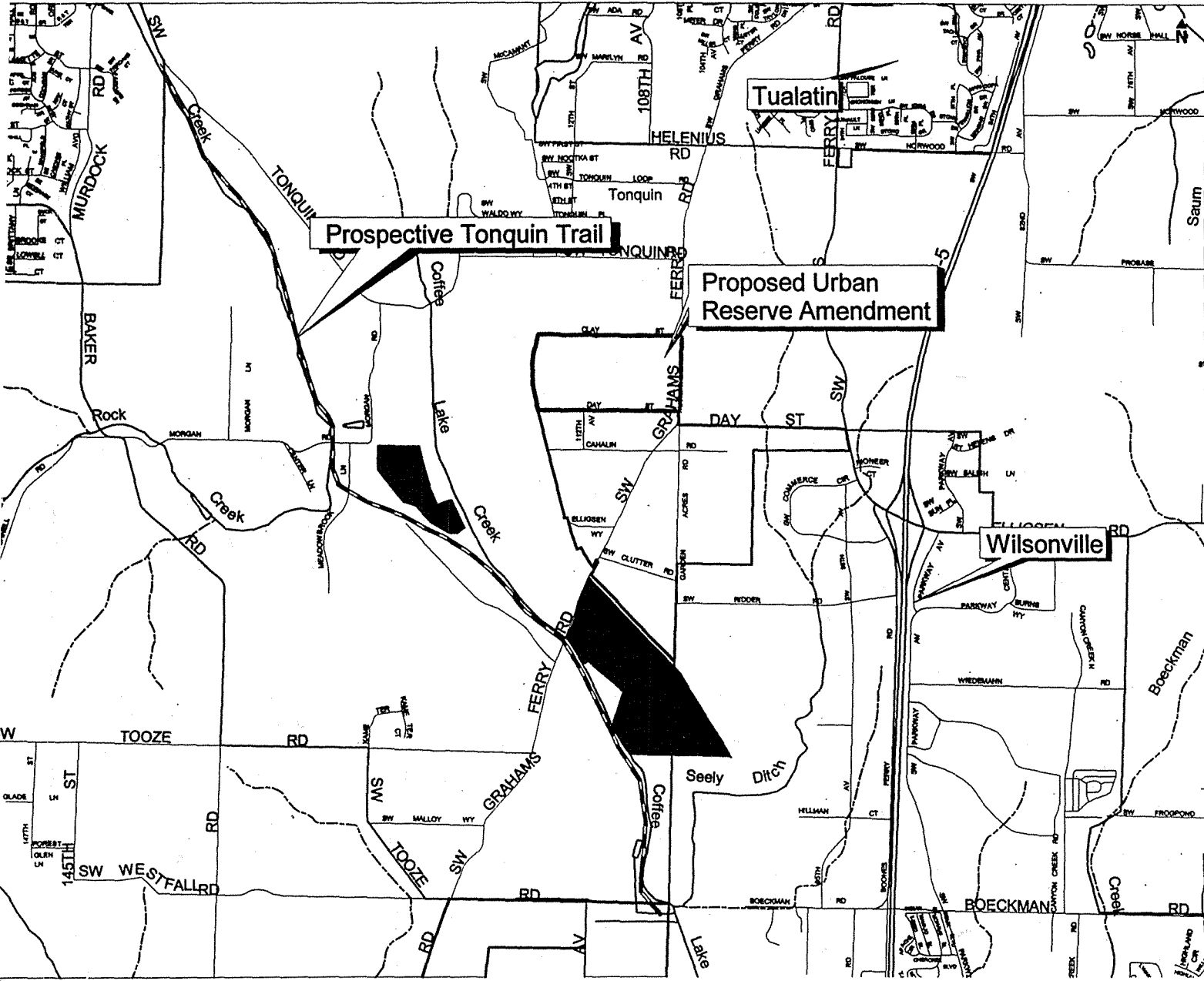
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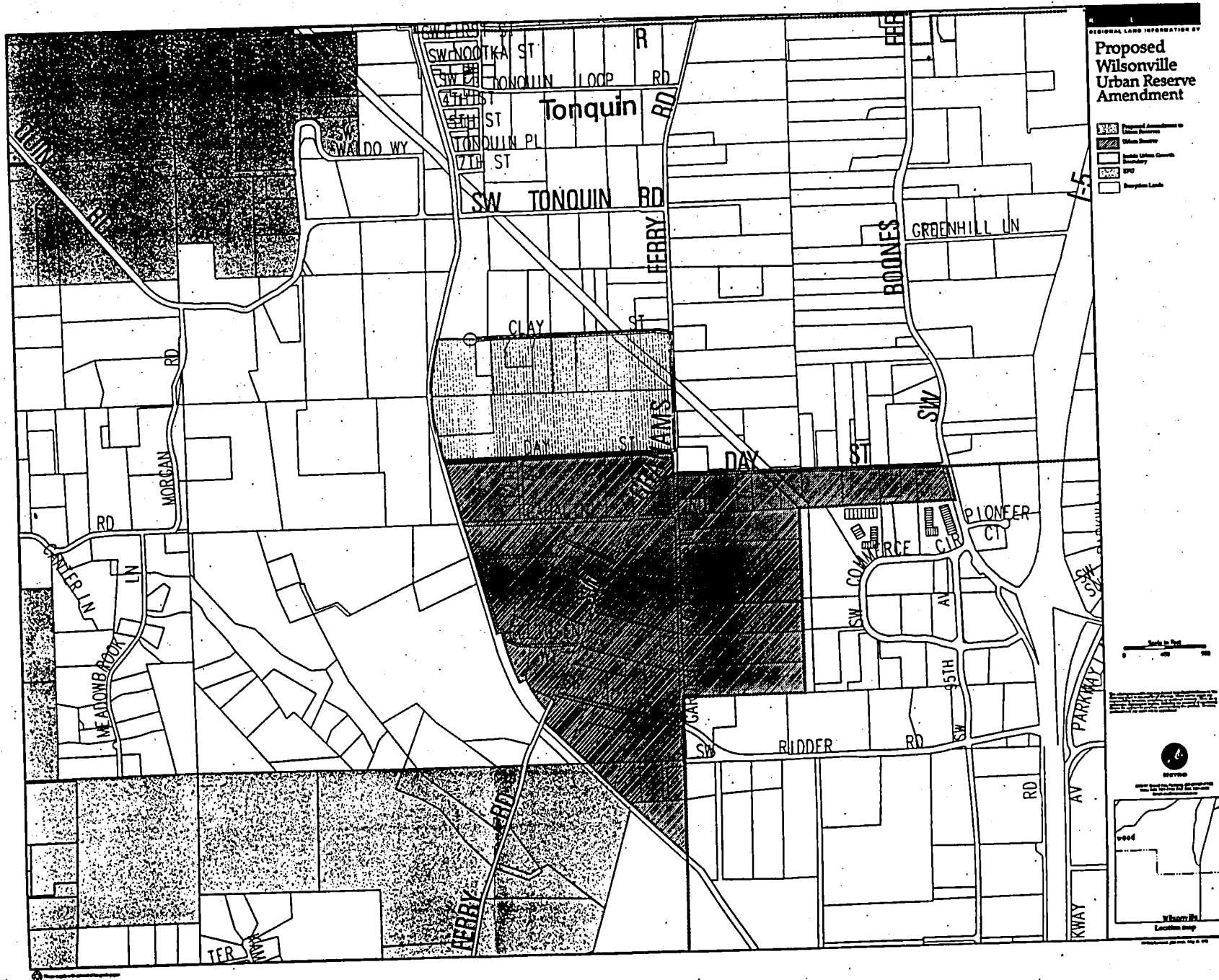


METRO

800 NE Grand Ave.
 Portland, OR 97232-2736
 503 797-1742 FAX 503 797-1909
 Email: dro@metro.or.us

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R L I S
REGIONAL LAND INFORMATION SYSTEM

Proposed Amendment

Wilsonville Urban Reserves

- URBAN RESERVE AMENDMENT
- URBAN RESERVE # 42
- Urban Growth Boundary



1" = 800 feet

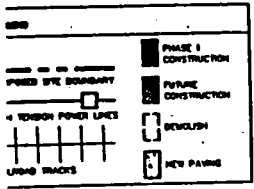


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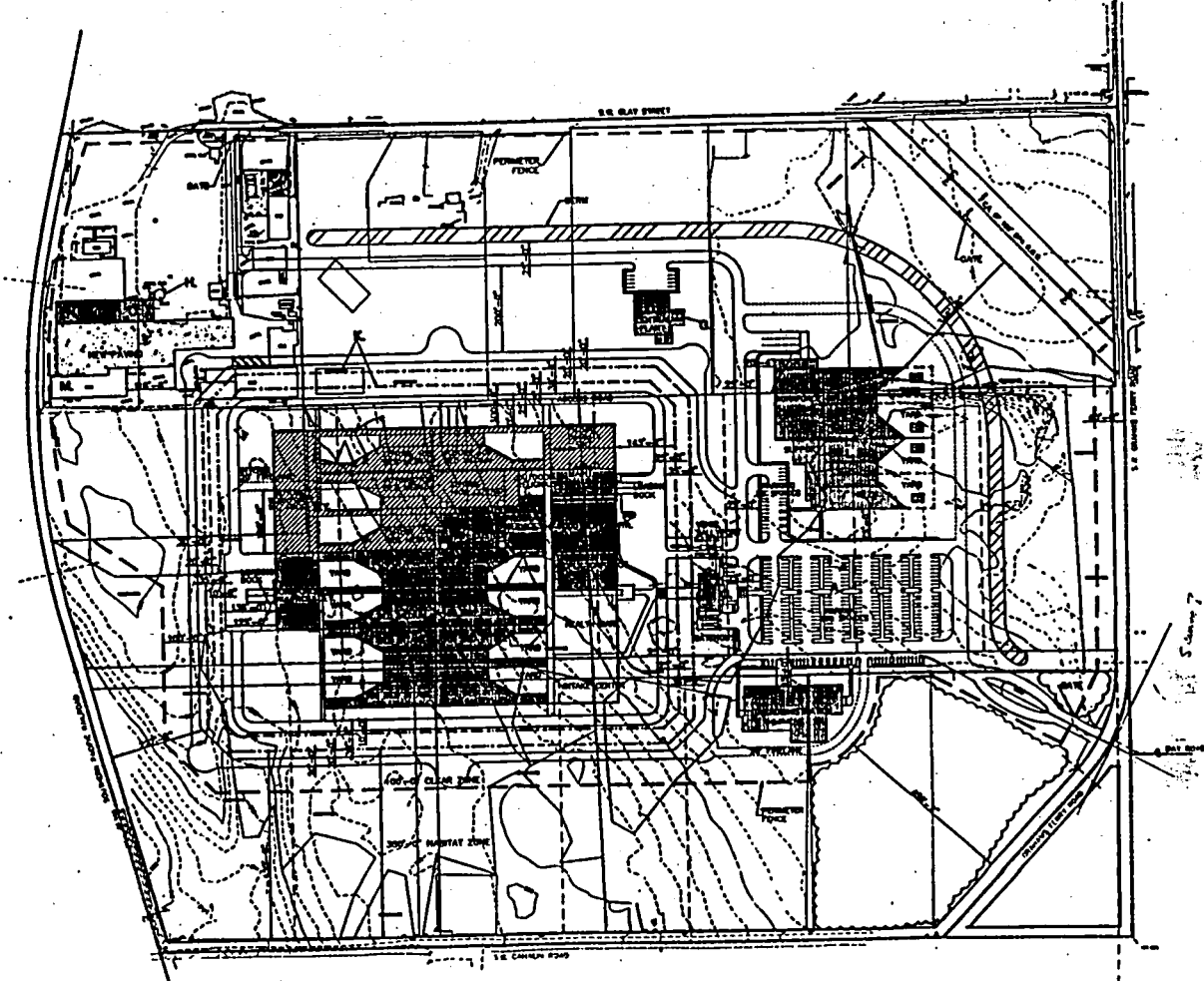
600 NE Grand Ave.
Portland, OR 97232-2736
503 787-1742 FAX 503 787-1809
Email: dro@metro.oreg.gov

Plot date: Jun 1, 1998; d:\projects\polsom\query.apr

CONCRETE SITE AREA
 1 TOTAL 172 ACRES

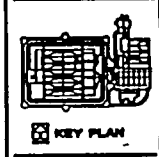


- LAND DESIGNATION**
- SITE WORK
 - ADMINISTRATION BUILDING
 - GATEHOUSE
 - CENTRAL PLANT
 - TRAINHOUSE
 - HOT WATER
 - COOLING TOWER
 - WATER TANK
 - ENTRY ROSE
 - SECURITY PRISON (INCLUDING SECURITY & HIGH SECURITY HOUSING UNITS, STAFF HOUSING UNITS, RECEPTION CORE AREA, FENCE & VEHICULAR SALLYPORT)
 - F. FENCE AND VEHIC. SALLYPORT
 - G. SECURITY PRISON (INCLUDING SECURITY HOUSING, STAFF WORKSPACE AREA, URBAN COMPLEX GROUP MANAGEMENT AREA)
 - H. GENERAL STORAGE WAREHOUSE
 - I. FOOD AND MEDICAL STORAGE WAREHOUSE
 - J. FACILITY MAINTENANCE BUILDING
 - K. RECORDS MANAGEMENT OFFICE BUILDING



OREGON DEPARTMENT OF CORRECTIONS
 Site 1
 WOMEN'S PRISON & INTAKE CENTER COMPLEX

DLR Group
 815 West
 Washington & Franklin, P.O.
 Box 615, 97133
 Portland, OR 97208
 Phone 503-255-1000
 Fax 503-255-1001



No.	Description	Date

DATE PREPARED BY: 7/20/98
 DATE CHECKED: 8/2/98
 DRAWN BY: [Signature]
PRELIMINARY
 SITE PLAN



1 77 134 30

Agenda Item Number 7.3

Ordinance No. 98-761, For the Purpose of Amending the Regional Solid Waste Management Plan.

First Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO. 98-761
THE REGIONAL SOLID WASTE)	
MANAGEMENT PLAN	)	Introduced by Mike Burton, Executive Officer

WHEREAS, The Regional Solid Waste Management Plan (Plan), adopted by the Council as a functional plan via Ordinance No. 95-624, describes a process for the Plan's annual review and periodic revision; and

WHEREAS, In keeping with the review and revision process, staff, local government representatives, and other interested parties have proposed amendments to the Plan; and

WHEREAS, The Regional Solid Waste Advisory Committee (SWAC) appointed a task force to review the proposed amendments, to involve the public in that process, and to make recommendations to SWAC, the Executive Officer, and the Council; and

WHEREAS, SWAC has recommended Council adoption of the amendments described in Exhibit A to this ordinance; and

WHEREAS, the Executive Officer has recommended Council adoption of the amendments described in Exhibit A to this ordinance; and

WHEREAS, The amendments are consistent with the overall goal of the Regional Solid Waste Management Plan: To continue to develop and implement a Solid Waste Management Plan that achieves a solid waste system that is regionally balanced, environmentally sound, cost-effective, technologically feasible and acceptable to the public.

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The amendments described in Exhibit A to this ordinance be adopted into the
Regional Solid Waste Management Plan.

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 to Ordinance No. 98-761

Amendments to the Regional Solid Waste Management Plan

Note: New language is shown as underlined. Deleted language is shown as crossed out.

The Regional Solid Waste Management Plan (RSWMP) Amendment Task Force was appointed by SWAC in January 1997 to review proposed amendments to the RSWMP that had been advanced by the Director of Regional Environmental Management. The Task Force made recommendations to the full SWAC membership. SWAC reviewed the Task Force's conclusions and made specific recommendations about these amendments to the Metro Executive Officer and Council. The Task Force considered possible Regional Plan clarifications and amendments in the following areas:

1. *Facility issues* - Defining the relationship between materials processing facilities (MRFs) and source separation programs, and between reload facilities and transfer stations.
2. *Alternative practices* - The process and schedule by which the Metro REM Director approves alternatives to the RSWMP's recommended practices proposed by local governments.
3. *Waste prevention for businesses* - The targeting approach (types, sizes, numbers, materials, etc.) for two recommended practices: a) waste prevention evaluations; and b) model waste prevention programs.
4. *Source-separated recycling for businesses* - a) The intent of the practice calling for distribution of containers to small businesses; and b) Expansion of the recommended practice which calls for more recycling of paper and container materials to include other prevalently disposed recyclable materials.
5. *Source-separated recycling for construction and demolition sites* - Clarification of the term "assure availability" of source-separated recycling for construction and demolition sites.
6. *Other* - A number of "housekeeping" type amendments to the RSWMP, such as implementation date changes, and clarification of lead roles and responsibilities.

Ordinance 97-700 was passed by the Metro Council on August 7, 1997 and included amendments to the RSWMP in all of the above areas with the exception of 1: *Facility Issues*. The adopted solid waste facilities amendments raised a number of implementation issues that SWAC and the REM Department discussed over the past year. These discussions have concluded and the implementation issues are addressed in the revised Metro Code chapter 5.01 being brought forward under Ordinance 98-762. This Ordinance, 98-761, brings forward the amendments on the facility issues only. Passage of these amendments ensures consistency between the RSWMP and the proposed Code revision.

The following Amendments to the Regional Solid Waste Management Plan were adopted unanimously by the Metro Solid Waste Advisory Committee and are hereby recommended to the Metro Council for consideration.

Amendment A - Clarify Purpose of Dry Waste Processing for Business Waste Reduction Practices

Amend the "key concept and approach" description, RSWMP page 7-17, for Recommended Practice #4 relating to processing facilities for mixed dry waste, to read:

Because of high disposal costs and the market value of recovered materials, there are strong economic incentives to develop dry waste processing facilities. ~~The majority of construction materials are recyclable. The percentage that can be recycled from any project is dependent on the job.~~ Even with good source separation services in place, there may be materials from businesses that are economically recoverable at processing facilities. More than 85 percent of the waste from residential construction is currently recyclable in the metro region. The recommended practice is to rely on the private sector to develop additional dry waste processing capacity.

Amendment B - Correction of Typographical Error

Amend key element d), RSWMP page 7-22, of Recommended Practice #4 relating to processing facilities for mixed dry waste, to read:

Support and develop markets for recovered materials through technical assistance ~~and to~~ processors and end users of recovered materials.

Amendment C - Clarification to the Plan's description of reload facilities

Amend the description of Recommended Practice #4, RSWMP page 7-25, to read:

~~Allow reload facilities sited, owned and operated by haulers for consolidation of loads for hauling to Metro transfer stations to serve areas distant from transfer stations.~~ Allow the siting of reload facilities for consolidation of loads hauled to appropriate disposal facilities.

Amendment D - Standards for Reload Facilities

Amend key element d) of Recommended Practice #4 relating to reload facilities, RSWMP page 7-27, to read:

Low-level recovery activities (manual "dump and sort" activities and other low technology methods) at reload facilities will comply with all federal, state, regional, and local laws and regulations regarding the recovery of recyclable materials from mixed wastes and be consistent with the Plan's recommendations regarding source-separated recycling efforts.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 98-761, FOR THE PURPOSE OF AMENDING THE REGIONAL SOLID WASTE MANAGEMENT PLAN (RSWMP)

DATE: May 28, 1998

Presented by: Bruce Warner

Action Requested and Purpose of the Ordinance

The Council is requested to adopt Ordinance No. 98-761 which approves amendments to the Regional Solid Waste Management Plan (RSWMP) developed during the 1997 review of the RSWMP. The amendments make the changes necessary to ensure the RSWMP remains a current and relevant policy document. The amendments are summarized later in this staff report.

Background

RSWMP requirements for Plan amendments. The amendments proposed under Ordinance No. 98-761 are consistent with the overall goal of the RSWMP which is to continue to develop and implement a Solid Waste Management Plan that achieves a solid waste system that is regionally balanced, environmentally sound, cost-effective, technologically feasible and acceptable to the public.

Regional Task Force and SWAC consideration of proposed amendments. In January 1997 the Regional Solid Waste Advisory Committee (SWAC) appointed a task force to review proposed amendments. The task force included representatives from the solid waste hauling, processing and recycling industries, recycling advocates, a business representative, and local regional and state government interests. SWAC voted to accept all of the Task Force's recommendations regarding RSWMP amendments. Ordinance 97-700, adopted on August 7, 1997, included all of the amendments to the RSWMP recommended by SWAC with the exception of those amendments relating to solid waste facilities.

These facility-related amendments were not included in Ordinance No. 97-700 due to implementation issues raised by one particular amendment. The amendment in question (C below) attempted to clarify what some saw as an ambiguity in the Plan about whether reload facilities could haul materials only to Metro transfer stations or were allowed to haul to any "appropriate disposal facility". Under the latter interpretation, the direct-haul of putrescible wastes to Columbia Ridge Landfill by reloads would be consistent with the Plan.

The Department recognized that direct-haul raised a number of implementation issues such as how to mitigate the impact of additional transport contractors in the Gorge and how Metro could keep benefits from Change Order 7 of the disposal contract. The Department and SWAC subsequently began a process that resulted in twelve months of discussion on direct-haul and related issues. These discussions have concluded and the Department and SWAC made recommendations regarding the conditions under which direct-haul should occur. These recommendations are incorporated into the revised code being submitted as Ordinance 98-762. The solid waste facility issue amendments included in this Ordinance 98-761 were previously approved by SWAC and are being brought forward to ensure that the RSWMP can be unambiguously interpreted as allowing direct-haul.

DEQ Approval. The process also includes Oregon Department of Environmental Quality (DEQ) review and approval of RSWMP amendments once they are approved by the Metro Council.

Summary of the Proposed Amendments

The role of the SWAC Task Force was to review whether the RSWMP provisions were sufficient to guide the region considering the recent growth in Material Recovery Facilities (MRFs) and the potential growth of reload facilities. The four amendments that were eventually approved by SWAC are those that were deemed necessary. The amendments are as follows:

Amendment A - Clarify Purpose of Dry Waste Processing for Business Waste Reduction Practices

SWAC Recommendation - Amend the "key concept and approach" description, RSWMP page 7-17, for Recommended Practice #4 relating to processing facilities for mixed dry waste, to read:

Because of high disposal costs and the market value of recovered materials, there are strong economic incentives to develop dry waste processing facilities. ~~The majority of construction materials are recyclable. The percentage that can be recycled from any project is dependent on the job.~~ Even with good source separation services in place, there may be materials from businesses that are economically recoverable at processing facilities. More than 85 percent of the waste from residential construction is currently recyclable in the metro region. The recommended practice is to rely on the private sector to develop additional dry waste processing capacity.

Rationale - This amendment corrects the impression that only construction and demolition materials go to dry waste facilities. The Plan discusses dry waste processing in two different sections: Business Waste Reduction practices and Building Industries Waste Reduction. The two sections currently contain the same basic language and policy recommendations

about dry waste processing. The above amendment would not change any policies but corrects the impression that only construction and demolition materials go to dry waste facilities.

Amendment B - Correction of Typographical Error

SWAC Recommendation - Amend key element d), RSWMP page 7-22, of Recommended Practice #4 relating to processing facilities for mixed dry waste, to read:

Support and develop markets for recovered materials through technical assistance and to processors and end users of recovered materials.

Rationale - This change was proposed by staff to correct a typographical error.

Amendment C - Clarification to the Plan's description of reload facilities

SWAC Recommendation - Amend the description of Recommended Practice #4, RSWMP page 7-25, to read:

~~Allow reload facilities sited, owned and operated by haulers for consolidation of loads for hauling to Metro transfer stations to serve areas distant from transfer stations.~~ Allow the siting of reload facilities for consolidation of loads hauled to appropriate disposal facilities.

Rationale - The amendment changes the language on page 7-25 to be the same as on page 7-27. The change is intended to clarify where reload facilities could haul their consolidated loads.

Amendment D - Standards for Reload Facilities

SWAC Recommendation - Amend key element d) of Recommended Practice #4 relating to reload facilities, RSWMP page 7-27, to read:

Low-level recovery activities (manual "dump and sort" activities and other low technology methods) at reload facilities will comply with all federal, state, regional, and local laws and regulations regarding the recovery of recyclable materials from mixed wastes and be consistent with the Plan's recommendations regarding source-separated recycling efforts.

Rationale - The proposed amendment is intended to clarify the proper relationship of reload facilities within both the regional solid waste system and the regulatory authorities under which they operate.

Agenda Item Number 7.4

Ordinance No. 98-762, For the Purpose of Amending the Metro Code Chapter 5.01 regarding Solid Waste Facility Regulations and Making Related Adjustments to Chapter 5.02.

First Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE)	ORDINANCE NO. 98-762
CHAPTER 5.01 REGARDING SOLID WASTE)	
FACILITY REGULATION AND MAKING)	Introduced by Mike Burton
RELATED ADJUSTMENTS TO CHAPTER 5.02.)	Executive Officer

WHEREAS, the Metro Solid Waste Facility Regulation Code codified as Metro Code Chapter 5.01 has not undergone a comprehensive revision since 1981; and

WHEREAS, the solid waste industry has changed dramatically since that time; and

WHEREAS, the Metro Solid Waste Facility Regulation Code requires modernization to adequately address many current solid waste issues; and

WHEREAS, the main objectives of the modernization of the Facility Regulation Code revision are to reflect the system management policies of the Regional Solid Waste Management Plan; to improve flexibility for accommodating a changing regulatory environment; to improve and clarify Metro's regulatory structure; to streamline solid waste facility administration; and to implement Metro's new rate structure; and

WHEREAS, it is necessary to adopt a revised and modernized Solid Waste Facility Regulatory Code to accomplish these objectives; and

WHEREAS, it is therefore appropriate to make certain related modifications to existing portions of Chapter 5.01 and Chapter 5.02 of the Metro Code; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

GENERAL PROVISIONS

SECTION 1. Metro Code Section 5.01.010 is amended to read:

5.01.010 Definitions

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

(a) "Activity" means a primary operation or function that is performed in a Solid Waste Facility or at a Disposal Site, including but not limited to Resource Recovery, Composting, Energy Recovery, and other types of Processing; Recycling; Transfer; incineration; and disposal of Solid Waste; but excluding operations or functions such as Segregation that serve to support the primary Activity.

(b) "Agronomic application rate" has the meaning provided in OAR 340-93-030(4)

(ac) "Certificate" means the permission given by the Executive Officer to operate certain solid waste Activities~~a written certificate issued by or a written agreement with the district dated prior to the effective date of this chapter.~~

(bd) "Code" means the Metro Code.

(ee) "Compost" means the stabilized and sanitized product of composting, which has undergone an initial rapid stage of decomposition and is in the process of humification (curing), and which should be suitable for plant growth.

(df) "Composting" means the biological treatment process by which microorganisms decompose the organic fraction of the waste, producing compost.

(g) "Composting Facility" means a site or facility which utilizes organic Solid Waste to produce a useful product through the process of composting.

(eh) "Council" means the Metro council.

(fi) "DEQ" means the Department of Environmental Quality of the State of Oregon.

(j) "Direct haul" means the delivery of Putrescible Waste from a Solid Waste Facility directly to Metro's contract operator for disposal of Putrescible Waste. Direct Haul is an Activity under this Chapter.

(ek) "Disposal site" means the land and facilities used for the disposal of solid waste~~Solid Wastes~~ whether or not open to the public, but does not include transfer stations or processing facilities.

- (hl) "District" has the same meaning as in Code section 1.01.040.
- (m) "Energy recovery" means a type of Resource Recovery that is limited to methods in which all or a part of Solid Waste materials are processed to use the heat content, or other forms of energy, of or from the material.
- ~~(i) "Exclusive franchise" means a franchise (or franchises) which entitles the holder to the sole right to operate in a specified geographical area or in some specified manner.~~
- (jn) "Executive officer" means the Metro executive ~~Executive officer~~ Officer or the executive ~~Executive officer's~~ Officer's designee.
- (ko) "Franchise" means the grant of authority given by the council ~~District~~ to operate a ~~disposal~~ Disposal site ~~Site, a processing facility, a transfer~~ Transfer station ~~Station~~ or a resource Resource recovery ~~Recovery~~ facility.
- (lp) "Franchisee" means the person to whom a ~~franchise~~ Franchise is granted by the district under this chapter.
- (mq) "Franchise fee" means the fee charged by the district to the ~~franchisee~~ Franchisee for the administration of the ~~franchise~~ Franchise.
- (nr) "Hazardous waste" has the meaning provided in ORS 466.005.
- (s) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. "Household hazardous waste" may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.
- (t) "Inert material" means materials containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.
- (u) "License" means the permission given by the Executive Officer to operate a Solid Waste Facility not exempted or requiring a Certificate or Franchise under this chapter that Transfers, and Processes Solid Waste, and may perform other authorized Activities.
- (v) "Licensee" means the person to whom a License is granted by the District under this chapter.
- (w) "Material recovery" means a type of Resource Recovery that is limited to mechanical methods of obtaining from Solid Waste materials which still have useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material

Recovery includes obtaining from Solid Waste materials used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

(x) "Metro Designated Facility" means a facility in the system of transfer stations, Metro Franchised facilities and landfills authorized under Chapter 5.05 of this Title to accept waste generated in the area within the jurisdiction of Metro.

~~(e) "Mixed solid waste" means solid waste containing a variety of waste material, some of which may or may not be considered recyclable.~~

(y) "Non-putrescible waste" means any Waste that contains trivial amounts of Putrescible materials. This category includes construction, demolition debris, and land clearing debris; but excludes Source-Separated Recyclable Material whether or not sorted into individual material categories by the generator.

(pz) "Person" has the same meaning as in Code section 1.01.040.

(qaa) "Petroleum contaminated soil" means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.

(fbb) "Process," "Processing" or "Processed" means a method or system of altering the physical or chemical form, condition or content of ~~solid waste~~ Solid Wastes, including but not limited to composting, classifying, separating, shredding, milling, ~~or~~ pulverizing, or hydropulping, but excluding incineration or mechanical volume reduction techniques such as baling and compaction. As to yard debris, such terms mean the controlled method or system of altering the form, condition or content of yard debris utilizing both mechanical and biological methods, including composting (aerobic and anaerobic methods), fermentation, and vermicomposting (of only yard debris).

(scc) "Processing facility" means a place or piece of equipment where or by which ~~solid waste~~ Solid Wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

(dd) "Processing residual" means the Solid Waste destined for disposal which remains after Resource Recovery has taken place.

(ee) "Putrescible" means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(ff) "Putrescible waste" means Waste containing Putrescible material.

~~(tgg)~~ "Rate" means the amount approved by the district and charged by the franchisee Franchisee, excluding the user fee and ~~franchise~~ Franchise fee.

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

~~(ii)~~ "Recycling" means any process by which Waste materials are transformed into new products in such a manner that the original products may lose their identity.

~~(ujj)~~ "Recycling drop center" means a facility that receives and temporarily stores multiple source separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale.

~~(ykk)~~ "Regional Solid Waste Management Plan" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and approved by DEQ.

~~(ll)~~ "Reload" or "Reload facility" means a facility that performs Transfer only.

~~(vmm)~~ "Resource recovery facility" means an area, building, equipment, process or combination thereof where or by which useful material or energy resources are obtained from solid waste Solid Waste.

~~(nn)~~ "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

~~(oo)~~ "Segregation" means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the Transfer of Solid Waste. Segregation does not include Resource Recovery or other Processing of Solid Waste. The sole intent of segregation is not to separate Useful Material from the Solid Waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

~~(w)~~ "Solid waste collection service" means the collection and transportation of solid wastes but does not include that part of a business licensed under ORS 481.345.

~~(xpp)~~ "Solid waste" means all ~~putrescible~~ Putrescible and ~~nonputrescible~~ Non Putrescible wastes Wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid ~~waste~~ Solid Wastes, dead animals, infectious waste as defined in ORS 459.387, petroleum-contaminated soils and other wastes; but the term does not include:

- (1) Hazardous wastes as defined in ORS 466.005;
- (2) Radioactive wastes as defined in ORS 469.300;
- (3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and as such or materials which are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
- (4) Explosives.

(qq) "Solid waste facility" means the land and buildings at which Solid Waste is received for Transfer, Resource Recovery, and/or Processing but excludes disposal.

(rr) "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste.

(ss) "Source-separated recyclable material" or "Source-separated recyclables" means material that has been Source Separated for the purpose of Reuse, Recycling, or Composting. This term includes Recyclable Materials that are Source Separated by material type (i.e., source-sorted) and Recyclable Materials that are mixed together in one container (i.e., commingled).

(tt) "System cost" means the sum of the dollar amounts expended for collection, hauling, processing, transfer and disposal of all Solid Waste generated within the District.

(uu) "Transfer" means the Activity of receiving Solid Waste for purposes of transferring the Solid Waste from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of Solid Waste from more than one vehicle, and compaction, but does not include Resource Recovery or other Processing of Solid Waste.

(zvv) "Transfer station" means a fixed or mobile facilities including but not limited to drop boxes and gondola cars normally used as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and a processing facility or a disposal site. This definition does not include solid waste collection vehicles.

(ww) "Useful material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from Solid Waste, is suitable for use in the same or other purpose(s). "Useful material" includes material that can be Reused; Recyclable Material; organic material(s) suitable for making Compost; material used in the preparation of fuel; material intended to be used, and which is in fact used, for construction or land reclamation such as Inert Material for fill; and material intended to be

used, and which is in fact used, productively in the operation of landfills such as roadbeds or alternative daily cover.

(~~aa~~xx) "User fee" means a user fee established by the district under ORS 268.515.

(~~bb~~yy) "Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose.

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

(~~ee~~aaa) "Yard debris facilities" means yard debris processing facilities and yard debris reload facilities.

(~~ee~~bbb) "Yard debris reload facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

SECTION 2. Metro Code Section 5.01.020 "Findings and Purpose" is repealed and Section 3 of this Ordinance is enacted in lieu thereof.

SECTION 3.

Purpose

This chapter governs the regulation of Solid Waste Disposal Sites and Solid Waste Facilities within the District. The purposes of this chapter are to protect and preserve the health, safety and welfare of the District's residents; to implement cooperatively with federal, state and local agencies the Regional Solid Waste Management Plan; to provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of the District; and to reduce the volume of Solid Waste disposal through source reduction, recycling, reuse and resource recovery. The provisions of this chapter shall be liberally construed to accomplish these purposes.

SECTION 4. Section 5 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 5.

Authority and Jurisdiction

(a) Metro's Solid Waste regulatory authority is established under the Constitution of the State of Oregon, ORS Chapter 268 for Solid Waste and the 1992 Metro Charter and includes authority to regulate Solid Waste generated or disposed within the District and all Solid Waste Facilities located within the District.

(b) All Solid Waste regulation shall be subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance.

SECTION 6. Metro Code Section 5.01.030 is amended to read:

5.01.030 Prohibited Activities

Except as otherwise provided in this chapter, or in Metro Code Section 5.05 it shall be unlawful:

(a) For any person to establish, operate, maintain or expand ~~a disposal site, processing facility, transfer station or resource recovery facility unless such person is a franchisee or licensee as required by this chapter, or is otherwise exempted by section 5.01.040~~ a Solid Waste Facility or Disposal Site within the District without an appropriate Certificate, License or Franchise from the District.

(b) For a ~~franchisee or licensee recipient of a Certificate, License or Franchise to receive, process or dispose of any solid waste~~ Solid Waste not specified in the franchise or license agreement, authorized under the recipient's Certificate, License or Franchise.

(c) For any person to take, transport or dispose of solid waste ~~deliver or transport any Solid Waste to or to dispose of any Solid Waste at any place other than a disposal site, processing facility, transfer station or resource recovery facility operated by a franchisee or licensee or exempted by section 5.01.040 except by written authority of the council.~~ a Solid Waste Facility or Disposal Site that either is operated by a recipient of a Certificate, License or Franchise or is exempt under Section 5.01.040

(d) For a ~~holder of a Certificate, license, or franchise~~ Franchise to charge any rate not established by the council or executive officer under this chapter, to fail to comply with the administrative procedures or fail to meet the performance standards adopted pursuant to Section 37 of this Ordinance.

(e) For any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.

SECTION 7. Metro Code Section 5.01.040 is amended to read:

5.01.040 Exemptions

(a) ~~The following are exempt from the provisions of this chapter governing franchisees:~~ In furtherance of the purposes set forth in this chapter, the Metro Council declares the provisions of this chapter shall not apply to:

- (1) ~~Municipal and or~~ industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge;
- (2) ~~Disposal sites~~Sites, processing facilities, transfer ~~Transfer stations~~Stations, or ~~resource recovery~~Solid Waste Facilities facilities owned or operated by the ~~d~~District.
- (3) ~~Recycling drop centers~~ Facilities that exclusively receive non-Putrescible Source-separated Recyclable Materials
- (4) ~~Disposal sites receiving only clean, uncontaminated earth, rock, sand, soil and stone, hardened concrete, hardened asphaltic concrete, brick and other similar materials, provided that such clean, uncontaminated materials include only those materials whose physical and chemical properties are such that portions of these materials when subjected to moderate climatical fluctuations in heat, exposure to moisture or water, abrasion from normal handling by mechanical construction equipment or pressure from consolidation will not produce chemical salts, dissolved solutions, or gaseous derivations at a rate sufficient to modify the biological or chemical drinking water quality properties of existing surface and ground waters or normal air quality~~ Facilities that exclusively receive, process, transfer or dispose of Inert Materials;
- (5) ~~Persons who process, transfer or dispose of solid wastes which:~~
 - (A) ~~Are not putrescible, which, for the purposes of this section includes wood, dry cardboard and paper uncontaminated by food waste or petroleum products;~~
 - (B) ~~Have been source separated;~~
 - (C) ~~Are not and will not be mixed by type with other solid wastes; and~~
 - (D) ~~Are reused or recycled.~~
- (6)(5) The following operations, which do not constitute yard debris processing facilities:

~~(A) Person or persons who generate and maintain residential compost piles for residential garden or landscaping purposes.~~

~~(4B) Residences, parks, community gardens and homeowner associations.~~

~~(2C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.~~

~~(36) Operations or facilities that chip or grind wood wastes (e.g. untreated lumber, wood pallets), unless such chipped materials are composted at the site following chipping or grinding.~~

(7) Temporary transfer stations or processing centers established and operated by a local government for 60 days or less to temporarily receive, store or process solid waste Solid Waste if the ~~d~~District finds an emergency situation exists.

~~(8) Reload facilities that deliver Solid Waste to a Metro Designated Facility, and said Solid Waste is accepted by the Metro Designated Facility.~~

~~(9) Persons who own or operate a mobile facility that processes Petroleum Contaminated Soil at the site of origin and retains any treated Petroleum Contaminated Soil on the site of origin.~~

(b) Notwithstanding section 5.01.040(a)(2) of this chapter, the district shall comply with section 5.01.150, User Fees; ~~section 5.01.170, Determination of Rates; subsection 5.01.070(f) and section 5.01.130, Administrative Procedures for Franchisees; and shall require contract operators of district-owned facilities to provide a performance bond pursuant to section 5.01.060(b)(1).~~

~~(c) Notwithstanding anything to the contrary in this section, yard debris processing and yard debris reload facilities are subject to the licensing requirements of this chapter.~~

SECTION 8. Section 9 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 9.

Certificate, License and Franchise Requirements

(a) A Metro Solid Waste Certificate shall be required of the Person owning or controlling a facility which:

- (1) Processes Non-Putrescible Waste if such processing results in Processing Residual of less than ten (10) percent; or
- (2) Processes Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that either destroys or removes and contains such petroleum contamination from the soil.

(b) A Metro Solid Waste License shall be required of the Person owning or controlling a facility at which any of the following Activities are performed:

- (1) Material Recovery from Non-putrescible Waste.
- (2) Processing of Non-Putrescible Waste that results in Processing Residual of more than ten (10) percent.
- (3) Processing or Reloading of Yard Debris. A local government that owns or operates a yard debris facility may enter into an intergovernmental agreement with Metro under which the local government will administer and enforce yard debris standards at the facility in lieu of compliance with this chapter.
- (4) Transfer of Putrescible Waste, and any other Activity or combination of Activities taking place in the same facility that results in disposal of fewer than 50,000 tons of Solid Waste during any calendar year.
- (5) Delivery of Putrescible Waste directly to Metro's contract operator for disposal of Putrescible Waste from the facility.

(c) A Metro Solid Waste Franchise shall be required for the Person owning or controlling a facility at which any of the following Activities are performed:

- (1) Transfer of Putrescible Waste, and any other Activity or combination of Activities taking place in the same facility that results in disposal of more than 50,000 tons of Solid Waste during any calendar year.
- (2) Operation of a Disposal Site or of an Energy Recovery Facility.
- (3) Any process using chemical or biological methods whose primary purpose is reduction of Solid Waste weight or volumes.
- (4) Any other Activity not listed in this Section, or exempted by Metro Code Section 5.01.040.

SECTION 10. Metro Code Chapter 5.01.050 "Administration" is repealed.

**APPLICATIONS FOR SOLID WASTE FACILITY
CERTIFICATES, LICENSES & FRANCHISES**

SECTION 11. Section 12 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 12.

Pre-Application Conference

(a) All prospective applicants for a Franchise or License shall participate in a pre-application conference with the Executive Officer. The purpose of such conference shall be to provide the prospective applicant with information regarding the applicable requirements for the proposed facility and to obtain from the prospective applicant a description of the location, site conditions and operations of the proposed facility.

(b) If a prospective applicant for a License or Franchise does not file an application for a License or Franchise within one year from the date of the pre-application conference, such applicant shall participate in a subsequent pre-application conference prior to filing any License or Franchise application.

SECTION 13. Metro Code Section 5.01.060 is amended to read:

5.01.060 Applications for Certificates, Licenses or Franchises

(a) Applications for a Certificate, franchise or license License or Franchise or for transfer of any interest in, modification, expansion, or renewal of an existing Certificate, franchise or license License or Franchise shall be filed on forms or in the format provided by the Executive Officer. ~~Franchises and licenses are subject to approval by the council.~~

(b) In addition to any information required on the forms or in the format provided by the Executive Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

~~(b)~~ (c) In addition to the information required on the forms or in the format provided by the Executive Officer, applications for a License or franchise Franchise applicants ~~must shall~~ submit include the following information to the Executive Officer:

~~(1) Proof that the applicant can obtain and will be covered during the term of the franchise by a corporate surety bond guaranteeing full and faithful~~

~~performance by the applicant of the duties and obligations of the franchise agreement. In determining the amount of bond to be required, the executive officer may consider the size of the site, facility or station, the population to be served, adjacent or nearby land uses, the potential danger of failure of service, and any other factor material to the operation of the franchise;~~

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

~~(3)(1) Proof that the applicant can obtain the liability insurance required by this chapter~~ Proof that the applicant has obtained and will maintain during the term of the Franchise or License the types of insurance specified by the Executive Officer;

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

~~(5)(2)~~ (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;

~~(3)~~ (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;

~~(4)~~ (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;

~~(6)(5)~~ (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the ~~licensee or franchisee~~ Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of section 5.01.180(e) of this chapter if the ~~license or franchise~~ Franchise is revoked or any license or franchise renewal is refused;

~~(7)~~ (6) Proof that the applicant has received proper land use approval; and A written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may

include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and

~~(7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.~~

~~(8) Such other information as the executive officer deems necessary to determine an applicant's qualifications.~~

~~(c) Yard Debris Facility License Applications:~~

~~(1) Operators of proposed yard debris processing and yard debris reload facilities shall submit applications for licensing and shall comply with the licensing standards and requirements following the effective date of the licensing standards in this chapter.~~

~~(2) Operators of existing yard debris processing and yard debris reload facilities shall submit an application for licensing and demonstrate compliance within eighteen months after the effective date of the licensing standards in this chapter.~~

~~(3) Applications for yard debris licenses shall be as specified by the executive officer.~~

~~(d) An incomplete or insufficient application shall not be accepted for filing.~~

(d) An application to deliver more than 50,000 tons per calendar year of Solid Waste to a Transfer Station or Disposal Site from a non-exempt facility that is authorized to accept Putrescible Waste shall be accompanied by an analysis showing that the proposed facility is consistent with the Regional Solid Waste Management Plan.

(e) A person holding or making application for a Solid Waste Facility License or Franchise from Metro authorizing receipt of Putrescible Waste may make application to deliver Putrescible Waste directly to Metro's contract operator for disposal of Putrescible Waste. Said application must be accompanied by an analysis showing that the proposed Direct Haul authorization: (A) is consistent with the Regional Solid Waste Management Plan, and (B) is needed considering the System Costs of performing the Direct Haul Activity with and without the authorization for Direct Haul.

SECTION 14. Section 15 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 15.

Application Fees.

(a) Upon the filing of an application, every applicant for a Certificate, License or Franchise shall submit an application fee as provided in this section.

(b) Application fees shall be as follows:

- (1) For a Solid Waste Facility Certificate, one hundred dollars (\$100).
- (2) For a Solid Waste Facility License, three hundred dollars (\$300).
- (3) For a Solid Waste Facility Franchise, five hundred dollars (\$500).

SECTION 16. Section 17 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 17.

Issuance and Contents of Certificates

(a) Applications for Certificates are subject to approval or denial by the Executive Officer.

(b) The Executive Officer shall approve or deny the application for a Certificate within 45 days of accepting the application. If the Executive Officer does not act to grant, or deny, a Certificate application within 45 days after accepting the application, a Certificate shall be deemed granted.

(c) Certificates approved by the Executive Officer shall specify the Activities authorized to be performed and the Wastes authorized to be accepted at the Solid Waste Facility.

SECTION 18. Section 19 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 19.

Issuance and Contents of Licenses

(a) Applications for Licenses are subject to approval or denial by the Executive Officer, with such conditions as the Executive Officer may deem appropriate.

(b) The Executive Officer shall make such investigation concerning the application as the Executive Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Licenses approved by the Executive Officer shall specify the Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility.

(d) Licenses approved by the Executive Officer shall be for a term of five years.

SECTION 20. Metro Code Section 5.01.070 is amended to read:

5.01.070 Issuance of Franchise

(a) Applications for Franchises filed in accordance with section 5.01.060 shall be reviewed by the Executive Officer and are subject to approval or denial by the Metro Council Executive Officer.

(b) The executive Executive officer Officer or his/her designated representative may shall make such investigation concerning the application as the executive officer deems appropriate, and shall have the right of entry onto the applicant's proposed franchise site with or without notice before or after the franchise is granted to assure compliance with this chapter, the Code, DEQ permit and franchise agreement, including the right of entry onto the applicant's proposed site.

(bc) Upon the basis of the application, evidence submitted and results of any the investigation, the executive officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the district's solid waste management plan, whether the proposed franchise is needed considering the location and number of existing and planned disposal sites, transfer stations, processing facilities and resource recovery facilities and their remaining capacities, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements, authorize the issuance of a Franchise only if Executive Officer finds that:

(1) The applicant has demonstrated by clear and convincing evidence that the proposed Solid Waste Facility will be consistent with all requirements of the Regional Solid Waste Management Plan;

(2) The applicant has demonstrated by clear and convincing evidence the need for the proposed Solid Waste Facility;

(3) Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of the District's residents;

(4) Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;

(5) The applicant has demonstrated by clear and convincing evidence the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 37 of this Ordinance and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise;

~~(ed) The executive officer shall provide the recommendations~~ Based on the findings required by Section 5.01.070 (b) to the Council together with, the Executive Officer's recommendation regarding recommend to the council whether shall approve or deny, the application should be granted, denied, or modified. If the executive officer recommends that the application be granted approved, the executive officer shall recommend to the council specific conditions of the franchise, agreement and whether or not the franchise should be exclusive. Following Subsequent to receiving the recommendation of the executive officer, the council shall issue an order granting, or denying or modifying the application. The council may attach conditions to the order approval or, limit the number of franchises Franchises granted, and grant exclusive franchises. If the council Executive Officer issues an order to deny the franchise application, such order shall be effective immediately. An exclusive franchise may be granted if the council determines that an exclusive franchise is necessary to further the objectives of the solid waste management plan. In determining whether an exclusive franchise should be granted, the council shall consider the following:

~~(1) The proximity of existing and planned solid waste disposal facilities to the proposed site.~~

~~(2) The type and quantity of waste that existing facilities receive and the type and quantity of waste that planned facilities will receive.~~

~~(3) The capacity of existing and planned solid waste disposal facilities.~~

~~(4) The type of vehicles that existing facilities receive and the type of vehicles that planned facilities will receive.~~

~~(5) The hauling time to the proposed facility from waste generation zones established by the district.~~

~~(e) If the council Executive Officer does not act to grant, or deny, a franchise Franchise application within 120 days after the filing of a complete application, a temporary the franchise Franchise shall be deemed granted for the site Solid Waste Facility or Disposal Site requested in the application, unless the executive officer notifies the applicant that more time is needed to review and process the application and advises the applicant how much~~

~~time will be needed to complete the review. The 120 days will not begin until the executive officer has accepted the application as complete and ready for processing.~~

(f) Council Approval of Significant Franchises. If the Executive Officer proposes to approve a Franchise application, the Executive Officer shall inform the council presiding officer in writing. The presiding officer shall immediately cause copies of the notice to be furnished to all members of the Council. The Council may determine that approval of the Franchise is significant within 10 days of receipt of the notice from the Executive Officer. If approval of the Franchise is determined by the Council to be significant, approval of the Franchise application by the executive officer shall be subject to Council authorization. If the Council does not determine that approval of the Franchise is significant, the Executive Officer may approve the application after transmitting a description of the Franchise to the council or a council committee as deemed appropriate by the presiding officer.

(g) The term of a new or renewed Franchise shall be five (5) years.

~~(e) Within 10 days after receipt of an order granting a franchise, the applicant shall:~~

~~(1) Enter into a written franchise agreement with the district,~~

~~(2) Obtain a corporate surety bond guaranteeing full and faithful performance during the term of the franchise of the duties and obligations of the franchisee under the franchise agreement, and~~

~~(3) Proof that the applicant can obtain public liability insurance, including automotive coverage, in the amounts of not less than \$300,000 for any number of claims arising out of a single accident or occurrence, \$50,000 to any claimant for any number of claims for damage to or destruction of property and, \$100,000 to any claimant for all other claims arising out of a single accident or occurrence or such other amounts as may be required by state law for public contracts.~~

~~(4) Name the district as an additional insured in the insurance policy required by section 5.01.070(e)(3).~~

~~(f) The granting of a franchise shall not vest any right or privilege in the franchisee to receive specific types or quantities of solid waste during the term of the franchise.~~

~~(1) To ensure a sufficient flow of solid waste to the district's resource recovery facilities, the council may, upon 30 days prior written notice, without hearing at any time during the term of the franchise, direct solid waste away from the franchisee. Whenever possible the district shall divert an equitable amount of waste from each franchised facility to the resource recovery facility. In such case, the council shall make every reasonable effort to provide notice of such direction to affected haulers of solid waste.~~

~~(2) In emergency situations, to ensure a sufficient flow of solid waste to the district's resource recovery facilities, the council or the executive officer may, without hearing, issue a 60 day temporary order directing solid wastes away from the franchisee. In such situations, the council or executive officer shall give the franchisee as much advance notice as is reasonably possible under the circumstances, and shall make a reasonable effort to provide notice of such direction to affected haulers of solid waste. A temporary order issued by the executive officer under this subsection shall be subject to codification or revocation by the council.~~

~~(g) In addition to the authority contained in section 5.01.070(f)(1), for the purposes of this chapter, the council may, upon 60 days prior written notice, direct solid waste away from the franchisee, direct additional solid waste to the franchisee, or limit the type of solid wastes which the franchisee may receive. Sixty days prior notice shall not be required if the council finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay. The direction of the solid waste away from a franchisee or limitation of the types of solid wastes a franchisee may receive under this subsection shall not be considered a modification of the franchise, but a franchisee shall have the right to request a contested case hearing pursuant to Code chapter 2.05. However, a request for a contested case hearing shall not stay action under this subsection.~~

SECTION 21. Section 22 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 22.

Contents of Franchise

(a) The Franchise shall constitute a grant of authority by Metro to pursue the Activities described therein, the conditions under which these Activities may take place and the conditions under which the authority may be revoked.

(b) Franchises approved by the Executive Officer shall be in writing and shall include the following:

(1) The term of the Franchise;

(2) Franchises approved by the Executive Officer shall specify the Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility;

- (3) Such other conditions as the Executive Officer deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and
- (4) Indemnification of Metro in a form acceptable to Metro's General Counsel.

SECTION 23. Metro Code Sections 5.01.080 "Term of Franchise" and 5.01.085 "Franchises for Major System Components" are repealed.

SECTION 24. Section 25 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 25.

Renewal of Licenses and Franchises

(a) Solid Waste Facility Licenses shall be renewed unless the Executive Officer determines that the proposed renewal is not in the public interest, provided that the licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300) not less than 45 days prior to the expiration of the license term, together with a statement of proposed material changes from its initial application for the license and any other information required by the Executive Officer. The Executive Officer may attach conditions or limitations to any renewed license.

(b) Solid Waste Facility Franchises shall be renewed unless the Executive Officer determines that the proposed renewal does not meet the criteria contained in Section 20 of this Ordinance, provided that the Franchisee files a completed application for renewal accompanied by payment of an application fee of five hundred dollars (\$500) not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the Franchise and any other information required by the Executive Officer or by the council. The Executive Officer may attach conditions or limitations to the renewed Franchise.

SECTION 26. Metro Code Section 5.01.090 is amended to read:

5.01.090 Transfer of Franchises Ownership or Control

(a) The Executive Officer shall transfer a Certificate upon receipt in writing of any transfer of ownership or change in control, provided that the Persons seeking to be certified are

not requesting authorization to accept additional Wastes or to perform additional Activities at the Solid Waste Facility.

(b) A new License application shall be submitted when a Licensee proposes to transfer Control or ownership of the Solid Waste Facility to any other Person.

- (c) (a1) Any Person in control of a Franchise ~~franchisee~~ may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, ~~its~~ the Franchise to another person unless an application therefor has been filed in accordance with section 5.01.060 and has been granted. The proposed transferee of a Franchise must meet the requirements of this chapter.
- (b2) ~~The council~~ Executive Officer shall not unreasonably deny an application for transfer of a ~~franchise~~ Franchise or Franchisee. If the Executive Officer ~~council~~ does not act on the application for transfer within ~~90-~~ 120 days after filing of a complete application, the application shall be deemed granted.
- (e3) The term for any transferred ~~franchise~~ Franchise shall be for the remainder of the original term unless the ~~council~~ Executive Officer establishes a different term based on the facts and circumstances at the time of transfer.

SECTION 27. Section 28 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 28.

Change of Authorizations.

(a) A Person holding a Certificate, License or Franchise shall submit an application pursuant to 5.01.060 when said Person seeks authorization to:

- (1) Accept Wastes other than those authorized by the applicant's Certificate, License or Franchise, or
- (2) Perform Activities other than those authorized by the applicant's Certificate, License or Franchise, or
- (3) Modify other limiting conditions of the applicant's Certificate, License or Franchise.

(b) Applications for a change in authorization or limits shall be filed on forms or in the format provided by the Executive Officer.

(c) An application for a change in authorizations or limits to the applicant's Certificate, License or Franchise shall not substitute for an application that would otherwise be required under Section 9 of this Ordinance.

(d) A Person holding a Certificate, License or Franchise need only notify Metro in writing when said Person proposes to cease accepting authorized Wastes or cease performing authorized Activities at the Solid Waste Facility or Disposal Site.

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars (\$100).

SECTION 29. Metro Code Section 5.01.110 is amended to read:

5.01.110 Variances

(a) ~~The council, upon recommendation of the executive officer,~~Executive Officer may grant specific variances from particular requirements of this chapter to ~~such specific persons or class of persons applicants for Licenses or Franchises or to Licensees or Franchisees upon~~ such conditions as ~~the council~~Executive Officer may deem necessary to protect public health, safety and welfare, if ~~the council~~Executive Officer finds that the purpose and intent of the particular ~~License or franchise~~Franchise requirement can be achieved without ~~strict compliance~~ and that ~~strict compliance with the particular requirement~~:

- (1) Is inappropriate because of conditions beyond the control of ~~person(s)~~ the applicant, Licensee, or Franchisee requesting the variance; or
- (2) Due to special physical conditions or causes, w~~Will be rendered extremely burdensome or highly impractical. -due to special physical conditions or causes; or~~
- (3) ~~Would result in substantial curtailment or closing down of a business, plant, or operation which furthers the objectives of the district.~~

(b) A variance must be requested by a License or Franchise applicant, or a Licensee or Franchisee in writing and state in a concise manner facts to show cause why such variance should be granted. The executive officer may make such investigation as ~~he/she~~ the executive officer deems necessary and shall ~~make a recommendation to the council approve or deny coincident with any recommendation made on approval or denial of any License or Franchise application, or upon a request for variance from an existing licensee or Franchisee within 60 days after receipt of the variance request.~~

(c) A request for a variance shall not substitute for an application that would otherwise be required under Section 9 of this Ordinance.

(ed) If the ~~council~~ Executive Officer denies a variance request, the executive officer shall notify the person requesting the variance of the right to a contested case hearing pursuant to Code chapter 2.05.

(de) If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six months from the date of denial.

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

SECTION 30. Metro Code Section 5.01.120 is amended to read:

5.01.120 Responsibilities of Franchisees ~~General Obligations of All Regulated Parties~~

~~A franchisee~~ All owners and operators ~~Persons regulated by this chapter shall:~~

(a) Allow the Executive Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the Certificate, License or Franchise agreement, and the performance standards and administrative procedures adopted pursuant to Section 37 of this Ordinance.

(b) Ensure that Solid Waste transferred from the facility goes to the appropriate destination under Section 35 (a) of this Ordinance, under Metro Code Chapter 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;

~~(a) Shall provide adequate and reliable service to the citizens of the district.~~

~~(b) May discontinue service only upon 90 days prior written notice to the district and the written approval of the executive officer. This section shall not apply to any order for closure or restriction of use by any public agency, public body or court having jurisdiction.~~

~~(c) May contract with another person to operate the disposal site, processing or resource recovery facility or transfer station only upon 90 days prior written notice to the district and the written approval of the executive officer. If approved, the franchisee shall remain responsible for compliance with this chapter and the terms and conditions of the franchise.~~

~~(d) Shall establish and follow procedures designed to give reasonable notice prior to refusing service to any person. Copies of notification and procedures for such action will be retained on file for three years by each franchisee for possible review by the executive officer.~~

(ec) ~~Shall m~~ Maintain during the term of the License or franchise ~~Franchise public liability~~ the types of insurance in the amounts set forth in section 5.01.070(e) specified in the License or Franchise Agreement or such other amounts as may be required by state law for public

contracts and shall give 30 days written notice to the ~~executive~~Executive officer~~Officer~~ of any lapse or proposed cancellation of insurance coverage or performance bond.

~~(f) Shall file an annual operating report on forms provided by the executive officer on or before March 1 of each year for the preceding year.~~

~~(g) Shall comply with all provisions of this chapter, the Code, ORS chapter 459, DEQ permit and franchise agreement.~~

~~(h) Shall submit duplicate copies to the executive officer of all correspondence, exhibits or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or disposal franchise during the term of the franchise. Such correspondence, exhibits or documents shall be forwarded to the district within two working days of their submission to DEQ.~~

(id) Shall indemnify the district, the council, the ~~executive~~Executive officer~~Officer~~, the ~~director~~ and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the Certificate holder's, Licensee's or franchisee's~~Franchisee's~~ performance of or failure to perform any of its obligations under the Certificate, License, franchise~~Franchise~~ or this chapter.

(je) Shall have no recourse whatsoever against the district or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of the Certificate, License or franchise~~Franchise~~ or because of the enforcement of the Certificate, License or franchise~~Franchise~~ or in the event the Certificate, License or franchise~~Franchise~~ or any part thereof is determined to be invalid.

~~(k) Shall, if the franchisee accepts solid waste from the general public and from commercial haulers other than the franchisee, implement a program based on district guidelines approved by the council for reducing the amount of solid waste entering disposal sites, processing facilities, or transfer stations.~~

~~(l) Shall not, either in whole or in part, own, operate, maintain, have a proprietary interest in, be financially associated with or subcontract the operation of the site to any individual, partnership or corporation involved in the business of collecting residential, commercial, industrial or demolition refuse within the district. A transfer station or processing center franchisee who only receives waste collected by the franchisee shall be exempt from this subsection.~~

SECTION 31. Metro Code Section 5.01.130 "Administrative Procedures for Franchisees" is repealed.

SECTION 32. Section 32 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 33.

Obligations and Limits for Selected Types of Activities

(a) A holder of a Certificate, License or Franchise authorized to perform Material Recovery shall perform Material Recovery from Non-Putrescible Waste accepted at the facility, or shall deliver Non-Putrescible Waste to a Solid Waste facility whose primary purpose is to recover useful materials from Solid Waste.

(b) Licensees or Franchisees who deliver 50,000 or fewer tons per calendar year of Solid Waste to all Transfer Stations and Disposal Sites from a Solid Waste Facility authorized to accept Putrescible Waste:

- (1) Shall accept Solid Waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul Solid Waste.
- (2) Shall not accept hazardous waste.

(c) Franchisees who deliver more than 50,000 tons per calendar year of Solid Waste to all Transfer Stations and Disposal Sites from a Solid Waste Facility authorized to accept Putrescible Waste:

- (1) Shall accept Solid Waste originating within the Metro boundary from any person who delivers authorized waste to the facility.
- (2) Shall provide an area for collecting Household Hazardous Waste from residential generators at the Franchised Solid Waste Facility.
- (3) Shall provide an area for collecting source-separated recyclable materials without charge at the Franchised Solid Waste Facility.

SECTION 34. Section 35 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 35.

Direct Haul of Putrescible Waste.

Owners or operators authorized by Metro License or Franchise to deliver Putrescible Waste directly to a Disposal Site shall:

- (a) Deliver said Putrescible Waste to Metro's contract operator for disposal of Putrescible Solid Waste,
- (b) Comply with the performance standards for management of unacceptable waste adopted by the Executive Officer pursuant to Section 37 of this Ordinance, and
- (c) Comply with the performance standards for long-haul transportation adopted by the Executive Officer pursuant to Section 37 of this Ordinance.

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

SECTION 36. Section 37 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 37.

Adoption & Amendment of Administrative Procedures and Performance Standards

(a) The Executive Officer shall issue administrative procedures and performance standards governing the obligations of Licensees and Franchisees under this Ordinance, including but not limited to procedures and performance standards for nuisance control, public notification of facility operations, management of unacceptable wastes, facility record keeping and reporting, yard debris composting operations, and transportation of Solid Waste. The Executive Officer may issue administrative procedures and performance standards to implement all provisions of this Ordinance.

(b) The Executive Officer shall substantially amend the administrative procedures and performance standards required under subsection (a) of this chapter only after providing public notice and the opportunity to comment and a public hearing on the proposed amendment.

SECTION 38. Section 39 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 39.

Executive Officer's Inspections and Audits of Solid Waste Facilities

(a) The Executive Officer shall be authorized to make such inspection or audit as the Executive Officer deems appropriate, and shall be permitted access to the premises of a Licensed or Franchised facility at all reasonable times during business hours with or without notice or at

such other times with 24 hours notice after the Franchise or License is granted to assure compliance with this chapter, the Code, Franchise or License agreement, and administrative procedures and performance standards adopted pursuant to Section 37 of this Ordinance.

(b) Inspections or audits authorized under subsection (a) of this Section shall occur regularly and as determined necessary by the Executive Officer. Results of each inspection shall be reported on a standard form specified by the Executive Officer.

(c) The Executive Officer shall have access to and may examine during such inspections or audits any records pertinent in the opinion of the Executive Officer to the License or Franchise, including but not limited to the books, papers, records, equipment, blueprints, operation and maintenance records and logs and operating rules and procedures of the Licensee or Franchisee.

(d) Nothing in this section precludes Metro from inspecting a certified or exempted operation to verify that the operation is being conducted in a manner that qualifies as a certified or exempted Activity or from taking any appropriate enforcement action.

SECTION 40. Section 41 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 41.

Record-keeping and Reporting

(a) Franchisees and licensees shall maintain accurate records of the information required by the Executive Officer and shall report such required information on the forms or in the format and within the reporting periods and deadlines established by the Executive Officer. Reports shall be signed and certified as accurate by an authorized representative of the Licensee or Franchisee.

(b) Licensees or Franchisees shall maintain evidence of all financial assurance mechanisms unless or until the Licensee or Franchisee is released from the financial assurance requirements as specified in this chapter.

(c) Licensees or Franchisees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the regulation of a Solid Waste facility within five days of the receipt or provision of the correspondence or information.

(d) Licensees or Franchisees shall maintain records of any written complaints received from the public or a customer, including but not limited to, information on the nature of the complaint, name, address and phone number of the complainant, date the complaint was received and any action taken to respond to the complaint.

(e) All records required by this chapter shall be retained by the Licensee, Franchisee or its operator for three years and shall be available for inspection by the Executive Officer.

(f) All information submitted by the Licensee or Franchisee shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portion of the records and reports for which the Licensee or Franchisee requests exception from disclosure consistent with Oregon Law.

SECTION 42. Metro Code Section 5.01.140 is amended to read:

5.01.140 License and Franchise Fees

(a) ~~The council shall establish an annual franchise fee which it may revise at any time upon 30 days written notice to each franchisee and an opportunity to be heard~~ The annual fee for all solid waste licensees-License shall not exceed three hundred dollars (\$300), and the annual fee for a solid waste Franchise shall not exceed five hundred dollars (\$500). The Council may revise these fees upon 90 days written notice to each Licensee or Franchisee and an opportunity to be heard.-

(b) The ~~License or franchise~~ Franchise fee shall be in addition to any other fee, tax or charge imposed upon a ~~Licensee or franchisee~~ Franchisee.

(c) The ~~Licensee or franchisee~~ Franchisee shall pay the ~~License or franchise~~ Franchise fee in the manner and at the time required by the ~~district~~ Executive Officer.

SECTION 43. Metro Code Section 5.01.150 is amended to read:

5.01.150 User Fees

(a) Notwithstanding section 5.01.040050(a)(2) of this chapter, the council will set user fees annually, and more frequently if necessary, which fees shall apply to ~~processing facilities, transfer stations, resource recovery~~ Solid Waste Facilities ~~facilities~~ or disposal sites which are owned, operated, Licensed, or franchised ~~Franchised~~ by the district or which are liable for payment of user fees pursuant to a special agreement with the district.

(b) User fees shall not apply to:

- (1) Non-putrescible Wastes ~~wastes received-accepted at franchised or licensed~~ a Licensed or Franchised Solid Waste Facility ~~facilities that accomplish-is~~ authorized to perform only materials ~~Materials recovery-Recovery and-or recycling~~ Recycling Activities as a primary operation., or

- ~~(2) User fees shall not apply to wastes-Petroleum Contaminated Soils received accepted at franchised-Certified facilities that treat petroleum contaminated soil to applicable DEQ standards, or~~
- ~~(3) -or-to-Source-separated yard debris accepted at Licensed yard debris processing facilities or yard debris reload facilities, or~~
- ~~(4) Wastes accepted at a Licensed or Franchised Solid Waste Facility that delivers Putrescible Waste to a Transfer Station owned, operated or Franchised by the District, or to the District's contract operator for the disposal of Putrescible Waste; and that delivers Non-Putrescible Waste and Processing Residuals to: (A) a Licensed or Franchised facility that is authorized to perform only Materials Recovery or Recycling Activities, or (B) to a Solid Waste Facility or Disposal Site listed as a Metro Designated Facility in Chapter 5.05, or (C) another facility or disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05, provided that the Person holding the Non-System License and License or Franchise pays all fees and taxes required by this Code, or~~
- ~~(5) Useful Material that is accepted at a Disposal Site that is listed as a Metro Designated Facility in Chapter 5.05 or accepted at a Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05, provided that the Useful Material: (A) is not Recyclable Material, material that can be Reused, organic material suitable for making Compost, or material that can be used productively in the preparation of fuel; (B) is intended to be used, and is in fact used, productively in the operation of the Disposal Site such as for roadbeds or alternative daily cover, and (C) is accepted at the Disposal Site at no charge.~~

~~(c) Notwithstanding any other provision of this Code, user fees shall apply to petroleum contaminated soils disposed of by landfilling.~~

~~(bd) User fees shall be in addition to any other fee, tax or charge imposed upon a processing facility, transfer station, resource recovery facilitySolid Waste Facility or disposal siteDisposal Site.~~

~~(ee) User fees shall be separately stated upon records of the processing facility, transfer station, resource recovery facilitySolid Waste Facility or disposal site.~~

~~(df) User fees and finance charges on user fees shall be paid as specified in Metro Code section 5.02.055.~~

~~(eg) There is no liability for user fees on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with the district stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. User fees may not be deemed uncollectible unless the underlying account is also uncollectible. If the fees have previously been paid, a deduction may be taken from the next payment due to the district for the amount found worthless and charged~~

off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

(fh) All user fees shall be paid in the form of a remittance payable to the district. All user fees received by the district shall be deposited in the solid waste operating fund and used only for the administration, implementation, operation and enforcement of the Regional Solid Waste Management Plan.

(i) Certificate, License or Franchise holders are eligible to apply for and receive Regional System Fee Credits pursuant to section 5.02.047 of the Metro Code.

SECTION 44 Metro Code Section 5.01.160 is repealed.

SECTION 45. Metro Code Section 5.01.170 is repealed and Section 46 of this Ordinance is enacted in lieu thereof.

SECTION 46.

Determination of Rates

(a) The Metro Council may establish facility Rates upon finding that setting such rates is in the public interest as a matter of metropolitan concern..

(b) Notwithstanding any other provision of this Section,

- (1) Holders of Certificates or Licensees shall be exempt from all rate setting; and
- (2) Franchisees shall be exempt from rate setting unless rate setting is required as a condition of their Franchise.

ENFORCEMENT AND APPEALS

SECTION 47. Metro Code Section 5.01.180 is amended to read:

5.01.180 Enforcement of Franchise or License Provisions; Appeal

(a) The ~~executive officer~~Executive Officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke, a Certificate, franchise or licenseLicense or Franchise as provided in this section. If, in the opinion of the ~~executive officer~~Executive Officer, there is sufficient evidence to suspend, modify, or to revoke a Certificate, License or Franchise~~franchise or license~~, the ~~executive officer~~Executive Officer shall

notify the Certificate holder, Licensee or Franchisee~~franchisee or licensee~~ in writing of the alleged violation, and the steps necessary to be taken to cure the violation. Upon a finding that violation exists and that the Certificate holder, franchisee or licensee~~Licensee or Franchisee~~ is unable to or refuses to cure the violation within a reasonable time after receiving written notice thereof, the ~~executive officer~~Executive Officer may provide notice to the Certificate holder, franchisee or licensee~~Licensee or Franchisee~~ that penalties pursuant to Section 49 of this Ordinance shall be imposed or that the Certificate, franchise or license~~License or Franchise~~ is suspended, modified or revoked.

(b) The notice authorized by this subsection shall be based upon the ~~executive officer~~Executive Officer's finding that the Certificate holder, franchisee or licensee~~Licensee or Franchisee~~ has:

- (1) Violated the Certificate, franchise or license~~License or Franchise~~ agreement, the administrative procedures or performance standards issued by the Executive Officer, this chapter, the Code, state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or
- (2) Misrepresented material facts or information in the Certificate, License or Franchise~~franchise or license~~ application, ~~annual operating report~~, or other information required to be submitted to the district;
- (3) Refused to provide adequate service at a franchised site, facility or station, after written notification and reasonable opportunity to do so;
- (4) Misrepresented the gross receipts from the operation of the franchised site, facility or station;
- (5) Failed to pay when due the fees required to be paid under this chapter; or
- (6) Been found to be in violation of a city or county ~~solid waste management ordinance~~ if such ordinances require ~~licensees~~Licenses or ~~franchisees~~Franchisees to comply with the Metro solid waste facility regulation code.

(c) Except as provided in subsection (d) of this section, the ~~executive officer~~Executive Officer's revocation, modification or suspension of a ~~franchise~~Franchise shall not become effective until the ~~franchisee~~Franchisee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(d) Upon a finding of serious danger to the public health or safety as a result of the actions or inactions of a ~~franchisee~~Franchisee or ~~licensee~~Licensee under this chapter, the ~~executive officer~~Executive Officer may in accordance with Code chapter 2.05 immediately suspend the ~~franchise~~Franchise or ~~license~~License and may take whatever steps may be necessary to abate the danger. In addition, in the case of a ~~franchise~~Franchise, the ~~executive officer~~Executive Officer may authorize another ~~franchisee~~Franchisee or another person to provide service or to use and operate

the site, station, facilities and equipment of an affected franchisee ~~Franchisee~~ for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a franchisee ~~Franchisee~~ is immediately suspended, the franchisee ~~Franchisee~~ shall have 90 days from the date of such action to request a contested case hearing in accordance with Code chapter 2.05.

(e) Upon revocation or refusal to renew the franchise or license ~~License or Franchisee~~:

~~(1) All rights of the franchisee or licensee Licensee or Franchisee in the franchise or license License or Franchise shall immediately be divested. If a franchise is awarded to a new franchisee, the district may require the owner or prior franchisee to sell to the new franchisee the owner's or prior franchisee's interest or a leasehold interest in the real property relating to the operation of the prior franchisee. In such a case the new franchisee shall pay an amount equal to the fair market value of the ownership or leasehold interest in the real property as soon as that amount can be determined. In any event, the prior franchisee immediately upon revocation or expiration of the franchise shall vacate the property, and the new franchisee shall have the right to occupy and use the real property so as to allow continuity of service. In addition, at the option of the new franchisee, the prior franchisee shall, upon sale or lease of the real property, convey any or all personal property relating to the operation for the fair market value of such property.~~

~~(2) If the prior franchisee whose franchise is revoked or refused renewal under this section is not the owner of the property, the owner may only be required under this section to transfer the same property interest that the owner disclosed in the consent form submitted pursuant to section 5.01.060(b)(6) of this chapter.~~

SECTION 48. Metro Code Section 5.01.190 "Right to Purchase" is repealed.

SECTION 49. Metro Code Section 5.01.200 is amended to read:

5.01.200 Penalties

~~(a) Each violation of this chapter shall be punishable by a fine of not more than \$500. Each day a violation continues constitutes a separate violation. Separate offenses may be joined in one indictment or complaint or information in several counts.~~

~~(b) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by the district upon suit in a court of competent jurisdiction and shall also be subject to a civil penalty not to exceed \$500 per day for each day of violation.~~

(a) Upon a finding that a Certificate holder, Licensee or Franchisee is in violation of this chapter, the Code, the Certificate, License or Franchise agreement, or the administrative procedures or performance standards adopted pursuant to Section 37 of this Ordinance during an inspection or audit conducted pursuant to Section 39 of this Ordinance, the Executive Officer shall provide written notice to the Certificate holder, Licensee or Franchisee describing the violation at the time of the inspection, and requiring the licensee to correct the violation within the time specified on the notice.

(b) Upon a finding that the Certificate holder, Licensee or Franchisee has failed to abate the violation within the specified time period, the Executive Officer shall issue a citation, indicating the continuing violation, the date of reinspection and imposing a fine of \$500.00 on licensees or Franchisees, and no fine (\$0.00) on Certificate holders.

(c) If after reinspection, the Executive Officer finds the Certificate holder, licensee or Franchisee has failed to abate the violation, such violation shall be punishable by a fine of \$1,000.00 on licensees or Franchisees, and no fine (\$0.00) on Certificate holders. Notice of a final deadline for abating the violation shall be given at the time of reinspection.

(d) Upon a finding that the Certificate holder, licensee or Franchisee has failed to abate the violation after the final deadline, the licensee or Franchisee shall be required to cease performing the Activity resulting in the violation.

(e) Further inspections shall be conducted to ensure suspension of the offending Activity. If the Certificate holder, licensee or Franchisee has failed to suspend the offending Activity, the Executive Officer shall conduct an investigation which may result in the:

(1) Imposition of a remedy suitable to the District to be implemented by and at the expense of the Certificate holder, licensee or Franchisee;

(2) Suspension of all solid waste Activities on site;

(3) Imposition of a lien on the property for the amount of the fines; or

(4) Suspension, modification or revocation of the Certificate, License or Franchise pursuant to Section 5.01.170.

(f) After two citations for the same infraction within a 12-month period, the fine specified in section (c) above shall double each time the Licensee or Franchisee is cited for the same infraction within the 12-month period beginning with the date of the citation for the second infraction.

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by the District upon suit in a court of competent jurisdiction and shall also be subject to a civil penalty not to exceed \$500 per day for each day of violation.

(h) Any violations discovered by the inspection or audit shall be subject to the penalties provided in Section 49 of this Ordinance.

SECTION 50. Metro Code Sections 5.01.210 "Acceptance of Tires at a Disposal Site" and 5.01.220 "Additional Provisions Relating to Issuance of a Franchise for Petroleum Contaminated Soil" are repealed.

SECTION 51. Metro Code Sections 5.01.230, 5.01.240, 5.01.250, 5.01.260, 5.01.270, 5.01.280, 5.01.290, 5.01.300, 5.01.310 5.01.320 5.01.330 5.01.340 5.01.350 5.01.360 and 5.01.370 5.01.380 (Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities) are repealed.

MISCELLANEOUS PROVISIONS

SECTION 52. Section 53 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 53.

Treatment of Existing Licenses and Franchises

(a) Licenses and Franchises issued prior to the effective date of this chapter will be governed by the prior version of this chapter until the term of the Franchise has expired.

(b) Licenses and Franchises issued prior to the effective date of this chapter may be exchanged for a new License or Franchise to be governed by this chapter. The Executive Officer may waive the License or Franchise application requirements for Licenses or Franchises issued prior to the effective date of this chapter.

(c) Section 53(b) of this Ordinance is repealed January 1, 1999.

SECTION 54. Section 55 of this Ordinance is added to and made a part of Metro Code Chapter 5.01.

SECTION 55

Miscellaneous Provisions

(a) The Executive Officer shall be responsible for the administration and enforcement of this chapter.

(b) The granting of a Certificate, License or Franchise shall not vest any right or privilege in the Licensee or Franchisee to receive specific quantities of Solid Waste during the term of the License or Franchise.

(c) The power and right to regulate, in the public interest, the exercise of the privileges granted by a License or Franchise shall at all times be vested in the District. The District reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against holders of Certificates, Licenses or Franchises.

(d) To be effective, a waiver of any term or condition of a Certificate, License or Franchise must be in writing, signed by the Executive Officer. Waiver of a term or conditions of a Certificate, License or Franchise shall not waive nor prejudice the District's right of the District otherwise to require performance of the same term or conditions or any other term or condition.

(e) A Certificate, License or Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

(f) If any provision of a Certificate, License or Franchise 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 Certificate, License or Franchise shall not be affected.

(g) Nothing in this chapter is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to yard debris facilities that it is authorized or required to enforce or administer.

(h) Nothing in this chapter shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

(i) Nothing in this chapter is intended to establish standards or other regulatory requirements for inadvertent composting resulting from the storage of organic materials.

SECTION 56. Metro Code Section 5.02.015 (i) is amended to read:

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

SECTION 57. Metro Code Section 5.02.047 is amended to read:

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

SECTION 58. The amendments to the Metro Code provided for in Sections 1 through 57 of this Ordinance shall take effect on July 1, 1998.

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

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

STAFF REPORT

IN CONSIDERATION OF ORDINANCE 98-762, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 REGARDING SOLID WASTE FACILITY REGULATION AND MAKING RELATED ADJUSTMENTS TO CHAPTER 5.02

Date: May 28, 1998

Presented by: Bruce Warner,
Doug Anderson

I. BACKGROUND

Origin of the Code Revision

Metro's solid waste code has not been comprehensively revised since 1981. Although successful revisions have been made over the years – the licensing of yard debris processors, for example – regulation of other facilities still requires use of outdated and administratively complex franchise procedures.

The code revision brought forward by this ordinance is the culmination of work conducted by the Regional Environmental Management Department, the Solid Waste Advisory Committee and the Office of General Counsel. The proposed code is intended to be responsive to concerns raised by the Office of the Auditor in their review of the franchise system.

Purpose of Code Revision

While there are many reasons for the Code revision, there has been general agreement during the development of the proposed code on at least three:

- The current code is outdated; a revised code is needed to position the region for the future.

The existing code was written under the assumption that Metro would either procure (or at a minimum franchise) all significant solid waste facilities in the region. The current code does not have the flexibility to manage an emerging system of diverse private and often multiple-purpose processing, recovery and disposal facilities.

- The code should reflect the management goals and objectives of the recently adopted Regional Solid Waste Management Plan.

The existing code has not been updated to reflect the goals and objectives contained in the Plan that was adopted in 1995. The Plan relies on private initiative to achieve many regional goals. The proposed code revision will provide regulatory instruments and incentives necessary to implement the adopted Plan.

- The current code approach to regulation focuses on entry requirements and is unclear on an operator's obligations after entering the system.

There is a perception in the regulated community that requirements are inappropriate or arbitrary and that similar facilities are treated differently. Under the current code, many obligations of regulated facilities are set out only in individual franchises. The proposed code revision will clarify both entry requirements and specify the performance standards a facility must meet. This

will improve both the efficiency and effectiveness with which the code can be administered and provide a level playing field for the regulated community.

SWAC Recommendations Regarding Solid Waste Facilities

In April 1997, Metro's Solid Waste Advisory Committee voted to recommend the Regional Solid Waste Management Plan be revised to make it clear that reload facilities may haul waste to "appropriate" facilities. While the proposed amendment did not alter a critical Plan recommendation not to add any new transfer stations to the system of Metro Central, Metro South and Forest Grove, the amendment did appear to allow "direct-haul" to Columbia Ridge. This issue had not been discussed during development of the Plan and it was apparent to both the Department and SWAC that a thorough investigation of the consequences of direct-haul was needed.

Over the next twelve months, SWAC and a working subcommittee explored a variety of issues related to direct-haul, including: how to mitigate the potential impact of additional transport contractors hauling in the Gorge; how recovery and transfer operations can exist in the same facility; and how Metro could keep benefits from Change Order 7 of the disposal contract.

The proposed code revision would allow direct-haul but only under conditions that address the concerns raised by the Department, SWAC members and other interested parties during these discussions. The original SWAC amendment clarifying that the Plan allows haul to "appropriate" facilities (i.e. including direct-haul) is, therefore, being brought forward under separate ordinance with this code revision. The amendment will make the proposed code unambiguously consistent with the RSWMP.

II. OVERVIEW OF CHANGES

In drafting the revised code, the Department and the Office of General Counsel focused on the following objectives:

- To improve flexibility for accommodating a changing regulatory environment.
- To reflect the system management policies of the Regional Solid Waste Management Plan (RSWMP).
- To improve and clarify Metro's regulatory structure.
- To provide a level playing field for the solid waste industry.
- To streamline administration.
- To implement recommendations of the Regional Solid Waste Advisory Committee (SWAC) relating to solid waste facilities.
- To implement Metro's new rate structure.

To achieve the above objectives, the revised code is structured along the four following lines:

- **A Tiered Regulatory System of Franchises, Licenses, Certificates and Exemptions – Regulation Based on Activities**

Under the revised code, the standard regulatory instrument is a license — to which certain conditions may be attached — but which is consistent with the idea that Metro is granting permission to operate, rather than exclusive rights to certain solid waste enterprises.

However, the revised code remains consistent with the 1995 Regional Solid Waste Management Plan wherein public initiative and franchises are reserved for major system components (e.g., regional transfer stations and landfills), and relies on private initiative for other facilities (MRFs, reloads, processors).

Regulation or exemption is based on activities (examples: transfer, resource recovery, composting, recycling), wastes received at the facility (examples: putrescible waste, non-putrescible waste, source-separated organics), and scale of operation (i.e. tonnage levels).

- **Revised Entry Requirements**

The revised code recognizes and provides for a much larger role for private initiative than the current code. Accordingly, the revised code de-emphasizes the requirements for entry into the system, and puts greater emphasis on obligations of solid waste facility operators—once they are in the system. The shift from high entry requirements to the establishment of eligibility for entry is carried out through:

- Pre-application conference.

This is a “mutual education” meeting to establish intentions and responsibilities of both Metro and the potential applicant.

- Applicant commits to specific activities and receipt of specific waste streams.

These determine the specific obligations of the facility, and become the basis for inspection to determine whether the obligations are being met.

- Demonstrate compliance with the regulations of all local, state, federal, and other jurisdictions having authority over the activity.

Metro will grant permission to operate only if the facility is in compliance with other agency's regulations.

- Demonstrate closure plan & solvency (consistent with DEQ)

Metro wants to assure that there will not be a health or safety risk, or public liability in the event of temporary or permanent closure.

- **Obligations and Performance Standards**

Although entry conditions may be lower, there remains a public interest in the manner by which solid waste facilities are operated—waste reduction goals and nuisance control, for example. In the revised code, obligations, limits, and responsibilities of solid waste facilities are clearly laid out.

To determine whether facilities are meeting their obligations, the revised code lays out a uniform approach to measurement, inspection and enforcement. This uniform approach is also designed to provide a level playing field for all operators.

The obligations of the facility operator are determined by the specific activities and wastes received at the facility. These become the basis for inspection and performance. Examples:

- To ensure that solid waste is safely received, handled, stored, and shipped.
- To ensure that solid waste shipped from the site goes to appropriate destinations
- To allow access for inspection and audits.

- To ensure that nuisances remain on site to the extent necessary to meet local land use regulations.
- To comply with all applicable local (e.g., land use), state (e.g., DEQ), and federal (e.g., EPA, OSHA) requirements and regulations.

- **Administrative Procedures**

In order to remain flexible and able to respond to changing conditions, the code also direct development of administrative procedures for implementing the policies articulated in the code, including but not limited to application, inspection and enforcement procedures.

The code sets parameters for administrative procedures that will:

- Establish procedures for submitting, reviewing, and acting on certificates, licenses, and franchise application. Examples include:
 - ◆ Application forms and instructions
 - ◆ Departmental review procedures and schedules
 - ◆ Procedures for public notice and comment periods
 - ◆ Notice of results
- State clearly the rules and methods for inspection.
 - ◆ Physical inspection
 - ◆ Audit access
 - ◆ Status of complaints from 3rd parties
- Provide clear, unambiguous, and escalating penalties for non-compliance.
 - ◆ Immediate notice when non-compliant plus reasonable time to correct.
 - ◆ Escalating penalties for non-compliance
 - ◆ Appeal procedure.

III. CONSISTENCY WITH REGIONAL SOLID WASTE MANAGEMENT PLAN

The proposed code incorporates important goals and objectives contained in the adopted Regional Solid Waste Management Plan. Foremost amongst these are:

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

Staff finds that the proposed code provides more appropriate levels of regulation for the new types of solid waste facilities emerging in the region. The Code provides regulatory instruments that can be adapted to facilities that receive waste types or conduct processing activities not strictly defined in the code.

Goal 3 Economics –“The costs and benefits to the solid waste system as a whole are the basis for assessing and implementing alternative management practices.”

Objective 3.1 System Cost – “System cost (the sum of collection, hauling, processing, transfer and disposal) is the primary criterion used when evaluating the direct costs of alternative solid waste practices rather than only considering the effects on individual parts of the system.”

Consistent with the system cost objective, the proposed code requires facilities of regional importance (for example, landfills and regional transfer stations) to demonstrate that they are of benefit to the regional system as a whole.

IV. METRO COUNCIL AND EXECUTIVE OFFICER RESPONSIBILITIES

Issuance of regulatory instruments (certificates, licenses and franchises) is typically an administrative function. This function is currently legislative (*i.e.*, a Council action) because the existing Code was written under the assumption that procurement of franchises would lead to contractual relationships analogous to the major system contracts for the transfer stations, transport and disposal of waste.

Under the proposed Code, issuance of certificates, licenses, and franchises would be administrative, while Council would retain the ability to act on any individual franchise where it had not set policy (e.g. a facility that burned solid waste for energy recovery). Council could also decide on a case by case basis by “calling up” a franchise for review and approval. This approach would allow Council to continue to oversee policy, with the Executive Officer responsible for the administration of the regulatory system.

V. BUDGET IMPACT

The potential impacts on Metro’s budget detailed in the fiscal impact analyses below assume that changes occur at the beginning of the fiscal year. In reality, a few months will pass before facilities could change their operation in response to Code revisions.

Fiscal Impact on Metro’s Solid Waste Revenue Fund

Currently, all putrescible wastes are delivered to Metro regional transfer stations. The proposed code revision would allow facilities to seek a license to haul such wastes directly to Metro’s contract operator for disposal of putrescible wastes at Columbia Ridge landfill.

If facility operators choose to utilize this option, the diversion of wastes from Metro transfer stations will reduce Metro’s Solid Waste Revenue Fund’s gross revenues. Much of this revenue loss will be offset by a corresponding reduction in expenditures - that is, Metro will not have to pay for transfer, transport and disposal of the wastes. However, some fixed Metro expenses may not be covered when transfer station tonnage flows decline. In addition, Metro contracts for disposal and transfer station operation include terms that result in lower average costs under higher tonnage.

Metro’s disposal contract under Change Order 7 has significantly lower unit costs at higher tonnage. However, under the proposed code, facilities doing direct-haul will deliver their wastes under that contract and Metro will continue to benefit. Consequently, there is no impact on disposal costs assuming that all putrescible wastes diverted from Metro transfer stations for direct-haul arrive at Columbia Ridge.

Metro transport costs are now almost entirely variable so loss of tonnage at Metro transfer stations should have a negligible fiscal impact.

All solid waste disposed of from the region is assessed a Regional System Fee. As with disposal, if the amount of waste diverted from Metro's transfer station equals the amount disposed, total revenues from the fee remain the same under direct-haul.

The Department constructed two scenarios to assess the fiscal impact of direct-haul to Columbia Ridge, mainly to quantify expenses that might not be covered when Metro transfer station flows decline. The first or "three facility" scenario is considered the most probable scenario. The amount of waste hauled under the scenario is based on facility operators' statements. Under this scenario, the following facilities were assumed to begin direct-hauling: Willamette Resources, Inc, in Wilsonville; Recycle America, in Troutdale; and Pride Disposal Inc. in Sherwood. A second scenario, less likely to occur in the immediate future, was constructed to assess the impact if additional facilities choose to direct-haul. Under this second or "five facility" scenario, it was assumed that two more facilities would ask to direct haul. The Department believes it would be difficult to assume there is either need or demand for more than five facilities doing direct-haul.

Under both scenarios, total disposal from any individual facility is limited to 50,000 tons per year. Total disposal includes both residuals from dry waste materials processing and putrescible wastes that are direct-hauled to Columbia Ridge. This assumption is based on the conditions that will be required of facilities doing direct-haul in the proposed code revision.

The analysis did not assess the impact of a facility direct-hauling more than 50,000 tons per year. The proposed code revision would require that such a facility be approved as a regional transfer station. A Regional Solid Waste Management Plan amendment would also be required before any new regional transfer station facility was authorized.

Under both scenarios, reductions are shown only when revenues and costs are not matched dollar-for-dollar. For example, revenue reductions from transportation/disposal fees are not shown, because there is a correspondent reduction in transportation/disposal costs.

Under the three facility scenario 88,400 tons are diverted from Metro Central and Metro South transfer stations. The diversion results in \$715,000 in reduced revenues from the Transaction Fee, Metro Facility Fee and Regional Transfer Charge. Expenditure reductions resulting from lower costs under the operations contract total \$508,000. The difference between these reduced revenues and expenditures is a loss of \$207,000 or a loss of \$2.34 per ton diverted to direct-haul facilities.

Under the five facility scenario 174,280 tons are diverted from Metro Central and Metro South transfer stations. The diversion results in \$1,409,000 in reduced revenues from the Transaction Fee, Metro Facility Fee and Regional Transfer Charge. Expenditure reductions resulting from lower costs under the operations contract total \$986,000. The difference between these reduced revenues and expenditures is a loss of \$423,000 or a loss of \$2.43 per ton diverted to direct-haul facilities.

In both scenarios, Metro accepted the projections of two of the facility operators about the proportion of "wet and dry" wastes they would take and still remain within the 50,000 ton total disposal limitation. Under their projections, the facilities expect to take less dry wastes than they are currently taking as MRFs. The Department is not able to predict where these dry wastes might go. They could go to another MRF for processing, direct to disposal at local limited purpose landfill or, although much less likely, to Metro transfer stations. Both scenarios assume that slightly over 48,000 tons of dry waste are at issue. If all these tons were to be disposed instead of going to a MRF, the recovery loss to the region could be 23,000 tons. In addition, Metro would collect the Regional System Fee on all tons disposed. These revenues would offset some of the net revenue fund loss under both scenarios.

Fiscal Impact on Excise Tax Revenues

Excise taxes collected on services provided by Metro transfer stations and private solid waste facilities regulated by Metro represent about 85 percent of total excise taxes collected by the agency.

The proposed code revision would not affect excise tax revenues unless existing or new facilities applied for and received licenses or franchises to accept putrescible wastes and direct haul those wastes to Metro's disposal contractor at Columbia Ridge Landfill. Under the current excise code, such facilities would lose their exemption from excise taxes on incoming waste because they would no longer be considered a facility that "accomplishes material recovery and recycling as a primary operation" (s.7.01.050 (a)(6) of the Metro Code).

For facilities that lose this tax exemption, Metro could receive an estimated \$1.76 in additional excise taxes for each ton of non-putrescible waste accepted at these facilities. Only non-putrescible (dry waste) tons are affected because Metro currently collects the full excise tax on putrescible (wet waste) tons that are delivered to Metro transfer stations. This assumes that these facilities would charge the equivalent of Metro's Tip Fee for incoming dry waste. Under the three-facility scenario, Metro could receive additional excise tax revenues of \$109,000 assuming total incoming non-putrescible waste of 62,000 tons. Under five-facility scenario, Metro would receive additional excise tax revenues of \$270,000 assuming total incoming non-putrescible waste of 153,000 tons. Excise tax collection could be even greater if additional dry waste is diverted to landfills, rather than being sent to these facilities as described in "Fiscal Impact on the Solid Waste Revenue Fund" above.

Because the excise tax exemption for material recovery and recycling was created at a time when solid waste facilities performed single activities, the Department will submit a separate ordinance to amend the excise tax code to preserve the agency's tax incentive for material recovery for facilities that perform multiple activities.

Impact on Rehabilitation and Enhancement Funds:

Metro would no longer be collecting the per-ton fees distributed to local communities' funds on tons diverted to direct-haul. This could amount to \$44,000 under the three-facility scenario and \$87,000 under the five-facility scenario. Local governments would still have the option to collect such fees themselves.

Staffing Requirements

The proposed code de-emphasizes the requirements for entry into the system and puts greater emphasis on obligations to perform once in the system. The performance standard approach of the proposed code will require more Metro staff resources in the field to conduct the necessary inspections and audits. The Department has determined that these additional staffing needs can be met through vacant positions held open for this purpose and the reassignment of duties among existing staff.

VI. EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance 98-762.

Agenda Item Number 8.1

Ordinance No. 98-740, An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule by transferring \$45,469 from Capital Outlay to Debt Service in the General Revenue Bond Fund for the Purpose of Correcting a Technical Error, and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98)
BUDGET AND APPROPRIATIONS)
SCHEDULE BY TRANSFERRING \$45,469)
FROM CAPITAL OUTLAY TO DEBT SERVICE)
IN THE GENERAL REVENUE BOND FUND)
FOR THE PURPOSE OF CORRECTING A)
TECHNICAL ERROR, AND DECLARING AN)
EMERGENCY)

ORDINANCE NO. 98-740

Introduced by Mike Burton,
Executive Officer

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$45,469 from capital outlay to debt service in the General Revenue Bond Fund for the purpose of correcting a technical error.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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
Ordinance Number 98-740
General Revenue Bond Fund

FISCAL YEAR 1997-98		Current Budget		Revision		Proposed Budget	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<u>Capital Outlay</u>							
METRO REGIONAL CENTER							
571500	Purchases-Office Furniture & Equipment		23,200		0		23,200
574520	Const. Work/Materials-Bldgs, Exhibits & Rel.		0		0		0
	Total Capital Outlay		23,200		0		23,200
	TOTAL CONSTRUCTION ACCOUNT		23,200		0		23,200
<u>Materials & Services</u>							
WASHINGTON PARK PARKING LOT							
528100	Payments to Other Agencies		0		0		0
	Total Materials & Services		0		0		0
<u>Capital Outlay</u>							
WASHINGTON PARK PARKING LOT							
574510	Construction Work - Improvement other than Bldgs.		500,000		(45,469)		454,531
	Total Capital Outlay		500,000		(45,469)		454,531
	TOTAL PROJECT ACCOUNT		500,000		(45,469)		454,531
<u>Debt Service</u>							
METRO REGIONAL CENTER							
533210	Revenue Bond-Principal						
	* Office Bldng		303,413		0		303,413
	* Parking Structure		71,587		0		71,587
533220	Revenue Bond-Interest						
	* Office Bldng		1,023,137		0		1,023,137
	* Parking Structure		241,400		0		241,400
WASHINGTON PARK PARKING LOT							
532120	Interest payment		130,685		45,469		176,154
	Total Debt Service		1,770,222		45,469		1,815,691
	TOTAL DEBT SERVICE ACCOUNT		1,770,222		45,469		1,815,691
<u>Interfund Transfers</u>							
METRO REGIONAL CENTER							
583513	Trans. Direct Costs to Building Management Fund		20,000		0		20,000
	Total Interfund Transfers		20,000		0		20,000

Exhibit A
Ordinance Number 98-740
General Revenue Bond Fund

FISCAL YEAR 1997-98		Current Budget		Revision		Proposed Budget	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<u>Contingency and Unappropriated Balance</u>							
599999	Contingency						
	* Renewal & Replacement Account (Metro Reg. Center)		460,593		0		460,593
599990	Unappropriated Balance						
	* Construction Account (Metro Reg. Center)		0		0		0
	* Renewal & Replacement Account (Metro Reg. Center)		0		0		0
	* Debt Service Account (Metro Reg. Center)		0		0		0
	* Debt Reserve (Metro Regional Center)		1,884,020		0		1,884,020
	Total Contingency and Unapp. Balance		2,344,613		0		2,344,613
	TOTAL FUND REQUIREMENTS		4,658,035		0		4,658,035

Exhibit B
Ordinance No. 98-740
FY 1997-98 SCHEDULE OF APPROPRIATIONS

	Current Budget	Revision	Proposed Budget
GENERAL REVENUE BOND FUND			
Construction Account			
Capital Outlay	\$23,200	\$0	\$23,200
Subtotal	23,200	0	23,200
Project Account			
Capital Outlay	500,000	(45,469)	454,531
Subtotal	500,000	(45,469)	454,531
Debt Service Account			
Debt Service	1,770,222	45,469	1,815,691
Subtotal	1,770,222	45,469	1,815,691
General Expenses			
Interfund Transfers	20,000	0	20,000
Contingency	460,593	0	460,593
Subtotal	480,593	0	480,593
Unappropriated Balance	1,884,020	0	1,884,020
Total Fund Requirements	\$4,658,035	\$0	\$4,658,035

ALL OTHER APPROPRIATIONS REMAIN AS ADOPTED

STAFF REPORT

CONSIDERATION OF ORDINANCE 98-740 AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING \$45,469 FROM CAPITAL OUTLAY TO DEBT SERVICE IN THE GENERAL REVENUE BOND FUND FOR THE PURPOSE OF CORRECTING A TECHNICAL ERROR, AND DECLARING AN EMERGENCY.

Date: March 23, 1998

Presented by: Craig Prosser

FACTUAL BACKGROUND AND ANALYSIS

Ordinance 98-740 amends the FY 1997-98 budget to correct a technical error in the General Revenue Bond Fund.

The General Revenue Bond Fund includes debt service payments due to the Oregon Economic Development Department (OEDD) for the loan Metro received to pay for its contribution to the Westside Light Rail project and reconfiguration of the Washington Park parking lot. Debt service payments due are established by the loan agreement between OEDD and Metro.

The FY 1997-98 budget inadvertently understated the amount of debt service due by \$45,469 and overstated the amount available for capital outlay by the same amount. This amendment corrects that error and allows Metro to make the full debt service payment due without overspending the adopted budget.

BUDGET IMPACT

This ordinance transfers appropriation from capital outlay to debt service. The capital outlay category is projected to be underspent by \$50,000. In FY 1997-98 debt service payments are made from capitalized interest included within the loan amount. (In future years, these payments will be made from parking revenues.) Due to the error in the debt service schedule, the capital outlay category was inadvertently over budgeted by \$45,469. This amendment corrects that error.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 98-740.

CP:CY:rs

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Agenda Item Number 8.2

Ordinance No. 98-741, For the Purpose of Granting a Yard Debris Processing Facility to McFarlane's Bark, Inc. to Operate a Yard Debris Processing Facility, and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A YARD) ORDINANCE NO. 98-741
DEBRIS PROCESSING FACILITY LICENSE TO)
MCFARLANE'S BARK, INC. TO OPERATE)
A YARD DEBRIS PROCESSING FACILITY) Introduced by Mike Burton,
AND DECLARING AN EMERGENCY) Executive Officer

WHEREAS, Section 5.01.030 of the Metro Code requires an owner or operator of a yard debris processing facility to be licensed by Metro; and

WHEREAS, Section 5.01.040 of the Metro Code requires yard debris processing facilities to comply with the licensing requirements in Chapter 5.01; and

WHEREAS, Metro Code Section 5.01.060(a) requires applications for a license to be filed on forms provided by the Executive Officer, and specifies that licenses are subject to approval by the Council; and

WHEREAS, McFarlane's Bark, Inc. has submitted a yard debris processing facility license application to operate its existing yard debris composting facility in Milwaukie, Oregon; and

WHEREAS, the Metro Code Chapter 5.01.230 to 5.01.380 sets forth provisions relating to the licensing of yard debris processing facilities; and

WHEREAS, based on information submitted by McFarlane's Bark, Inc., specified in the Staff Report or otherwise submitted, the Executive Officer has found that with the special conditions set forth in the license agreement, the facility is in compliance with applicable provisions and standards in the Metro Code related to the licensing of yard debris processing facilities; and

WHEREAS, the facility is an existing operation providing necessary services to the public; and

WHEREAS, nuisance impacts from yard debris processing facilities such as odor, dust and noise can adversely affect the health, safety, and welfare of the public; and

WHEREAS, the purpose of the licensing agreement is to protect the health, safety, and welfare of Metro area residents; and

WHEREAS, the Council finds that it is necessary for the welfare of the Metro area that this ordinance take effect immediately, pursuant to Sections 37(2) and 39(1) of the Metro Charter; and

WHEREAS, The Executive Officer recommends that the Council grant the attached license to McFarlane's Bark, Inc.; 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 within ten days of the effective date of this ordinance.
2. An emergency having been declared for the reasons stated above, this ordinance shall take effect immediately, pursuant to Sections 37 (2) and 39 (1) of the 1992 Metro Charter.

ADOPTED by the Metro Council this _____ day of _____ 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: _____
DATE ISSUED: _____ (see Section 2)
AMENDMENT DATE: _____ N/A
EXPIRATION DATE: _____
ISSUED TO: _____ MCFARLANE'S BARK, INC.
NAME OF FACILITY: _____ MCFARLANE'S BARK, INC.
ADDRESS: _____ 13345 SE JOHNSON ROAD
CITY, STATE, ZIP: _____ MILWAUKIE, OR 97222
LEGAL DESCRIPTION: _____ (see attached application)
NAME OF OPERATOR: _____ MCFARLANE'S BARK, INC.
PERSON IN CHARGE: _____ DAN MCFARLANE, PRESIDENT
ADDRESS: _____ 13345 SE JOHNSON ROAD
CITY, STATE, ZIP: _____ MILWAUKIE, OREGON 97222
TELEPHONE NUMBER: _____ (503) 659-4240

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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 McFarlane's Bark, Inc. ("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 13345 SE Johnson Road, Milwaukie, Oregon 97222. Tax lot 00202-00400-00402-00802-00803; Section 05, Township 25 South, Range 2 East.

4. OPERATOR AND OWNER OF FACILITY AND PROPERTY

4.1 The owner of the Facility is McFarlane's Bark, Inc.

4.2 The owner of the property underlying the Facility is Marjorie McFarlane, 3964 SE Boise, Portland, Oregon 97202, and Daniel McFarlane, 1515 Windsor Drive, Gladstone, Oregon 97027. Licensee warrants that owner has consented to Licensee's use of the property as described in this License.

4.3 The operator of the Facility is McFarlane's Bark, Inc. 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.

5.2 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

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 Records required under this section shall be reported to Metro no later than thirty (30) days following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of Licensee.

- 6.3 The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, within 30 days 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 The following conditions shall apply:

- (a) Install and maintain effective on-site traffic directional signage and lane marking to manage the flow of traffic within 30 days of the effective date of this License Agreement.
- (b) Implement the proposed operational modifications and site plan improvements (Attachment 4 to the Staff Report-Proposed Operational Modifications), in a substantial and satisfactory manner to control nuisance and traffic impacts by December 1, 1998.
- (c) Within sixty (60) days of the effective date of this License Agreement, the applicant shall increase the density and variety of the tree buffer zone at the facility property lines adjacent to businesses. Replant where trees have died, and plant additional rows of evergreen trees to create a more substantial buffer zone. The trees should be tall and fast growing varieties. Applicant should verify plant material with a landscape architect and/or local nurseries to determine type, availability and performance of plant material.

- 7.1.3 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, but not later than one year after processing is completed.

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

Licensee shall pay an annual license fee of \$300, as established under Metro Code Section 5.01.320. The fee shall be delivered to Metro within thirty (30) days of the effective date of this License and on the same date for each year thereafter. Metro reserves the right to change its license fees at any time, by action of the Metro Council, to reflect license system oversight and enforcement costs.

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 INSUREDS. 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:

Dan McFarlane
McFarlane's Bark, Inc.
13345 SE Johnson Road
Milwaukie, OR 97222

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

Bill Metzler, Licensing Program Administrator
Metro Regional Environmental Management
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.

MCFARLANE'S BARK, INC.

METRO

Facility Owner or
Owner's Representative

Mike Burton, Executive Officer
Metro

Date

Date

BM gbc

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EXECUTIVE SUMMARY

ORDINANCE 98-741 GRANTING A YARD DEBRIS PROCESSING FACILITY LICENSE TO MCFARLANE'S BARK, INC.

PROPOSED ACTION

- Grants a yard debris processing facility license, with conditions, to McFarlane's Bark, Inc. to operate its existing yard debris composting facility located in Milwaukie, Oregon.

WHY NECESSARY

- Metro Code Section 5.01.030 requires an owner or operator of a yard debris processing facility to be licensed by Metro.
- The terms of the license will be to protect public health, safety, and welfare. The declaration of an emergency is required for the license agreement to take effect immediately.

DESCRIPTION

- The site is zoned Light Industrial. The facility was established in 1972, and all such uses were then allowed outright. Clackamas County recognizes the facility as a valid, allowed non-conforming use.
- The facility accepts loads of yard debris from commercial and residential sources. The facility is open to the public.
- The six-acre facility accepts approximately 230,000 cubic yards of yard debris per year (appx. 35,000 tons/year depending on compaction).
- In 1997, the applicant implemented a series of site and operational modifications to reduce odor and dust impacts on surrounding businesses. The modifications included lowering the compost piles and the installation of sprinkler systems to control fugitive dust and odors.
- The applicant is proposing to implement additional facility modifications to improve operations and control nuisance impacts. As part of the implementation plan, the applicant is currently testing a composting aeration system with significantly lower pile heights. It is expected that these modifications will be completed by December 1, 1998.

ISSUES/CONCERNS

- Based on staff's experiences with this facility and discussions with businesses impacted by the McFarlane's Bark operations, staff is aware of concerns regarding nuisance impacts (odor, dust and traffic) associated with the facility operations.
- Since the proposed facility modifications are not yet implemented, and certain operational impacts are not fully resolved, it is staff's recommendation that the License Agreement contain conditions related to traffic management measures, improvements to the landscape buffer zone at the perimeter of the facility adjacent to businesses, and implementation of the applicants proposed operational modifications.

BUDGET / FINANCIAL IMPACTS

- There will be a slight increase in revenues from the annual license fee of \$300 per year paid by the licensee. Current staffing levels are expected to be adequate to handle any technical assistance or enforcement requirements that might arise from licensing this facility.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 98-741 FOR THE PURPOSE OF GRANTING A YARD DEBRIS PROCESSING FACILITY LICENSE TO MCFARLANE'S BARK, INC. TO OPERATE A YARD DEBRIS PROCESSING FACILITY AND DECLARING AN EMERGENCY

Date: April 13, 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 McFarlane's Bark, Inc. be awarded a license, with conditions, to operate a yard debris composting facility located in Milwaukie, Oregon. The license agreement is attached to Ordinance No. 98-741 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:

- Yard debris processing facilities are licensed by the Metro Council if they submit the required plans and show compliance with applicable provisions in Metro Code Chapter 5.01 (Sections 5.01.230 - 5.01.380)
- The applicant has recently implemented a series of site and operational modifications to reduce odor and dust impacts on surrounding businesses. The modifications included lowering the compost piles and the installation of sprinkler systems to control fugitive dust and odors.
- The applicant is proposing to implement additional facility modifications to improve operations and control nuisance impacts (reference Attachment 4). As part of the implementation plan, the applicant is currently testing a composting aeration system with significantly lower pile heights. It is expected that these modifications will be completed by December 1, 1998.
- Staff recommendations include conditions to the License Agreement related to traffic management measures, improvements to the landscape buffer zone at the perimeter of the facility adjacent to businesses, and the applicants proposed operational modifications in Attachment 4.
- The declaration of an emergency is pursuant to the Metro Charter. It is necessary for the welfare of the Metro region that this license agreement takes effect immediately. The facility is an existing operation providing necessary services, and potential nuisance impacts can adversely affect the health and welfare of the public.

I. FACILITY AND APPLICANT INFORMATION

Location

- Facility address: 13345 SE Johnson Road, Milwaukie, Oregon 97222 (see Attachment 1 - Site Location Air Photo).
- The facility lies in Section 05, Township 2 South, Range 2 East, W.M. Clackamas County Oregon. Tax Lot numbers 00202, 00400, 00402, 00802, 00803.

Zoning and Permitting

- The site is zoned I-2, Light Industrial (see Attachment 2 - Zoning Map). The facility was established in 1972, and all such uses were then allowed outright. Clackamas County recognizes the facility as a valid, allowed non-conforming use.
- The applicant is working with the DEQ to obtain a required National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.

General Facility Description

- The six-acre site is owned by Marjorie McFarlane and Daniel McFarlane.
- The facility accepts loads of yard debris from commercial and residential sources. The facility is open to the public.
- The facility accepts for processing approximately 230,000 cubic yards of yard debris per year (appx. 35,000 tons/year depending on compaction). The applicant uses a conversion rate of 300 pounds per cubic yard.
- The facility currently uses a static anaerobic pile composting method. Static anaerobic pile composting consists of placing the mixture of raw (typically ground and mixed) materials in a large pile that is not turned on a regular basis. With this type of composting method, an odor control technique is to minimize disturbance of the material which contains anaerobic by products in the pile until sufficient time has passed for the process to proceed to the point that the byproducts are stabilized.
- The applicant is proposing to implement an aerobic composting method (aerated static pile) in 1998. Reference Attachment 4 - Proposed Operational Modifications. Implementation of the aerated static pile method is expected to be complete by December 1998. On-site composting trials for the new methods are currently underway at the facility.

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 has been determined to be complete and adequate (see Section II - List of Submittals).

Applicant Qualifications

McFarlane's Bark is a family owned and operated composting business, which has been at its current location since 1972. On its six-acre site, McFarlane's takes in yard debris and other organic material and processes it into compost and other ground amendment products to serve the landscape industry. As a service to the community, McFarlane's accepts free of charge, Christmas trees and material from clean-up days from church groups, the Boy Scouts, and the Girl Scouts to aid those group's fund raising efforts. McFarlane's employs approximately 30 full-time employees not counting its seasonal staff, which is much larger.

II. LIST OF SUBMITTALS / ATTACHMENTS

Attachment 1: Site location/aerial photograph (RLIS).

Attachment 2: Zoning overlay/aerial photograph (RLIS).

Attachment 3: Revised Application for a Yard Debris Processing Facility License, dated September 22, 1997.

Attachment 4: Proposed Operational Modifications (Maul Foster & Alongi, January 1998), with attached traffic evaluation (Group Mackenzie, January 1998).

III. ANALYSIS OF LICENSE APPLICATION

A license will be granted if the Metro Council finds the applicant complies with Metro Code Chapter 5.01 - Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities.

Staff have reviewed the license application and other supporting documentation and have found that the facility is eligible for a yard debris processing facility license with conditions of approval (see Section IV, Conclusions - Special Conditions). The conditions specified in this report and in the License Agreement will provide sufficient assurances that the facility meets all applicable Metro Code requirements. The following table summarizes staff's analysis:

Key Metro Code Licensing Provisions	Acceptable with Conditions
5.01.260 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

1. FACILITY DESIGN AND OPERATING PLAN

The facility design and operational requirements are intended to ensure that the facility is designed and operated in safe and suitable manner that minimizes nuisance impacts on surrounding communities and businesses, while protecting public health and safety. These requirements ensure that the operations can support the type of processing and the quantity of material that the applicant is proposing to process.

The applicant has recently made a number of site and operational improvements that are intended to help control dust and odor impacts on surrounding businesses. These modifications, outlined below, resulted from a series of meetings between McFarlane's Bark, Metro, the DEQ, Clackamas County and adjacent impacted businesses. The meetings were held in 1996-1997 and focused on both short-and long-term solutions to the nuisance impacts associated with the McFarlane's Bark facility.

In addition, McFarlane's Bark is in the process of implementing a new facility plan (reference Attachment 4). The plan was developed to improve the existing operations and implement necessary site design modifications to control and mitigate nuisance impacts (e.g. noise, traffic congestion, dust and odor).

Existing facility design and operating plan:

As stated above, the facility operations have been modified over the past few years in order to address nuisance concerns from surrounding businesses. The following is a summary of the most significant modifications:

- The height of the compost piles has been lowered (25%) to 30 feet to better manage dust and odor problems.
- Sprinkler systems have been installed to control dust.

Current composting method: Yard debris is tipped on a concrete tipping slab area and then ground and piled up. The facility currently uses a deep-pile anaerobic composting method. At 10-14 day intervals the active compost piles are rolled and turned. This process is repeated 5-6 times. The compost is then screened into a finished size, piled and allowed to stand for an additional 30 days to finish the curing process. The current composting method results in pile sizes of 25-30 feet high with a base of 150' x 300'.

- Noise: Noise levels are managed by maintaining the manufacturers mufflers on machinery and trucks.
- Vector control: Vectors are controlled by rapidly processing the incoming yard debris. Active compost piles and finished product rarely attract or harbor vectors. If vectors become a problem, applicant will contract with a vector control company to remedy the situation.
- Dust control: Dust is controlled by using water sprays and vertical misters. Applicant has also contracted with a professional road sweeping service for cleaning the roadway. Future plans call for additional paving and striping to aid in dust and traffic control. Applicant also sprays the gravel portion of the roadway and regular cleaning and sweeping other portions of the road and tipping area also helps to control dust. Water sprays have been added to processing machinery and along loading areas.
- Litter: The facility grounds are cleaned of litter on a daily basis.
- Fire prevention and control measures. Applicant's processing yard has an 8" loop system that has 8 hydrants attached.
- Traffic management. This continues to be an area of concern, and is being addressed by the applicant through the new facility design plan described below.

Transition plan and composting trials

The applicant has outlined a plan for transitioning from the current composting method (deep static pile) to the new aerated static pile method to be implemented in 1998 (see Attachment 4). Part of the transition plan involves demonstration tests of the proposed method that will assist in designing the new composting pads. The transition plan contains a timeline with a schedule of proposed site improvements.

New facility design / site plan elements

The applicant has submitted a new facility design and operations plan that will be implemented in 1998. The operational modifications and site plan are described in Attachment 4 - Proposed Operational Modifications McFarlane's Bark Composting Facility. The following is a summary:

Proposed composting method:

- The new method actively aerates the compost piles and will provide for reductions in pile height (15' – 18').
- The active composting and stabilization areas will be combined into a single pad to facilitate continuous processing of compost. In addition the pad area will be aerated from a central blower gallery. Shredded yard debris will be placed at the south end of the pad and will be moved to the north as composting progresses.
- The compost will be screened after stabilization and placed in bins on-site or transported to McFarlane's facility in Vancouver, Washington.
- The composting areas have been sized to accommodate 36,000 to 40,000 tons of raw material per year. The facility is currently accepting approximately 35,000 tons of yard debris per year (230,000 cubic yards).

Traffic management

In evaluating the license application for the McFarlane's facility, traffic management concerns have been raised by Metro, Clackamas County, and neighbors regarding vehicle queues extending through the common shared easement with Brophy Machine Works and onto Johnson Road. Both Clackamas County and the Metro licensing standards do not allow vehicles to queue in the public right-of-way.

Long lines of traffic along Johnson Road and congestion in the common shared easement are caused by vehicles waiting to drop off yard debris and circulation of other vehicles around these queues. In order to address these concerns, the applicant has proposed specific site design and operational modifications that are detailed in the traffic management practices in Attachment 4. These will be implemented by the applicant to reduce queue lengths and encroachment on the common easement adjacent to the Brophy Machine Works facility. The following is a summary:

- The active unload area will be expanded to handle more vehicles. The queue can be accommodated with the use of one lane along the south side of the site.
- The traffic flow pattern has been modified to allow the required queuing and the maximum possible separation of public access from operational traffic. McFarlane's trucks will proceed along the east and north side of the site.
- A flat rate method of charges will be instituted on peak days, which will avoid the requirement to weigh vehicles in and out of the facility.
- Customers purchasing materials will be directed to the customer loading area or to parking on the east side of the building.
- A separate inbound bypass lane is provided for traffic destined for Brophy Machine Works. Outbound traffic will be accommodated in a single lane with improved turning radius at the site exit.
- The applicant's site plan calls for lane striping as well as signage to direct traffic flow at the site.

Comments:

- The applicant has taken steps to solve some of the nuisance problems with dust and odors generated by the facility operations. Traffic management and nuisance impacts, however, continue to be a source of concern from surrounding businesses.

- It is staff's recommendation that until the proposed plan is implemented, the license agreement should contain special conditions to mitigate the unresolved facility impacts. The conditions are detailed in Section IV of this report, and include implementation of traffic management measures and improvements to the landscape buffer zone at the perimeter of the facility adjacent to businesses.
- The applicant's completed license application and submittals will constitute the required Design Plan and the Operations Plan.

2. ODOR MINIMIZATION PLAN

The purpose of the Metro Code odor minimization plan requirement is to ensure that the facility is operated in a manner that minimizes, manages and monitors odor impacts on surrounding communities and businesses.

General Description

The applicant recognizes that it is essential to minimize the impact of odors generated by anaerobic conditions. If an odorous condition is found or expected to be found, that section of the compost pile is turned more gradually, and immediately mixed with clean stable material which dilutes the smell. The source of the smell is then covered with cured compost to reduce the opportunity for odors to escape from the processing pile.

To further reduce odors, the applicant proposes to implement a new aerated static pile composting method starting in 1998, with exclusive use by December 1998. The aeration process will be used to reduce anaerobic conditions, which are the primary odor sources. The lower pile height (15 feet) will also reduce the possibility of interior spaces that are deprived of oxygen for significant periods of time. The modified odor control plan is contained in Attachment 4 – Proposed Operational Modifications.

Odor complaints: Complaints are recorded and the facility is inspected by facility staff for possible problem sources. The plant manager works with the complainant to resolve any problems. Since lowering the piles to between 25 feet and 30 feet in height in 1997, there has been a reduction in the number of odor and dust complaints from adjacent businesses.

Comments:

- The applicant's completed license application and submittals constitutes the Odor Minimization Plan, and meets all applicable Metro Code requirements for Section 5.01.290 - Yard Debris Facility Odor Minimization Plans.
- As previously described, this facility is in the process of implementing a new design plan that is intended to provide for improved operations and odor control methods through the use of an aerated static pile system. The application and the proposed plan reflect that the facility will be designed and operated in a manner that meets the Metro Code requirements for odor control and minimization.

IV. CONCLUSIONS

In assessing the McFarlane's Bark yard debris processing facility for compliance with the relevant Metro Code provisions, staff has reviewed all required submittals and has determined that that in order for this facility to meet Metro Code requirements and be granted a Metro License, the applicant must implement the changes as proposed in the application and submittals, and comply with the conditions of the License Agreement.

To address nuisance impacts on surrounding businesses and comply with the Metro licensing standards for yard debris processing facilities, the applicant has implemented mitigation measures and submitted a proposed plan to further modify the facility design and operations. Once fully implemented, the facility modifications are

intended to reduce traffic impacts and control nuisances while improving the processing capacity at the facility to handle current and projected incoming volumes of yard debris.

Based on staff's experiences with this facility, the license application submittals, site visits, and discussions with businesses impacted by the McFarlane's Bark operations, there remain a number of unresolved concerns about the current facility layout and operations. Since the proposed facility modifications contained in Attachment 4 are not yet implemented, and the nuisance impacts are not yet resolved, it is staff's recommendation that the License Agreement contain special conditions.

Special Conditions in the License Agreement

The following conditions shall apply and are included in the License Agreement (reference the License Agreement, Section 7.1.2 - Design and Operational Requirements):

1. Install and maintain effective on-site traffic directional signage and lane marking to manage the flow of traffic, within 30 days of the effective date of the License Agreement.
2. The proposed operational modifications and site plan improvements described in Attachment 4, shall be implemented in a substantial and satisfactory manner that controls nuisance and traffic impacts by December 1, 1998.
3. Within sixty (60) days of the effective date of the License Agreement, the applicant shall increase the density and variety of the tree buffer zone at the facility property lines adjacent to businesses. Replant where trees have died, and plant additional rows of evergreen trees to create a more substantial buffer zone. The trees should be tall and fast growing varieties. Applicant should verify plant material with a landscape architect and/or local nurseries to determine type, availability and performance of plant material.

The license agreement ensures that the facility will operate in accordance with the purpose of Metro's licensing program to 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.

V. BUDGET IMPACTS

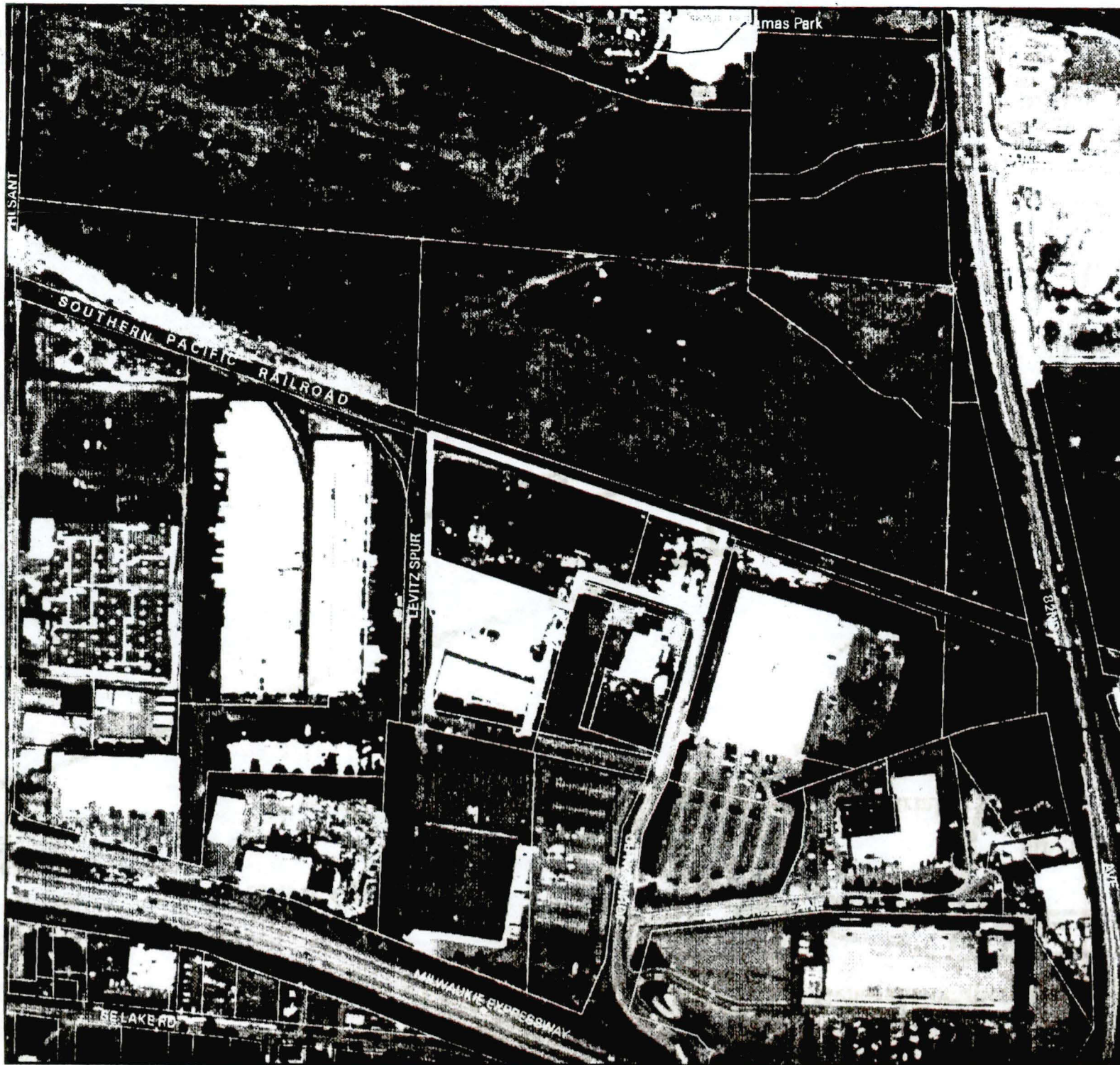
There will be a slight increase in revenues from the annual license fee paid by the licensee of \$300 per year. Current staffing levels are expected to be adequate to handle any technical assistance or enforcement requirements that might arise from licensing this facility.

VI. STAFF RECOMMENDATION

Based on the preceding analysis it is the opinion of staff that McFarlane's Bark, Inc. should be granted a yard debris processing facility license, with conditions, in accordance with the provisions of the License Agreement attached to Ordinance No. 98-741 as Exhibit A.






VII. EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 98-741.



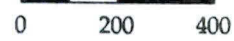
McFarlane's Bark

1997 Aerial Photos

-  Metro Boundary
-  Urban Growth Boundary
-  Parks and Open Space Taxlots
-  County Line
-  Subject Property (white boundaries)

Attachment 1

Scale: 1" = 400'

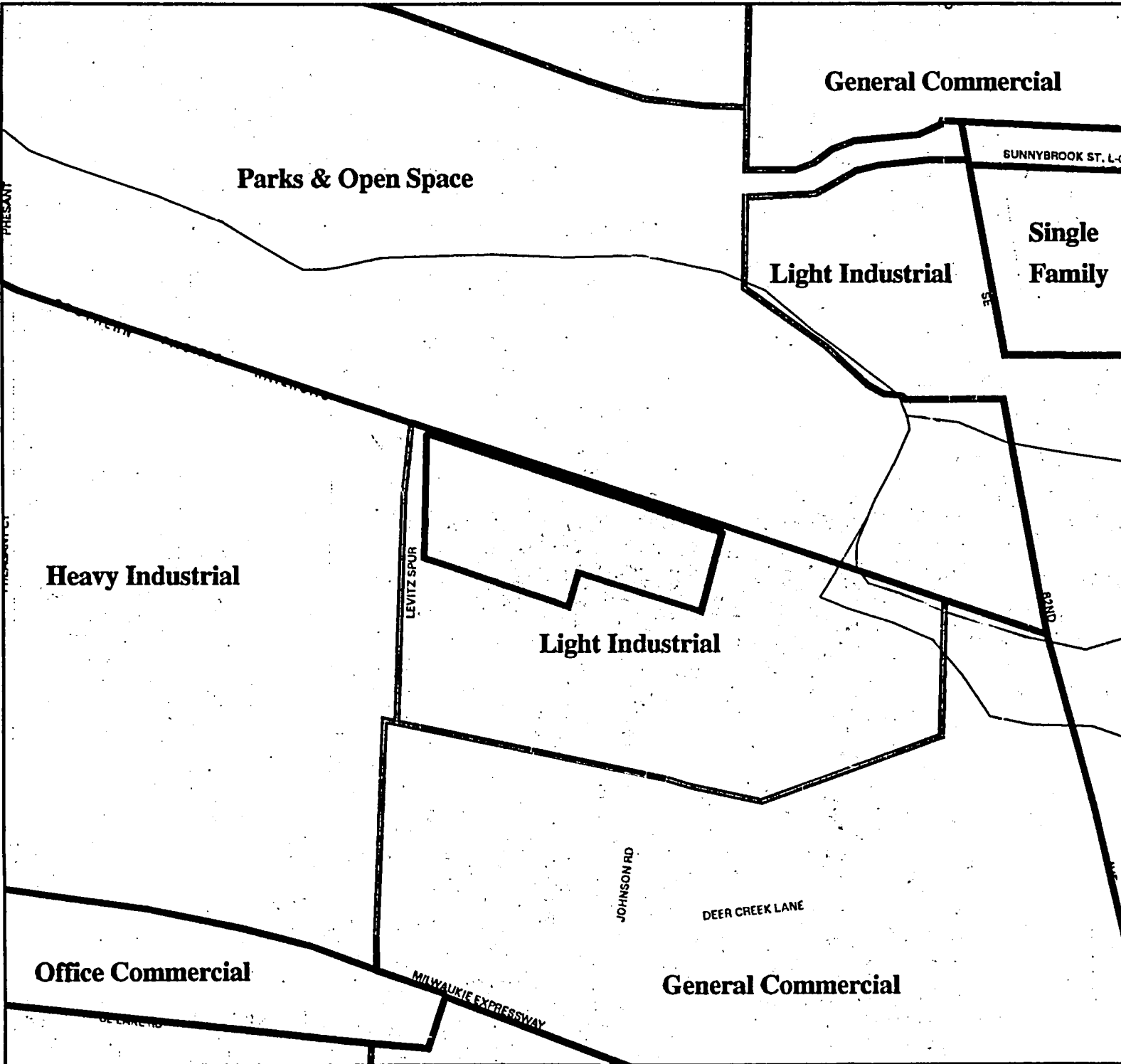


METRO

800 NE Grand Ave.
 Portland, OR 97232-2736
 Voice 503 787-1742
 FAX 503 787-1809
 Email drc@metro.dat.or.us

McFarlane's Bark

Zoning



Attachment 2



METRO

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

MAIL THIS APPLICATION TO:

DATE RECEIVED BY METRO:

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

**AMENDED LICENSE APPLICATION FORM
YARD DEBRIS PROCESSING FACILITY**

Applicant submitted its original application for a yard debris processing facility to Metro on August 14, 1997. In a letter dated August 28, 1997, Bill Metzler, Associate Solid Waste Planner for Metro, notified applicant that the original application was "insufficient" and requested additional information. This amended application responds to the questions in the Metzler letter by providing the requested information.

Check all that apply;

Yard Debris Composting X

Other (specify) Transactions are based on the volumes at our yard debris recycling area only.

Barkdust sales are separate transactions for purposes of this application.

Date of Application: August 4, 1997
Revised 9/10/97

PART 1

1. **NAME OF FACILITY** McFarlane's Bark, Inc.
Facility Address: 13345 SE Johnson Rd.
 Milwaukie, OR 97222

2. PROSPECTIVE LICENSEE

Public Agency: _____ Private x

Name of Licensee: McFarlanes, Bark, Inc.

Mailing Address: 13345 SE Johnson Rd. Milwaukie, OR 97222

Phone Number: 503/659-4240

3. OWNERS OF PROPERTY

Name:	<u>Marjorie McFarlane</u>	<u>Daniel McFarlane</u>
	<u>3964 SE Boise</u>	<u>1515 Windsor Drive</u>
	<u>Portland, OR 97202</u>	<u>Gladstone, OR 97027</u>
Phone:	<u>771-3776</u>	<u>656-4708</u>

4. SUBCONTRACTORS

Name, address and function of any prospective licensee's facility operation subcontractors:
None

5. SITE LEGAL DESCRIPTION

(Include tax lot(s), descriptions, section, Township and Range);

Tax Lot numbers: 00202-00400-00402-00802-00803

Section 05 Township 25 Range 2E

6. ZONING

Present Land Use Zone: I-2 Light Industrial

Restrictions: _____

7. Is a conditional use permit necessary for your 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 if any:

None

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:

No Land Use permits are required for the Milwaukie site. Bark storage and yard debris collection, storage and composting began when McFarlane's Bark purchased the property in February 1972. All such uses were then allowed by all applicable land use regulations and have been continued, at their current intensities, without interruption since that date. Clackamas County has recognized the facility as a valid, allowed nonconforming use. Under state and local land use laws and regulations such a nonconforming use must be allowed to be continued on the property.

Circumstances that would trigger the need for a land use permit are as follows:

- A. Restoration of the use if damaged or destroyed by causality or natural disaster.
- B. Physical expansion of the use or a material increase in its intensity.
- C. Change of use to another nonconforming use.

Permit(s) Received: NA

10. ESTIMATED QUANTITY OF YARD DEBRIS TO BE ACCEPTED

Annually: 230,000 cubic yards Daily: 640 cubic yards
 Annually: 35,000 tons (optional) Daily: 100 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? Yes X No _____

12. OPERATING HOURS AND TRAFFIC VOLUME

Open: 7 days a week.
Operating hours are the same for public and commercial use.

Peak Season: 7a.m to 7p.m.
Off Season : 8a.m to 5p.m.

<u>Est. Avg. vehicles per day</u>	<u>Public</u>	<u>Commercial</u>	<u>Total</u>
Peak Season	500	100	600
Off Season	5	95	100

13. Does the owner/operators 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 X No _____

PART 2

GENERAL FACILITY DESIGN PLAN

1. Describe how stormwater is managed at the facility.

Applicant's current water retention ditch around its dirt pile now also serves as the water detention pond. From this pond, applicant recycles detained water to the piles for fire prevention, compost facilitation and dust control. The ditch has a storage capability of approximately 16,000 cubic feet.

As shown in the attached site plan, the planned storm water system is split. Parking

areas, building roof and non production areas run to catch basins and are part of the conventional storm water system. Production area drainage will be detained and recycled.

Drainage gutters will provide positive drainage to the settling pond from the production areas of the site. The settling pond allows the particulate to settle out. Clean water flows through the perforated weir into the detention pond.

The detention pond allows for the disposal of water through surface evaporation. Further evaporation occurs when the water is used in the vertical misting system to control dust at all stages of the composting, loading and unloading processes.

The new pond will have a storage capacity of 20,000 cubic feet.

The new plan will begin as quickly as possible, but no later than January 1, 1998, with estimated full implementation by December 1 of that year.

This plan is consistent with the DEQ action plan referenced in Mr. Metzler's letter. That plan calls for implementation of an impervious surface and runoff management system. The plan calls for both of these improvements

Is precipitation run-on diverted around the processing area?

Yes No

Is Run-off from the facility controlled?

Yes No

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

Applicant has ditches circling the entire property. Applicant is negotiating with a neighbor to install a security gate at the common entrance.

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

Yes No

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

Yes No

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

Yes No

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

Signs explaining what is accepted are located at the scale house. Applicant's site plan calls for lane striping as well as signs to control traffic flow at the site. This aspect of the plan is discussed below.

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

Approximately 5000 cubic yards, (110 x 100 x 30').

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

Estimated capacity on-site is 5000 cubic yards. At other sites, such as applicant's Vancouver, Washington, yard, an additional 20,000 cubic yards, (200 x 60 x 30).

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

Applicant assigns staff to check each load for contamination and/or unacceptable waste. Applicant requires customers remove any material that is unacceptable. Waste wood from construction demolition is ground for hog fuel and delivered to paper mills. Plastics, glass & metals are recycled through appropriate recycling centers. Hazardous waste is not accepted. Applicant instructs customers to take such waste to a Metro transfer station.

PART 3

GENERAL OPERATING PLAN

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

Applicant's rates are calculated using weight by ton with conversion. Applicant then charges a flat rate by the yard. The conversion used is 300 lbs per yard.

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

Applicant cleans the yard and road daily and as-needed. Garbage is hauled off 1-2 times per week, or as needed.

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

Signs remind customers that there are rules pertaining to the legality of uncovered loads on the highway.

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

Staff checks each load as it comes in. Checks are done before unloading and at least one or two times during the unloading process. Customers must remove any unacceptable material from the load. If a load contains hazardous or municipal solid waste, staff requires customers to immediately remove it from the site. Such customers are told to take such waste to the nearest Metro Transfer Station for disposal.

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

Along with our typical non-compostable business waste, any materials that we accumulate are disposed of through specific recycling centers (glass, cans, etc.) or taken to the Metro Transfer Station for disposal.

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

All loads are dumped on a concrete slab area, then they are put through a grinder and piled up. At 10-14 day intervals the active compost piles are rolled and turned. At this stage the internal temperatures range from 135-145, with just below surface temperatures of approximately 100 degrees. This process is repeated 5-6 times, then the compost is screened into finished sizes. The compost is then piled and allowed to stand for an additional 30 days to finish curing. *See*

also responses to sections 3.9, 4 & Site Plan, below, which describe plans for changing the composting process, the schedule for such a change, and impacts of the change on composting periods.

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

Yard Debris 3 days

Grass Clippings are mixed in with stable product the same day

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

10 to 14 weeks (includes curing) (These time frames are consistent with E & A Environmental Consultants and "On Farm Composting" By The Northeast Regional Agricultural Engineering Services, NRAES-54)

How long do you cure the finished product?

30 days

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

In Mr. Metzler's letter he said that the DEQ action plan called for piles to be reduced to 20 feet and noted that the application called for higher piles. As an initial comment, the DEQ action plan did not call for a reduction of the piles to 20 feet. Instead, it called for a reduction of 25 percent. DEQ has subsequently acknowledged that a 25 percent reduction might still allow piles in excess of 20 feet. Nevertheless, it is applicant's goal, as explained below, to reduce the pile heights to approximately 20 feet.

Currently, applicant's method of composting results in pile sizes of 25-30 feet high, with a base of 150' x 300'. Under the current method we rotate the pile as internal temperatures reach 135-145 degrees.

According to the schedule provided below, applicant intends to adopt a new method of composting that will allow it to reduce the height of the pile and make the diameter wider to accommodate the same amount of material. This new model will consist of an aerated static pile with height of 15-20 feet. Under this method, the composting process should take approximately 49 days. Product will then be

screened with coarse cover materials mixed back into green incoming yard debris. Screened sizes will be moved into finish piles.

A further description of the current and planned methods appears below at section 4 & Site Plan.

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

Applicant uses bulldozers and backhoes to turn and stack the piles. Applicant uses loaders for feeding grinders and screens.

11. Describe how you control the following:

A. Noise

Applicant maintains the manufacturers mufflers on machinery and trucks. Applicant uses screen planting as a noise barrier where needed.

B. Vectors (insects, birds, rodents):

Vectors are not currently a problem at this site. Should such a problem arise, applicant would contract with a vector control firm to take care of the situation.

C. Dust

The only dust complaints to date were brought to applicant's attention at a meeting with Metro, Clackamas County, DEQ, and applicant's neighbors Precision Castparts and representatives of Tramel Crow on January 11, 1996. Since that time, applicant has implemented water sprays and vertical misters, and it has contracted with a professional road sweeping service for cleaning the roadway. Future plans for paving and striping to aid in dust and traffic control have had a positive response with Clackamas County. Paving the roadway depends, however, on the consent of Brophy Machine Works, which controls part of the road by easement. So far, Brophy has refused to agree to paving the road, but we are still in active negotiations on this issue. According to a recent letter of Brophy's counsel, resolution of the matter seems to turn primarily on finding an acceptable mechanism by which to allow Brophy a remedy if the road is congested. Applicant will explain in detail its traffic management plan below, which it hopes can be used to satisfy Brophy. Nevertheless, applicant plans to implement the traffic plan, with only partial paving, if necessary, no later than September 1998, regardless of the status of negotiations with Brophy. *See below.*

Recirculating wastewater to the piles has had good results in dust control. Spraying the gravel portion of the road as well as regular cleaning and sweeping of other portions of the road and dumping area also contributes to dust control. Upon completion of roadway paving, the entire roadway will be swept and/or moistened regularly. Water sprays have been added to processing machinery and along loading areas for keeping the dust under control. Vertical misters are always used in dry weather during loading operations to minimize dust. This approach has successfully mitigated dust impacts to surrounding properties.

D. Litter

Yard personnel pick up litter by hand each day.

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

Applicant's processing yard has an 8" loop system that has 8 hydrants attached. Periodic recirculating of water on the brush piles is also helpful in fire protection. Inside the processing plants, machinery is washed as needed to prevent any dust fires and machinery that is being repaired is wet down as needed.

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

Name of facility? Yes x No

Name of the operator? Yes x No

Hours of operation? Yes x No

List of materials that will and will not be accepted? Yes x No

Schedule of charges? Yes x No

Phone numbers in case of emergency? Yes No x

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

Temperature:

Thermometers are used to monitor desired temperatures before rolling.

Oxygen levels:

None currently, but applicant will probably implement monitoring and adjustment of oxygen levels as it implements aerated static piles, as described elsewhere in this application.

Moisture levels:

Compost is kept moist, not soaked. Water added by soaker hoses and sprinklers as required.

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

Applicant's current markets are sales to the general public, landscapers, nurseries and other wholesalers. Products are used for mulch, potting and soil mixes.

PART 4

ODOR MINIMIZATION PLAN

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

Odorous loads are mixed and diluted with other more stable materials as loads come in. More stable materials absorb odors and reduce impacts. Problem loads are not accepted and are diverted from site.

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

All complaints are forwarded to the Office Manager, who investigates to get all pertinent information. The Plant Foreman and Plant Managers are notified, and required to report back with a plan for action to be taken. Actions in accordance with this plan will be taken immediately to rectify any Odor impacts. If requested or required, the Office Manager will call the complainant back with a report of steps taken to fix the problem.

To minimize the impact of odors from loads, applicant's staff constantly inspects all loads delivered to the facility. Loads having very strong odors are rejected immediately and removed from the site. Where loads with odors are accepted, they are, as recommended in Metro's yard reprocessing regulations, immediately mixed with clean stable material, which dilutes the smell. They are then covered with cured compost to reduce the opportunity for odors to escape from the processing pile. In applicant's experience, this approach has been successful in reducing odors from loads delivered to the facility.

Applicant recognizes that it is essential to minimize the impact of odors generated by anaerobic conditions. If an odorous condition is found or expected to be found, applicant's policy is to turn that section of pile more gradually, and immediately

mix it with clean stable material, which dilutes the smell. The source of the smell is then covered with cured compost to reduce the opportunity for odors to escape from the processing pile.

To further reduce odors, applicant expects to implement a new composting method by January 1, 1998, with exclusive use by December of that year. That method will consist of an aerated static pile with height of 15-20 feet. Because this method uses aeration the chances of encountering an anaerobic condition are significantly reduced. This is consistent with Metro's regulations that call for minimization of such conditions and is an integral part of applicant's odor control plan. In addition, the broader pile base and lower height of such piles will themselves reduce the possibility of interior spaces that are deprived of oxygen for significant periods of time.

Few odor complaints have come to our attention directly. In spring 1996, office management received a call concerning a chemical odor but determined that it was not generated by this facility. The complainant was assured that our operation does not use chemicals and, thus, cannot produce such odors. Another odor complaint received fall of 1996 was handled by explaining what our operation does and that our proposed improvements, once implemented, will reduce the odors.

The only dust complaints to date were brought to applicant's attention at a meeting with Metro, Clackamas County, DEQ, and our neighbors Precision Castparts and representatives of Tramel Crow on January 11, 1996. Since that time, applicant has implemented the water sprays and contracted with a professional road sweeping service for cleaning the roadway. Future plans for paving and striping to aid in dust control have had a positive response with Clackamas County. Paving the roadway depends, however, on the consent of Brophy Machine Works, which controls part of the road by easement. So far, Brophy has refused to agree to paving the road, but we are still in active negotiations on this issue. According to a recent letter of Brophy's counsel, resolution of the matter seems to turn primarily on finding an acceptable mechanism by which to allow Brophy a remedy if the road is congested. Applicant will explain in detail its traffic management plan below.

Recirculating wastewater to the piles has had good results in dust control. Spraying the dirt portion of the road as well as regular cleaning and sweeping of other portions of the road and dumping area also contributes to dust control. Upon completion of roadway paving, the entire roadway will be swept and/or moistened regularly. Water sprays have been added to processing machinery and along loading areas for keeping the dust under control. This approach has successfully mitigated dust impacts to surrounding properties.

Currently nuisance complaints have not been forwarded to us from Government agencies, but Mr. Metzler's letter says that they continue receive them. Applicant would welcome the opportunity to respond to such complaints, if Metro would provide it with details.

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

Odors from applicant's facility can result in either of two ways. First, applicant could receive a load of material that has a high odor content. Second, applicant can encounter odors when turning the piles. In the latter case, the odor results when portions of the pile become anaerobic. This produce an ammonia-like smell.

Odors from loads are far less likely to impact surrounding properties than those arising from turning the pile. For the most part, applicant's neighbors are light industrial, commercial and office uses. Considering the distances involved, odors from either source are unlikely to impact residences to any material degree. As to surrounding uses, the facility can occasional cause odors detectible off of the property. Applicant's policy is, however, to minimize such odors to the maximum extent possible.

To minimize the impact of odors from loads, applicant's staff constantly inspects all loads delivered to the facility. Loads have very strong odors are rejected immediately and removed from the site. Where loads with strong odors are accepted, they are, as recommended in Metro's yard reprocessing regulations, immediately mixed with clean stable material, which dilutes the smell. They are then covered with cured compost to reduce the opportunity for odors to escape from the processing pile. In applicant's experience, this approach has been successful in reducing odors from loads delivered to the facility.

Applicant recognizes that it is essential to minimize the impact of odors generated by anaerobic conditions. The current static pile composting system is primarily operating in the anaerobic or anoxic biological environment. The outer layers of the pile will have penetration of oxygen to form a narrow aerobic zone and a thicker anoxic zone. With this type of system, an odor control technique is to minimize disturbance of the material which contains the anaerobic byproducts in the pile until sufficient time has passed that the anaerobic composting process proceeds to the point that the byproducts are stabilized. There will still be some release of odorous byproducts, but the release will be minimized. Surface movement of the aerobic and anoxic zones may be useful to assist with the stabilization process by introducing oxygen deeper in the pile while not disturbing the fully anaerobic material. Hence, if an odorous condition is found or expected to be found, applicant's policy is to turn that section of pile more gradually, and immediately mix it with clean stable material, which dilutes the smell. The source of the smell is then covered with cured compost to reduce the opportunity for odors to escape from the processing pile.

To further reduce odors, applicant expects to implement a new composting method by January 1, 1998, with exclusive use by December of that year. That method will consist of an aerated static pile. This process controls odor by maintaining aerobic conditions in the composting pile. Aerobic conditions tend to result in the degradation of organic matter to carbon dioxide, water and residual complex organics (humus). Some intermediate degradation products are released in aerobic composting, but they are generally less odorous than the by-products of anaerobic composting. Odorous by-products of anaerobic composting include sulfides, mercaptans and organic acids. Provided that the aerated material is maintained in a

moist, controlled temperature atmosphere, odorous compounds such as these will be minimized. See more detailed description below.

Because the aerated static method uses aeration, the chances of encountering an anaerobic condition are significantly reduced. This is consistent with Metro's regulations that call for minimization of such conditions and is an integral part of applicant's odor control plan. In addition, the broader pile base and lower height of such piles will themselves reduce the possibility of interior spaces that are deprived of oxygen for significant periods of time.

Applicant also notes that since this facility only receives yard debris, the only practical method of adjusting the compost mix is to recycle previously composted material, either in screen overs or unders or unscreened form. This assists in odor control by correcting the carbon to nitrogen ratio during high grass content conditions and by absorbing odors.

To summarize, procedures that will be common to either method of composting include the following:

1. Odorous loads will either be rejected or mixed as quickly as possible, and always on the same day they are received, with stable product. Mixing allows the absorption of odors and prepares the material for incorporation into the composting pile in a form that will be less likely to generate odors.
2. All materials will be placed in the composting pile within three days of the day they are received.
3. To the maximum extent possible, atmospheric conditions and potential impacts off of the site will be considered when undertaking any operation that might release odors.

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

The weather has minimal effect on operations. We continue to do grinding and screening on regularly scheduled days. We schedule normal maintenance of equipment so there is little or no interruption to scheduled work.

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

There is a greater potential for odor when an anaerobic condition in the existing pile is found. When a portion of the pile has gone anaerobic, that portion of the pile is turned mid afternoon to try to lessen any impact of re-aerating the pile. This is done slowly mixing other aerobic product in to stabilize and minimize any odor impact that may be generated.

Time of Day

Piles are generally rotated between 8:00 and 6:00 pm. The impact of turning and final pile breakdown of odorous material may, however, be reduced by limiting operations involving such materials to times of the day and weather conditions that are least contributory to movement of odors to neighboring property without significant dilution by atmospheric conditions. Hence, where an odor-causing condition is suspected, it is applicant's policy to rotate the pile in the mid-afternoon, when the possibility of impacts on surrounding uses are less. (Applicant would, however, be willing to adopt a different schedule, if that would reduce such impacts.) Applicant's policy is also not to rotate such portion of the pile in unfavorable weather conditions. Under applicant's new method of composting, that will be implemented by January 1, 1998, with exclusive use by December of that year, the piles will be rotated during shorter periods of time, reducing the periods when odors might be inadvertently generated.

Wind direction

When wind is at a higher velocity, there are fewer odor impacts because of almost immediate dispersion of smells. However, because of site location, with neighbors on most sides of the operation, a policy of not turning piles when the wind is blowing in particular directions would not be an effective mitigation method. Instead, applicant has taken and will take other mitigation methods as described in this application.

Percent moisture

The piles are kept damp at 40% moisture and above by the recirculating water. As explained above, this reduces the possibility of odor.

Estimated odor potential

See above.

SITE PLAN

As requested by Metro staff, a current and planned revised site plan is attached. Applicant intends to begin implementing the new site plan on November 1, 1997, in the area of the future active pile. Benchmarks for the new construction required for this plan appears in the table below. Applicant's deadline for operation of the aerated system and complete transformation to the new site plan is December 1, 1998, although applicant will attempt to reach that point sooner.

IMPLEMENTATION DATES--PERMITS REQUESTED IN FEBRUARY 1998		
<i>Benchmark</i>	<i>Start</i>	<i>Finish</i>
Pond excavation	June 1998	August 1998
Slab Excavation	July 1998	August 1998
Slab Pours	September 1998	October 1998

IMPLEMENTATION DATES--PERMITS REQUESTED IN FEBRUARY 1998		
<i>Benchmark</i>	<i>Start</i>	<i>Finish</i>
Electrical	July 1998	October 1998
Road Improvements (Johnson Road)	February 1998	April 1998
Road Improvements (Easement)	September 1998	November 1998
Financing and/or easement restrictions may change the above-targeted dates. Applicant will proceed more quickly than this schedule if possible.		

The site plan shows a new settling pond on the northwest end of the property for water circulation. This pond will have a capacity 20,000 cubic feet, calculated using the KC Surface Water Design Manual (November 1995 rev.) Based on a 25 year 24 hours rainfall event.

The aerated slabs with 20336 square feet are shown for the active stage with a 21 day period. A stabilization cure slab 16,616 square feet with a period of 28 days is also shown. Materials will then be screened and moved to the finish pile. The screened product will then be allowed to cure for seven more days before it is offered for sale.

This system is called an aerobic static pile method in which the aerated product is moved only once in the first 21 days, then again after 28 days. These calculations and recommendations concerning this method were made by Larry Sasser of E&A Environmental. The plan is based on 40,000 tons per year of yard debris with pile heights from 15 to 20 feet.

In regard to traffic, both the county planning and traffic departments favor the site plan's set up of traffic flow. The plan consists of three travel lanes. The right lane will be a designated queuing lane for yard debris dumping, with breaks as designated on the plan for office and yard exists. This lane terminates at the scale house. The center lane will be marked, signed and maintained free for through traffic. The purpose of this lane is for ingress of vehicles going to our neighbor, Brophy, or to allow vehicles to proceed to areas of applicant's site other than the brush dumping area. The exit lane will be kept clear by, if necessary, immediate intervention of applicant's staff for outgoing traffic. Signs will prominently display instructions to customers as to the use of the lanes.

Applicant will pave the roadway, contingent on resolving its dispute with Brophy's concerning the common easement, which is discussed below. Paving will take some additional time, however, because of scheduling surveys and obtaining permits. Applicant hopes to resolve the dispute with Brophy's and obtain permits so that the paving can be completed within the next 12 months.

Applicant recognizes that Brophy's has complained about congestion in the active easement area, and applicant considers it a high priority to resolve this issue. Hence, it has designed a site plan that will ensure free flow of traffic and has committed itself to policies that will ensure that the plan works. Designated employees will be charged with keeping the traffic flowing under this plan. When needed such employees will immediately attend to customers who may not be following instructions and ensure that problems are promptly resolved. With regard to Brophy's, applicant is continuing to negotiate a solution. Based on recent correspondence with counsel for Brophy's, applicant understands that resolution of this dispute revolves around finding an enforcement mechanism that will give Brophy's some confidence that congestion problems can be quickly resolved. In concept, applicant is open to this approach, and based on the exchange of the letters between counsel, expects that a mediation should be possible to find a solution. Although it is of course impossible to predict a resolution of this matter with certainty, applicant is optimistic. Furthermore, most aspects of the traffic circulation plan, other than paving, can be implemented without Brophy's consent. Applicant intends to go forward and complete the plan and resolve traffic congestion problems whatever the situation with Brophy's. To that end, all employees of applicant have been and will be instructed to assist in the immediate resolution of all traffic problems.

In his letter, Mr. Metzler noted that the site plan originally submitted had traffic going into a bunker area. The revised plan rectifies this error.

LICENSE APPLICANT

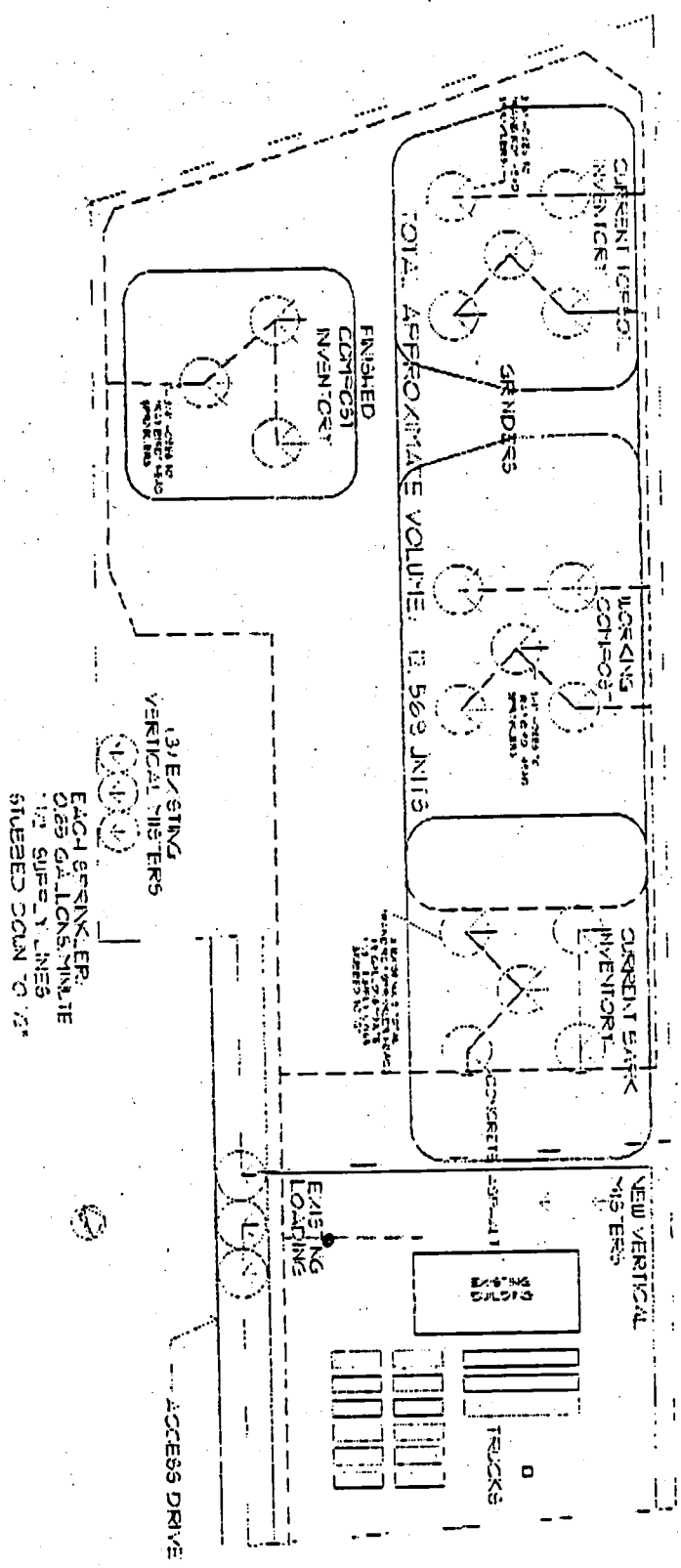
I hereby certify that the information contained in this application is true and correct to the best of my knowledge. I agree to notify Metro within 10 days of any change in the information submitted as a part of this application.

Signature and title of person completing this application:

SIGNATURE Dan McFarlane TITLE President

DATE 9-22-97 PHONE NUMBER (503) 659-1240

09/19/97 13:40:00 AM



CURRENT SITE PLAN

SCALE: 1/8"

<p>DATE: 09/19/97 DRAWN BY: [unclear] CHECKED BY: [unclear] APPROVED BY: [unclear]</p>	<p>McFARLANE'S BARK - MILWAUKIE PLANT & DESIGN</p>	<p>Approved By: [unclear] and [unclear] Hawthorne Crest P.O. Box 700 Hawthorne, OR 97132-0700 • 503-736-1827</p>
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**PROPOSED OPERATIONAL MODIFICATIONS
MCFARLANE'S BARK COMPOSTING FACILITY
MILWAUKIE, OREGON**

**PREPARED BY
MAUL FOSTER & ALONGI, INC.**

JANUARY 26, 1998

McFARLANE'S BARK SITE PLAN NARRATIVE

The attached site plan shows the proposed layout for the composting and bark operations at the Johnson Road site. After meeting with Metro and Clackamas County, and more recently with the neighboring industry (Brophy Machine Works), a site plan and operations approach has been finalized that solves access and queuing issues at the site.

The active composting and stabilization areas have been combined into a single pad in order to facilitate the continuous processing of compost. Aeration of the two different pad areas can be controlled separately due to the lateral feed of air from the blower gallery. Shredded yard debris will be placed at the south end of the pad and will be moved to the north as composting progresses.

The compost will be screened after stabilization and placed in fine, medium, and coarse compost bins on-site or transported to McFarlane's Vancouver, Washington facility for storage. "Overs" or oversized material will be reserved and used during peak grass season as a means of improving air flow through the piles. The composting areas have been sized to accommodate 36,000 to 40,000 tons of raw material per year (see E & A Environmental section on composting operations).

The mode of operation on peak days will be modified to a flat rate method of charges which will avoid the requirement to weigh vehicles in and out of the facility. In addition, the active unload area will be expanded to handle more vehicles. These two changes result in a significant reduction in queue lengths with queue for the delivery of yard debris to the site becoming less than 300 feet (see Group MacKenzie traffic evaluation). This queue can be accommodated with the use of one lane along the south side of the site.

The traffic flow pattern has been modified to allow the required queuing and the maximum possible separation of public access from operational traffic. McFarlane trucks will proceed along the east and north side of the site. Customers purchasing materials will be directed to the customer loading area or to parking on the east side of the building. A separate inbound bypass lane is provided for traffic destined for Brophy Machine Works. Outbound traffic will be accommodated in a single lane with an improved turning radius at the site exit.

McFARLANE'S BARK TRANSITION PLAN

BACKGROUND

The current composting method (deep static pile) will be phased out and the new method (aerated static pile) will be implemented during 1998. The proposed compost method requires permanent installation of pads, blowers, and piping in order to start up operation. Part of the transition plan involves demonstration tests of the proposed method that will assist in designing the new composting pads. These tests will use large scale temporary on-site pads that will accommodate a portion of the material to be composted. The composting plan developed by E & A Environmental describes the approach and need for conducting the demonstration tests.

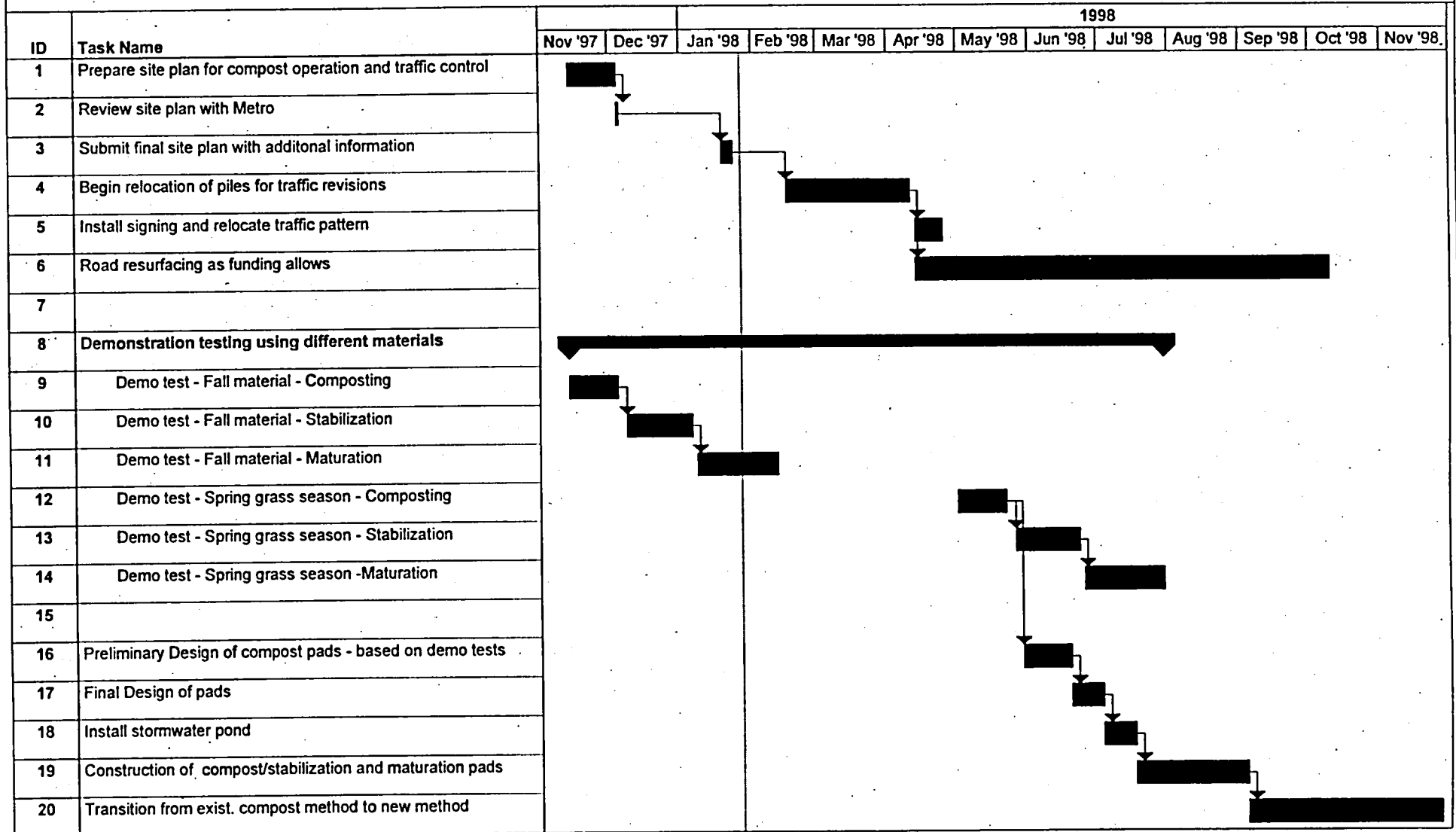
TRANSITION SCHEDULE

A schedule for implementing the anticipated improvements is attached. The schedule describes the ongoing demonstration testing which began approximately mid-November using fall material including leaves and shredded woody yard debris. This will be followed in the late spring of 1998 with a demonstration test using a mix of grass clippings, as well as other yard debris material. Since this is also the peak season for quantity of material and the most difficult to control odors, the results of this demonstration test will be very important to the design of the permanent facility.

Implementing the revisions to the traffic pattern will be somewhat dependent on completing the transition to the proposed composting method. To the extent practicable, traffic revisions will be made in early 1998 in order to better accommodate traffic management. The remaining traffic improvements will be made after the transition to the proposed composting method is completed.

The transition will require the relocation and substantial reduction of the existing dirt pile to make room for construction of the compost/stabilization pad. The current deep static compost pile will begin being phased out by first diverting new material to the new compost pad. Some material in the deep static pile could be relocated to the new compost pad if space is available. Once the deep static compost pile has been removed or relocated, then the rest of the site improvements can proceed.

McFarlane's Bark Composting Operation Schedule of Improvements



Project: SCHEDULE2
Date: Tue 1/27/98

Task	█	Summary	▾	Rolled Up Progress	█
Progress	█	Rolled Up Task	█		
Milestone	◆	Rolled Up Milestone	◇		

COMPOSTING OPERATIONS AND ODOR CONTROL PLAN

E & A ENVIRONMENTAL CONSULTANTS, INC.

McFarlane Bark, Inc.
Composting Operations and Odor Control Plan

PROCESS PLAN

Composting Process Selection

The objective of the composting process selection is to provide a composting facility that maintains the capacity of the current process while significantly reducing the potential for odor impact on neighboring properties. The approach used to select the composting process involved consideration of available space and available technologies for minimizing odor generation. All alternative technologies considered involve processes that provide aerobic environments while minimizing space requirements. The windrow process was eliminated from consideration based on space requirement. The aerated static pile process operated in the negative mode and with the process air treated by biofiltration was also eliminated based on the space required for a biofilter. Use of either of these technologies at this site could only be accomplished with a significantly reduced processing capacity.

The two technologies that were considered include:

1. Aerated and Turned Mass Bed - This technology has been successfully utilized at the Pierce County Composting Facility operated by Land Recovery Inc. (LRI) at Purdy, Washington. An aerated pad is provided and the material is turned and moved across the pad using a SCAT turning machine. This facility has had considerable success composting yard debris with minimal odor impact on neighboring residents. However, the LRI facility is more isolated from residences than is the McFarlane site.
2. Aerated Static Pile, Deep Pile and Positive Aeration Variation - This process shares some similarities to that used by Cedar Grove Composting Company in Maple Valley, Washington. A significant difference is that Cedar Grove uses negative aeration and biofiltration for odor control. The variation of the aerated static pile process being considered relies on aeration to provide aerobic conditions within the pile which encourage rapid degradation while minimizing generation of odorous by-products.

The aerated static pile process was selected for implementation primarily because it can be utilized without an aeration floor. The process also has the potential for use of deeper piles than the turned process. The Scat turning machine has a maximum pile depth of about 10 feet. The static pile process has the potential for successful composting to depths of 15 feet and possibly greater. The functional depth limitation for the aerated static pile process will depend on several factors including the initial moisture content of the feed mix, the energy release pattern of the feedstock and the resulting temperature and moisture gradient through the depth profile of the

pile as composting proceeds. A series of demonstration tests is recommended to document the suitability of the selected design criteria and the ability of the process to operate successfully through the full range of operating conditions and feedstock variation.

Current Process Description

The current process utilized by McFarlane involves the deep static pile process that has been utilized at several composting facilities in the Pacific Northwest. Facilities currently using a similar technology include GroCo, Inc. in Kent, WA (with sawdust and biosolids) and Pacific Topsoils, Inc. near Everett, WA (with Yard debris. The technology was previously used by Cedar Grove Composting but was discarded in favor of an aerated process.

Proposed Composting Process

The proposed composting process consists of three identifiable processing zones:

1. The active zone using the aerated static pile composting process using deep, extended (mass bed) piles and positive aeration. Material is composted in this zone for 21 days at the design loading when recycled screen overs are used. During the grass season, the screen overs will be added to improve porosity. During this period active composting will be for an estimated 15 days.
2. The stabilization/curing zone also using the deep extended aerated static pile process with a processing period of 28 days.
3. The maturation zone using an unaerated deep extended pile for a period of five weeks or greater.

The layout of the extended piles and the associated aeration systems (blower gallery) are shown on the site plan layout. This configuration was selected because of the space constraint associated with the site in order to provide the desired capacity. Space is not available for biofilters, requiring a system designed to operate in the positive aeration mode. In this configuration, air is forced through the composting material from distribution pipes located at the base of the pile and exiting from the surface of the pile. The air provides oxygen to assure aerobic degradation. Air also provides pile cooling to maintain temperatures within a range for efficient degradation with minimum release of odorous by-products. Heating energy is removed from the pile by evaporation of water. Therefore, the availability of sufficient water in the composting mix is critical for both the support of biological activity and evaporative cooling.

The operational objective of the proposed system is to provide near optimum conditions for rapid biological degradation of the yard debris to a product that is sufficiently stable for commercial sales. This rapid conversion is intended to allow composting in a shorter period than could be accomplished with the process historically used at this site, while using shallower pile heights. The process is also operated in an aerated mode rather than the anaerobic condition that likely

predominated in the deep static pile process. The aerated static pile process is, however, an active process compared to the relatively passive process previously used. Air passing through the interior of the pile is continuously released to the atmosphere.

The facility as laid out is designed to process 3,100 cubic yard per week of shredded yard debris. Table 1 shows the annual material quantities that would be received and processed and the resulting product if the facility operates continuously at this rate. The equivalent weekly quantities are provided on Table 2. These quantities and the changes that occur during the composting process are preliminary and will be developed based on actual operating data during the demonstration testing of the process.

Table 1: Annual Material Weights and Volumes			
	Weight (tons)	Density (lbs/cubic yard)	Volume (cubic yards)
Incoming Yard Debris	40,000	250	320,000
Shredded Yard Debris	40,000	500	160,000
Screened Fines (mulch product)	27,300	600	91,000
Screen Overs (mulch product)	9,200	400	46,000
Compost Product	25,000	900	56,000

Table 2 provides the peak weekly design capacities for the proposed system.

Table 2: Design Peak Weekly Material Weights and Volumes			
	Weight (tons)	Density (lbs/cubic yard)	Volume (cubic yards)
Incoming Yard Debris	770	250	6,150
Shredded Yard Debris	770	500	3,080
Screened Fines (mulch product)	525	600	1,750
Screen Overs (mulch product)	180	400	885
Compost Product	480	900	1,080

The design criteria for the proposed facility are listed in Table 3.

Table 3: Design Criteria		
	Units	Capacity
ACTIVE COMPOSTING		
Pile Depth	Feet	15
Aeration Rate	Cfm per SF	3.85
Pile Volume	Cubic yards	9,300
STABILIZATION/CURING		
Pile Depth	Feet	15
Aeration Rate	Cfm per SF	0.75

Pile Volume	Cubic yards	7,400
MATURATION		
Pile Depth	Feet	18
Aeration Rate		None
Pile Volume	Cubic yards	8,300

Demonstration Testing

The purpose of the demonstration testing is to 1) determine the suitability of the composting process for composting at this site, 2) provide operational experience to determine compatibility with site operations and 3) document the characteristics of the composting material as it passes through the process.

Several innovative modifications of the aerated static pile process are proposed as a means of maximizing the composting capacity of the available operating space. The effectiveness of the process using these modifications needs to be verified before full-scale operations are begun. Considering this need, the specific objectives of the demonstration testing include:

1. Odor minimization capability
2. Evaluate pile depth impacts on pile temperatures and moisture content distribution
3. Documentation of pile detention times relative to product quality
4. Evaluate aeration without a plenum in the yard debris material
5. Evaluate optimal aeration rates

First Phase - Fall Material

The first phase of the demonstration testing will utilize yard debris generated during the fall and winter. This material generally includes more leaves and woody material than material generated in the spring and summer. This material is lower in energy and results in a composting situation that is generally easier to control. This is an excellent feedstock for initial evaluation and operations.

Second Phase - Peak Loading - Spring

The second phase of process demonstration will be during the peak grass season in the spring. This is the most difficult yard debris material to manage. Grass is very reactive, high in energy and degrades rapidly. The fine texture also tends toward matting and low porosity for air movement. This can lead to anaerobic conditions and production of highly offensive odors. The

proposed process will manage this condition by using reserved screen overs to bulk up the grassy material to assure porosity for aeration.

Composting of this material will be the final demonstration of the process prior to full-scale implementation. It is expected that adjustments will be made to the proposed process after each phase of the demonstration testing.

ODOR CONTROL PLAN

Odor management planning involves a thorough evaluation of the composting operation and evaluation of available control technologies needed to control odors to acceptable levels. This evaluation utilizes the following evaluation process:

- Identify sources of odor
- Determine the character and intensity of odors from each source
- Determine the impact of each odor source on odors at the property boundary or other critical locations
- Evaluate odor control methods for each activity that results in odor release
- Select of the most appropriate control techniques for the situation
- Implement the selected odor control procedures
- Evaluate the effectiveness of the implemented control methods
- Adjust the odor control plan, if necessary

Although experience at other composting facilities is of use in evaluating the McFarlane operation, each composting facility receives somewhat different feedstocks which are managed differently and result in unique odor conditions considering local development and atmospheric conditions. Each facility evaluation needs to consider each step in the composting process from receipt to sales. Materials handling steps that have been identified as potential odor sources at other composting facilities include:

- Receiving area
- Feedstock stockpiles
- Grinding
- Compost pile formation
- Compost pile turning
- Compost pile aeration
- Compost pile breakdown
- Screening
- Curing, particularly if unaerated
- Product storage

A variety of techniques can be used to control odors at a composting facility. In summary, the techniques are categorized as composting process adjustments, weather based operational controls, enclosure of odorous processes and collection and treatment of odorous air streams. Considering these available odor control methods, the site constraints and potential impacts on

neighboring properties, a cost effective program for improving odor conditions at the McFarlane Bark facility has been developed. Aspects of each type of odor management approach, which is within economic feasibility for this operation, have been used. The basic concepts that are proposed to control odors at this facility include:

- Process and place received material in the composting pile within 18 hours of receipt.
- Maintain highly aerated composting piles with temperatures maintained consistently below 65oC (149oF) with normal operating temperatures of 55oC (131oF) or lower.
- Maintain moisture content between 45 and 60 percent throughout the composting process.
- Utilize screen overs and other coarse woody material as a bulking material when necessary to maintain a porous mix for aeration.
- Provide high rate aeration and pile cooling prior to pile breakdown.
- Control of runoff to prevent stagnant, anaerobic conditions.
- Restrict potentially odor producing activities during weather conditions (such as stagnant inversions) that increase off site odor impacts.

The effectiveness of these activities will be determined through direct monitoring of the process, property line impact evaluation and routine contact with neighbors to assess performance.

Contingency plans for additional odor control approaches are a prudent backup for any odor management plan. Additional odor control methods that will be considered for this facility if the planned improvements do not provide the desired level of odor control include the following:

- Provide an aerated pad for the delivered yard debris to reduce odors from material that is odorous as it is received.
- Modify the aerated static pile process. Changes to the pile configuration, detention times and turning events and adjusting mix with recycled screen overs may further reduce odors. These steps would likely reduce the composting capacity of this site. This would significantly reduce the composting capacity of the site.
- Operate the aerated static pile process in the negative aeration mode and provide biofiltration.
- Evaluate the use of odor management sprays and additives.
- Evaluate the use of a scat turning machine in conjunction with aeration to improve moisture control and porosity in the composting material.

Another significant aspect of odor management is the development of a program for working with and responding to neighbors that may be impacted by odors. Key elements of the program include:

- Routine self evaluation - Routine tours of the property boundary initially and the composting area secondarily by an employ who is not normally located at the site provides excellent information on the performance of the odor control methods. Reports should document atmospheric conditions and operational activities that create undesirable off site odors.
- Responding to odor complaints - Immediate response to any odor complaint provides information needed to determine the significance of each complaint and the opportunity to evaluate and adjust activities. A quick response also helps maintain a working relationship with neighbors that provides assurance that odor control is taken seriously and any problems will b addressed.
- Verifying conditions - All odor observations whether routine or in response to a complaint provide valuable data for evaluating the performance of the odor control plan. Specific information about location, odor strength and character and atmospheric conditions should be collected for each situation.
- Determining the source of odors - Determination of the source of off site odors in the key to correcting problems. This allows focusing of odor control efforts on the primary sources and assists with cost effective odor control.
- Evaluating the potential for improved control - Based on routine review of odor conditions and complaints which provide an alert of off site conditions the odor plan should be periodically reviewed for effectiveness and alternatives considered for any site activities that are creating off site odor problems.
- Communication of plans - Communicating plans for odor control adjustments to site neighbors provides an avenue for communication and assurance for the neighbors that continuous vigilance is being applied to odor control.

TRAFFIC EVALUATION

GROUP MACKENZIE

G R O U P

MACKENZIE

January 28, 1998

McFarlane's Bark, Inc.
Attention: Daniel McFarlane
13345 S.E. Johnson Road
Milwaukie, OR 97222

Re: McFarlane's Bark Vehicle Queuing Survey
Group Mackenzie Project #197407

Dear Mr. McFarlane:

Group Mackenzie has reviewed the operation of your facility on Johnson Road in Milwaukie for queuing and circulation requirements in conjunction with the revised composting and bark operations.

Concerns have been raised by Metro, Clackamas County and neighbors regarding vehicle queues extending through the easement with Brophy Machine Works and onto Johnson Road. Peak vehicle queues have extended back as far as the old Costco driveway on Johnson Road. The long queues are caused by vehicles waiting to drop off brush and circulation of other vehicles around these queues. Clackamas County has indicated that vehicles will not be allowed to queue in the public right-of-way on Johnson Road and the neighbors have expressed concern over vehicles queuing within the common easement.

This report addresses the existing brush dumping operation, peak season demands and impacts, as well as proposed mitigation measures. The current operation, with vehicles being weighed prior to and after dumping brush, is limited to approximately 45 vehicles per hour. This compares to a demand of 60 vehicles per hour during the peak season. The proposed mitigation will significantly increase the brush dumping capacity, and thus reduce vehicle queues.

The proposed mitigation plan would use a flat rate payment during peak use periods, instead of weighing each vehicle on an inbound and outbound scale. This would reduce inbound peak queues from 1400 to 280 ft., and eliminate the need for an outbound scale transaction. The brush dumping area will be improved, with clearly delineated spaces and reduced conflicts with equipment. The inbound queues will be accommodated in a signed and striped lane extending from the existing scale house back towards the Johnson Road entrance.

FACILITY PROCESSES

BRUSH DUMPING

The brush dumping facility primarily serves private vehicles and some commercial vehicles with yard debris. The area consists of two scales on either side of a scale house with an adjacent area for dumping brush. Operation is comprised of three distinct steps. First, the vehicles are weighed on the north (entering) scale, the customers pay a deposit and are issued a ticket. Second, the vehicles go to the brush

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*The tradition of
Mackenzie
Engineering and
Mackenzie Sato
continues*

Daniel McFarlane
Group Mackenzie Project #197407
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dumping area to unload. Finally, the vehicle is weighed on the south (outbound) scale and any additional payment or refund of the deposit is made. McFarlane's indicated that customers are also allowed to pay for products such as bark dust, gravel, and compost material at this scale.

RETAIL/OFFICE

McFarlane's Bark offices and small retail area are located in a building at the east end of the site near the termination of Johnson Road. Employees park to the east of the building, while customers generally park in front of (south side) or beside (east side) the building's retail area. The retail area is for product sales of bark dust, gravel, and compost material. Access to the building and parking area are often blocked by brush dumping queues during the peak season.

PRODUCT BINS

The products for sale at McFarlane's Bark are stored in bins to the west of the building. Gravel is stored in bins south of the scales and barkdust is in bins located between the scales and the building. Circulation of loaders and customer vehicles accessing the product bins currently conflicts with the brush dumping operation and queues at the inbound scale.

OBSERVATIONS/SURVEY

SUMMARY

Group Mackenzie staff visited the site on Saturday November 1, 1997 to observe existing operations and review the site layout. Data was collected on queue lengths, time on the scales and time dumping brush. A traffic study prepared by Lancaster Engineering in 1993 for the facility proposed on SE 130th Avenue was also reviewed. Applying this information in conjunction with peak season transaction estimates produced an estimate of vehicle queuing requirements for the site.

During the visit, the brush dumping operation was observed for a one hour period between 2:35 and 3:35 pm. McFarlane's indicated that Saturdays are the busiest days, with peak operation between 11:00 am and 3:00 pm. The weather was clear and sunny which provided a steady stream of vehicles. A total of 41 vehicles were observed in the brush dumping facilities during the hour with 29 vehicles entering and 34 exiting. Twelve vehicles were in the system at the beginning of the survey and seven remained at the end.

At the beginning of the survey, one person was operating the scales, conducting transactions and directing traffic in the brush dumping area. As a result, longer waiting times were experienced at the scales and in the queues. Between 2:45 and 3:00 pm, the peak fifteen minutes of the survey, a second person directed traffic in the brush dumping area which helped reduce the scale times. According to McFarlane's, a person is stationed in the brush dumping area during the peak season to direct traffic. We also noticed that McFarlane's staff gives priority to the outbound scale and brush dumping areas when congested.

INBOUND SCALE

Average service times on the entering scales were 98 seconds for the hour and 64 seconds during the peak 15 minutes. The attached spreadsheets present this data. For purposes of this analysis, the shorter 64 second scale time will be used to assess queuing during the peak times when two employees will run the operation. Time spent in the queue waiting for the entering scales was 140 seconds on average for the hour, and 82 seconds in the peak 15 minutes

BRUSH DUMPING AREA

Although times for brush dumping were not specifically surveyed, they can be estimated from the time a vehicle leaves the inbound scale until it leaves the outbound scale (17:54), minus the average outbound scale time (1:20) and an estimate of the outbound scale queue time (2:20). The resultant total existing brush dumping time is 14:14. This includes the time spent waiting in queues, positioning the vehicles and dumping brush.

The current brush dumping area is not well defined and has frequent conflicts between vehicles dumping brush and McFarlane's equipment. Based upon Group Mackenzie's observation, the brush dumping time can be reduced by clearly marking the brush dumping stalls and eliminating conflicts with equipment. With these improvements, it is estimated that the time needed to travel from the scales to the stalls, dump the brush and enter the outbound scale queue would be an average of 10 minutes per vehicle.

The service rate of the brush dumping area depends on the number of vehicles which can be accommodated simultaneously. At 10 minutes per vehicle, a total of six vehicles can be served by each stall. McFarlane's has estimated that the new site layout would accommodate a minimum of 15 vehicles. This would result in a service rate of one vehicle every 40 seconds or 90 vehicles per hour.

OUTBOUND SCALE

The outbound scale also develops queues which can impede operation of the brush dumping area. These queues are a factor of the service rate on the outbound scales. On average, the service time for this scale was 80 seconds for both the hour and peak 15 minutes. Total time dumping brush and waiting in the outbound queue averaged 989 seconds, or 16:29, with a minimum of 6:48 and maximum of 24:37. Specific dumping time or queue time for the outbound scale was not surveyed.

OBSERVATIONS

On several occasions, the brush dumping area was congested. The congestion was primarily caused by customers unsure about where to go, queues backing up from the outbound scale, inadequate space for brush dumping and interaction with trucks and loaders. During the worst congestion, queues from this area were observed back onto the inbound scale. This in turn reduces the number of vehicles the inbound scale can serve, and increases the inbound queue lengths.

Based upon the survey, the scales currently accommodate 56 vehicles per hour inbound and 45 vehicles per hour outbound. The brush dumping area would be able to accommodate 90 vehicles per hour with 15 dumping locations.

Without changes to the operation or vehicle demand, average queues of 630 ft. and peak queues of 1400 ft. could be expected at the Johnson Road brush dumping facility. This is based upon existing service times for the two scales and brush dumping area assuming 15 brush dumping locations. Queues lengths are estimated to be a distance of 35 ft. per vehicle. The outbound scale appears to be the critical link in the system; however, the brush dumping area is close behind in its capacity limitations.

PROPOSED MITIGATION MEASURES

Several measures were considered which ranged from accommodating queues of up to 1400 ft., to reducing vehicle demand during the peak season, to increasing capacity of the brush dumping process. The selected mitigation scenario involves using a flat rate charge system which significantly reduces delays involved in scaling incoming and outgoing loads.

The service rates used in the mitigation scenario are based upon Group Mackenzie's survey and observations and are as follows:

Inbound Scale	64 seconds/vehicle	56 vehicles/hour
Brush Dumping Area	600 seconds/vehicle	6 vehicles/hour/space
Outbound Scale	80 seconds/vehicle	45 vehicles/hour

McFarlane's has indicated a willingness to allow vehicles to choose to pay a flat rate, instead of paying by weight which necessitates using both scales and results in two transactions. With a flat rate, the customer would simply pay a fee based upon the load size or vehicle capacity prior to dumping brush. It is estimated that this transaction would take 30 seconds, compared with the 64 seconds needed to weigh a vehicle, pay a deposit and issue a ticket.

Under the proposed mitigation plan, all customers would pay a flat rate during peak use periods. This transaction would occur at the existing scale house. Again, the transaction time upon entering the site would be 30 seconds. Vehicle queues would be a maximum of 280 ft., with the brush dumping area being the limiting factor for capacity. The brush dumping area would be reconfigured to allow 18 stalls for the vehicles. The need for an outbound scale transaction is eliminated with a flat rate.

QUEUING REQUIREMENTS

All queuing calculations were conducted based upon the anticipated peak hour demand during the busy seasons as provided by McFarlane's Bark. They have indicated an expected 600 vehicles per day utilizing the brush dumping facilities during the peak season. Of these, 500 would be private vehicles. The other 100 are commercial flat rate users, which do not use the scales or pay for each transaction, but do share the brush dumping area. It is expected that 12 percent of the daily traffic will arrive during the peak hour. This is based upon information in a study prepared by Lancaster Engineering in 1993. Thus, the transaction demand would be 60 vehicles per hour and the brush dumping demand would be 72 vehicles per hour.

A poisson distribution was assumed, with peak queues representing a 95% probability of occurrence and average queues at 50% probability. In cases where demand is greater than capacity during the peak hour, queuing was estimated based upon a random arrival scenario. Based upon information provided in the Lancaster study, the peak demand may last for up to three hours, with the peak hour only slightly higher than the other two. For this reason, queuing for three hours was considered. The three peak hours were broken down into 36 five minute intervals. Random number generation was used to simulate arrivals during each interval. The number of vehicles served in each interval was subtracted from the queue, while the unserved vehicles were added to the next interval's arrival volume. Queue lengths are based upon an average of 35 ft. per vehicle. This accounts for larger vehicles and trailers, as compared to 25 ft. for typical passenger vehicle queues. It should be noted that the queuing calculations assume the transaction and brush dumping area operate independently, which is not necessarily the case.

Queues at the brush dumping area may actually be less than reported due to the uniform arrival of vehicles from inbound transaction area to pay the flat rate fee.

Copies of the queuing calculations are enclosed with this letter. The following information summarizes the pertinent information for the selected queuing mitigation measure as well as the estimated queues.

Daily Vehicles	Public	500
	Private	100
Peak Hour Demand (veh/hr)	Public	60
	Private	12
	Flat Rate	60
	Brush Dumping . . .	72
Brush Dumping Spaces	. . . . .	18
Service Rates (veh/hr)	Flat Rate	120
	Brush Dumping . . .	102
Average Queues (ft)	Flat Rate	35
	Brush Dumping . . .	35
Peak Queues (ft)	Flat Rate	140
	Brush Dumping . . .	280

INBOUND SCALE/TRANSACTION AREA

With continued use of the inbound scale for all vehicles, seasonal peak queues of up to 1400 ft. would be expected. These queue can be significantly reduced by the proposal to use a flat rate fee during peak periods. The scales may continue to be used at other times. Peak queues of 140 ft. would be expected at the transaction area, but may be impacted by limitations of the brush dumping area, resulting in slightly longer queues. The queuing lane for inbound vehicles will extend from the existing scale house, back to

Daniel McFarlane
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the entrance on Johnson Road. It will be clearly delineated with striping and signing. Peak queues will extend to the existing building's retail area.

BRUSH DUMPING AREA

Plans for the brush dumping area include 18 stalls, reduced conflicts with McFarlane's equipment and well defined stall areas. Peak queues of 280 ft. were estimated with 18 stalls. Average queues are expected to be only one vehicle, or 35 ft.. The peak queue may back up to the scale house and transaction area, causing additional queuing for inbound vehicles. This queuing is not expected to be more than the 280 ft.

OUTBOUND SCALE

Operation of an outbound scale with the anticipated peak demands would cause backups into the brush dumping area and inbound scale. Using a flat rate fee payment reduces inbound queues, and eliminates the need for an outbound scale transaction. The outbound scale may still be used during non peak times.

CONCLUSIONS AND RECOMMENDATIONS

With the proposed changes to your composting process, several mitigation options were considered to reduce the brush dumping operation vehicle queues. They included accommodating the anticipated 1400 ft. of queuing with the current operation, limiting the peak demands and providing a flat rate option, which eliminates the need for scales. In addition to improving the queuing, we desired to reduce the potential of cross traffic circulation and provide clear delineation of the queuing area and brush dumping spaces.

The proposed mitigation plan would use a flat rate payment during peak use periods, instead of weighing each vehicle on an inbound and outbound scale. This flat rate transaction would occur at the existing scale house. It is estimated that the transaction service rate would be improved from 56 vehicles per hour to 120 vehicles per hour. Under independent operation, peak queues of 140 ft. would be expected.

With the flat rate payment, vehicle queues would be a maximum of 280 ft., with the brush dumping area being the limiting factor for capacity. A total of 18 vehicle stalls will be providing in the brush dumping area. During the peak times, queues may develop at the brush dumping area. These can be accommodated by holding vehicles at the scale house transaction area. This would result in peak inbound queues of 280 ft., instead of the 140 ft.

The need for an outbound scale transaction is eliminated with a flat rate. At this time, McFarlane's intends to keep the inbound and outbound scales for use during non-peak times.

The queuing lane for inbound vehicles will extend from the existing scale house, back to the entrance on Johnson Road. It will be clearly delineated with striping and signing. Peak queues will extend to the existing building's retail area. Inbound lanes will be provided on both sides of the transaction line, with an egress lane to the south. This provides clear access circulation for Brophy Machine Works. Entering vehicles for retail customers will use the inbound lane north of the transaction line.

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Upon leaving the retail area and product bins, these vehicles will exit to the west between the scale house and brush dumping area. This is the main area of potential vehicle conflicts.

The proposed site layout significantly reduces the cross circulation and conflict potential between customer vehicles and McFarlane's equipment.

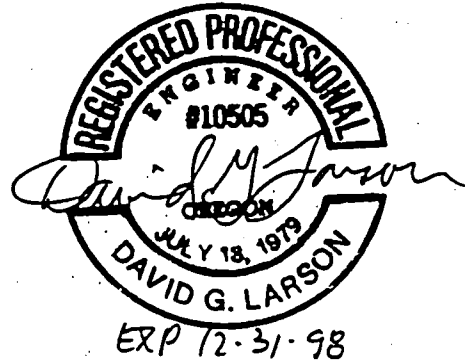
Sincerely,



Brent Ahrend
Traffic Analyst

/BTA/kc

c: Frank Hammond - O'Donnell, Ramis, Crew, Corrigan & Bachrach
Neil Alongi - Maul Foster & Alongi, Inc.



QUEUEING ANALYSIS

Inbound Scale
Scenario 4

Peak Hour
Peak Season

ARRIVAL RATE na (veh/hr) 0.0 (veh/min)
CAPACITY na (veh/hr) 0.0 (veh/min)
UTILIZATION FACTOR (p) ERR

$P(n)=p^n \cdot P(0)$ where $P(0)=1-p$ ERR

P(n)	$P(x=n)=p^n \cdot P(0)$	$P(x<n)$
0	ERR	ERR ERR
1	ERR	ERR ERR
2	ERR	ERR ERR
3	ERR	ERR ERR
4	ERR	ERR ERR
5	ERR	ERR ERR
6	ERR	ERR ERR
7	ERR	ERR ERR
8	ERR	ERR ERR
9	ERR	ERR ERR
10	ERR	ERR ERR
11	ERR	ERR ERR
12	ERR	ERR ERR
13	ERR	ERR ERR
14	ERR	ERR ERR
15	ERR	ERR ERR

STORAGE REQ= na VEH @ 35 FEET/VEH = 0 FEET

QUEUEING ANALYSIS

Flat Rate
Scenario 4

Peak Hour
Peak Season

ARRIVAL RATE 60 (veh/hr) 1.0 (veh/min)
CAPACITY 120 (veh/hr) 2.0 (veh/min)
UTILIZATION FACTOR (p) 0.500

$P(n)=p^n \cdot P(0)$ where $P(0)=1-p$ 0.500

P(n)	$P(x=n)=p^n \cdot P(0)$	$P(x<n)$
0	0.500	0.500 -
1	0.250	0.750 -
2	0.125	0.875 -
3	0.063	0.938 -
4	0.031	0.969 *
5	0.016	0.984 *
6	0.008	0.992 *
7	0.004	0.996 *
8	0.002	0.998 *
9	0.001	0.999 *
10	0.000	1.000 *
11	0.000	1.000 *
12	0.000	1.000 *
13	0.000	1.000 *
14	0.000	1.000 *
15	0.000	1.000 *

STORAGE REQ= 4 VEH @ 35 FEET/VEH = 140 FEET

QUEUEING ANALYSIS

Brush Dumping Area
Scenario 4

Peak Hour
Peak Season

ARRIVAL RATE 72 (veh/hr) 1.2 (veh/min)
CAPACITY 102 (veh/hr) 1.7 (veh/min)
UTILIZATION FACTOR (p) 0.706

$P(n)=p^n \cdot P(0)$ where $P(0)=1-p$ 0.294

P(n)	$P(x=n)=p^n \cdot P(0)$	$P(x<n)$
0	0.294	0.294 -
1	0.208	0.502 -
2	0.147	0.648 -
3	0.103	0.752 -
4	0.073	0.825 -
5	0.052	0.876 -
6	0.036	0.913 -
7	0.026	0.938 -
8	0.018	0.956 *
9	0.013	0.969 *
10	0.009	0.978 *
11	0.006	0.985 *
12	0.005	0.989 *
13	0.003	0.992 *
14	0.002	0.995 *
15	0.002	0.996 *

STORAGE REQ= 8 VEH @ 35 FEET/VEH = 280 FEET

QUEUEING ANALYSIS

Outbound Scale
Scenario 4

Peak Hour
Peak Season

ARRIVAL RATE na (veh/hr) 0.0 (veh/min)
CAPACITY na (veh/hr) 0.0 (veh/min)
UTILIZATION FACTOR (p) ERR

$P(n)=p^n \cdot P(0)$ where $P(0)=1-p$ ERR

P(n)	$P(x=n)=p^n \cdot P(0)$	$P(x<n)$
0	ERR	ERR ERR
1	ERR	ERR ERR
2	ERR	ERR ERR
3	ERR	ERR ERR
4	ERR	ERR ERR
5	ERR	ERR ERR
6	ERR	ERR ERR
7	ERR	ERR ERR
8	ERR	ERR ERR
9	ERR	ERR ERR
10	ERR	ERR ERR
11	ERR	ERR ERR
12	ERR	ERR ERR
13	ERR	ERR ERR
14	ERR	ERR ERR
15	ERR	ERR ERR

STORAGE REQ= na VEH @ 35 FEET/VEH = 0 FEET

Agenda Item Number 8.3

Ordinance No. 98-746, An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule to Recognize \$44,000 in New Grant Revenues, Reclassify Certain Expenditures, Transfer Funds from the Regional Parks Fund Contingency to Various Line Items Within the Fund, and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98	)	ORDINANCE NO. 98-746
BUDGET AND APPROPRIATIONS TO)	
RECOGNIZE \$44,000 IN NEW GRANT	)	Introduced by Executive Officer
REVENUES, RECLASSIFY CERTAIN	)	Mike Burton
EXPENDITURES, TRANSFER FUNDS FROM)	
THE REGIONAL PARKS FUND)	
CONTINGENCY TO VARIOUS LINE ITEMS)	
WITHIN THE FUND AND DECLARING AN)	
EMERGENCY)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of recognizing \$44,000 in new grant funds and related expenditures in the Regional Parks Fund; reclassifying \$13,469 from materials & services to debt service in the Regional Parks Fund, transferring \$17,525 from personal services to interfund transfers in the Regional Parks Fund, transferring \$16,591 from the Regional Parks Fund contingency to various line items within the Fund, and transferring \$1,962 from capital outlay to materials & services in the Regional Parks Fund.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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
Ordinance No. 98-746**

Regional Parks Fund

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Resources							
<i>Resources</i>							
<u>REGIONAL PARKS & GREENSPACES</u>							
	<i>BEGBAL Beginning Fund Balance</i>		\$2,055,212		\$0		\$2,055,212
	<i>GRANTS Grants</i>						
	4100 Federal Grants - Direct		821,516		0		821,516
	4110 State Grants - Direct		524,520		40,000		564,520
	4120 Local Grants - Direct		15,000		4,000		19,000
	TOTAL RESOURCES		\$10,134,438		\$44,000		\$10,178,438

**Exhibit A
Ordinance No. 98-746**

Regional Parks Fund

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks & Greenspaces Department							
<i><u>Debt Service</u></i>							
<i>LOAN</i>	<i>Loan Payments</i>						
5610	Loan Payments-Principal		0		6,152		6,152
5615	Loan Payments-Interest		0		7,317		7,317
Total Debt Service			50		\$13,469		\$13,469
<i><u>Capital Outlay</u></i>							
<i>CAPNON</i>	<i>Capital Outlay (Non-CIP Projects)</i>						
5700	Land (non-CIP)		650,000		0		650,000
5710	Improve-Oth thn Bldg (non-CIP)		0		0		0
5720	Buildings & Related (non-CIP)		472,529		0		472,529
5740	Equipment & Vehicles (non-CIP)		42,249		0		42,249
5750	Office Furn & Equip (non-CIP)		36,962		(1,962)		35,000
<i>CAPCIP</i>	<i>Capital Outlay (CIP Projects)</i>						
5705	Land (CIP)		0		0		0
5715	Improve-Oth thn Bldg (CIP)		1,165,525		0		1,165,525
5725	Buildings & Related (CIP)		42,500		0		42,500
5745	Equipment & Vehicles (CIP)		0		0		0
5755	Office Furniture & Equip (CIP)		0		0		0
Total Capital Outlay			\$2,409,765		(\$1,962)		\$2,407,803
<i><u>Interfund Transfers</u></i>							
<i>INTCHG</i>	<i>Internal Service Transfers</i>						
5800	Transfer for Indirect Costs						
	* to Support Services Fund		419,649		0		419,649
	* to Risk Mgmt Fund (liability)		18,903		0		18,903
	* to Risk Mgmt Fund (Worker Comp)		11,159		0		11,159
	* to Building Mgmt Fund		119,244		0		119,244
5820	Transfer for Direct Costs						
	* to Support Services Fund		2,000		17,525		19,525
	* to Planning Fund		16,000		0		16,000
	* to Open Spaces Fund		10,000		0		10,000
<i>EQTCHG</i>	<i>Fund Equity Transfers</i>						
5810	Transfer of Resources						
	* to Regional Parks Trust Fund		0		8,342		8,342
Total Interfund Transfers			\$596,955		\$25,867		\$622,822
<i><u>Contingency and Ending Balance</u></i>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency		191,621		(16,591)		175,030
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance		1,972,142		0		1,972,142
Total Contingency and Ending Balance			\$2,163,763		(\$16,591)		\$2,147,172
TOTAL REQUIREMENTS			33.25		\$9,152,995		0.00
					\$44,000		33.25
							\$9,196,995

**Exhibit A
Ordinance No. 98-746**

Regional Parks Fund

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks & Greenspaces Department							
<u>Debt Service</u>							
<i>LOAN Loan Payments</i>							
5610	Loan Payments-Principal		0		6,152		6,152
5615	Loan Payments-Interest		0		7,317		7,317
Total Debt Service			\$0		\$13,469		\$13,469
<u>Capital Outlay</u>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
5700	Land (non-CIP)		650,000		0		650,000
5710	Improve-Oth thn Bldg (non-CIP)		0		0		0
5720	Buildings & Related (non-CIP)		472,529		0		472,529
5740	Equipment & Vehicles (non-CIP)		42,249		0		42,249
5750	Office Furn & Equip (non-CIP)		36,962		(1,962)		35,000
<i>CAPCIP Capital Outlay (CIP Projects)</i>							
5705	Land (CIP)		0		0		0
5715	Improve-Oth thn Bldg (CIP)		1,165,525		0		1,165,525
5725	Buildings & Related (CIP)		42,500		0		42,500
5745	Equipment & Vehicles (CIP)		0		0		0
5755	Office Furniture & Equip (CIP)		0		0		0
Total Capital Outlay			\$2,409,765		(\$1,962)		\$2,407,803
<u>Interfund Transfers</u>							
<i>INTCHG Internal Service Transfers</i>							
5800	Transfer for Indirect Costs						
	* to Support Services Fund		419,649		0		419,649
	* to Risk Mgmt Fund (liability)		18,903		0		18,903
	* to Risk Mgmt Fund (Worker Comp)		11,159		0		11,159
	* to Building Mgmt Fund		119,244		0		119,244
5820	Transfer for Direct Costs						
	* to Support Services Fund		2,000		17,525		19,525
	* to Planning Fund		16,000		0		16,000
	* to Open Spaces Fund		10,000		0		10,000
<i>EQTCHG Fund Equity Transfers</i>							
5810	Transfer of Resources						
	* to Regional Parks Trust Fund		0		8,342		8,342
Total Interfund Transfers			\$596,955		\$25,867		\$622,822
<u>Contingency and Ending Balance</u>							
<i>CONT Contingency</i>							
5999	Contingency		191,621		(16,591)		175,030
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance		1,972,142		0		1,972,142
Total Contingency and Ending Balance			\$2,163,763		(\$16,591)		\$2,147,172
TOTAL REQUIREMENTS		33.25	\$9,152,995	0.00	\$44,000	33.25	\$9,196,995

Exhibit A
Ordinance No. 98-746

Regional Parks Fund
For Information Only

ACCT.	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks Administration							
<i>Personal Services</i>							
Total Personal Services		4.75	\$253,757	0.00	\$0	4.75	\$253,757
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
5201	Office Supplies		4,475		1,962		6,437
5205	Operating Supplies		0		0		0
5210	Subscriptions and Dues		578		0		578
5215	Maintenance & Repairs Supplies		0		0		0
5220	Food		0		0		0
5225	Retail		0		0		0
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		0		0		0
5251	Utility Services		1,000		0		1,000
5255	Cleaning Services		0		0		0
5260	Maintenance & Repair Services		0		0		0
5265	Rentals		0		0		0
5280	Other Purchased Services		0		0		0
5290	Operations Contracts		0		0		0
<i>IGEXP Intergov't Expenditures</i>							
5300	Payments to Other Agencies		6,400		0		6,400
5310	Taxes (Non-Payroll)		0		0		0
5320	Government Assessments		0		0		0
<i>OTHEXP Other Expenditures</i>							
5450	Travel		0		0		0
5455	Training and Conference Fees		2,020		0		2,020
5490	Miscellaneous Expenditures		300		0		300
Total Materials & Services			\$14,773		\$1,962		\$16,735
<i>Capital Outlay</i>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
5700	Land (non-CIP)		0		0		0
5710	Improve-Oth thn Bldg (non-CIP)		0		0		0
5720	Buildings & Related (non-CIP)		0		0		0
5740	Equipment & Vehicles (non-CIP)		0		0		0
5750	Office Furn & Equip (non-CIP)		1,962		(1,962)		0
<i>CAPCIP Capital Outlay (CIP Projects)</i>							
5705	Land (CIP)		0		0		0
5715	Improve-Oth thn Bldg (CIP)		0		0		0
5725	Buildings & Related (CIP)		0		0		0
5745	Equipment & Vehicles (CIP)		0		0		0
5755	Office Furniture & Equip (CIP)		0		0		0
Total Capital Outlay			\$1,962		(\$1,962)		\$0
TOTAL REQUIREMENTS		4.75	\$1,095,493	0.00	\$0	4.75	\$1,095,493

**Exhibit A
Ordinance No. 98-746**

**Regional Parks Fund
For Information Only**

ACCT	DESCRIPTION	FY 1997-98 <u>Adopted</u>		<u>REVISION</u>		FY 1997-98 <u>Revised</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks (Operations & Maintenance Division)							
Total Personal Services		19.00	\$1,288,042	0.00	\$0	19.00	\$1,288,042
<u>Materials & Services</u>							
<i>GOODS Goods</i>							
5201	Office Supplies		3,150		0		3,150
5205	Operating Supplies		33,914		0		33,914
5215	Maintenance & Repairs Supplies		54,295		0		54,295
5225	Retail		5,200		0		5,200
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		343,704		0		343,704
5251	Utility Services		72,458		0		72,458
5260	Maintenance & Repair Services		30,413		52,249		82,662
5265	Rentals		21,675		0		21,675
5280	Other Purchased Services		11,250		0		11,250
<i>IGEXP Intergov't Expenditures</i>							
5300	Payments to Other Agencies		230,000		(13,469)		216,531
5310	Taxes (Non-Payroll)		85,500		0		85,500
5320	Government Assessments		21,000		0		21,000
<i>OTHEXP Other Expenditures</i>							
5450	Travel		1,000		0		1,000
5455	Training and Conference Fees		4,928		0		4,928
5490	Miscellaneous Expenditures		780		0		780
Total Materials & Services			\$919,267		\$38,780		\$958,047
<u>Debt Service</u>							
<i>LOAN Loan Payments</i>							
5610	Loan Payments-Principal		0		6,152		6,152
5615	Loan Payments-Interest		0		7,317		7,317
Total Debt Service			\$0		\$13,469		\$13,469
Total Capital Outlay			\$165,003		\$0		\$165,003
<u>Interfund Transfers</u>							
<i>INTCHG Internal Service Transfers</i>							
5800	Transfer for Indirect Costs						
	* to Support Services Fund		260,721		0		260,721
	* to Risk Mgmt Fund (liability)		11,538		0		11,538
	* to Risk Mgmt Fund (Worker Comp)		6,811		0		6,811
	* to Building Mgmt Fund		68,220		0		68,220
5820	Transfer for Direct Costs						
	* to Support Services Fund		880		0		880
<i>EQTCHG Fund Equity Transfers</i>							
5810	Transfer of Resources						
	* to Regional Parks Trust Fund		0		8,342		8,342
Total Interfund Transfers			\$348,170		\$8,342		\$356,512
<u>Contingency and Ending Balance</u>							
<i>CONT Contingency</i>							
5999	Contingency		104,944		(16,591)		88,353
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance		83,561		0		83,561
Total Contingency and Ending Balance			\$188,505		(\$16,591)		\$171,914
TOTAL REQUIREMENTS		19.00	\$2,908,987	0.00	\$44,000	19.00	\$2,952,987

**Exhibit A
Ordinance No. 98-746**

**Regional Parks Fund
For Information Only**

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Regional Parks (Planning & Capital Development)							
<i>Personal Services</i>							
<i>SALWGE Salaries & Wages</i>							
5010	Reg Employees-Full Time-Exempt						
	Associate Regional Planner	4.50	201,760	0.00	(11,258)	4.50	190,502
	Manager	1.00	64,735	0.00	0	1.00	64,735
	Program Coordinator	1.00	39,776	0.00	0	1.00	39,776
	Senior Regional Planner	1.00	53,334	0.00	0	1.00	53,334
5015	Reg Empl-Full Time-Non-Exempt						
	Program Assistant 2	2.00	55,888	0.00	0	2.00	55,888
5030	Temporary Employees		6,525		0		6,525
5080	Overtime		1,000		0		1,000
<i>FRINGE Fringe Benefits</i>							
5100	Fringe Benefits		145,120		(6,267)		138,853
Total Personal Services		9.50	\$568,138	0.00	(\$17,525)	9.50	\$550,613
Total Materials & Services			\$938,535		\$0		\$938,535
Total Capital Outlay			\$2,242,800		\$0		\$2,242,800
<i>Interfund Transfers</i>							
<i>INTCHG Internal Service Transfers</i>							
5800	Transfer for Indirect Costs						
	* to Support Services Fund		115,026		0		115,026
	* to Risk Mgmt Fund (liability)		5,091		0		5,091
	* to Risk Mgmt Fund (Worker Comp)		3,005		0		3,005
	* to Building Mgmt Fund		30,098		0		30,098
5820	Transfer for Direct Costs						
	* to Support Services Fund		880		17,525		18,405
	* to Planning Fund		16,000		0		16,000
	* to Open Spaces Fund		10,000		0		10,000
Total Interfund Transfers			\$180,100		\$17,525		\$197,625
<i>Contingency and Ending Balance</i>							
<i>CONT Contingency</i>							
5999	Contingency		74,791		0		74,791
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance		1,144,151		0		1,144,151
Total Contingency and Ending Balance			\$1,218,942		\$0		\$1,218,942
TOTAL REQUIREMENTS		9.50	\$5,148,515	0.00	\$0	9.50	\$5,148,515

Exhibit A
Ordinance No. 98-746
Regional Parks Trust Fund

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
<i>Resources</i>							
TIBBETS FLOWER ACCOUNT							
BGBAL	Beginning Fund Balance		\$1,134		\$0		\$1,134
INTRST	Interest Earnings						
4700	Interest on Investments		62		0		62
BLUE LAKE CONCERT STAGE ACCOUNT							
BGBAL	Beginning Fund Balance		\$90,101		\$0		\$90,101
INTRST	Interest Earnings						
4700	Interest on Investments		4,956		0		4,956
OXBOW PARK NATURE CENTER ACCOUNT							
BGBAL	Beginning Fund Balance		\$187,137		\$0		\$187,137
CHGSVC	Charges for Service						
4650	Miscellaneous Charges for Svc		10,000		0		10,000
INTRST	Interest Earnings						
4700	Interest on Investments		10,293		0		10,293
EQTREV	Fund Equity Transfers						
4970	Transfer of Resources * from Regional Parks Fund		0		8,342		8,342
WILLAMINA FARMER FAMILY PLOT ACCOUNT							
BGBAL	Beginning Fund Balance		\$81,631		\$0		\$81,631
INTRST	Interest Earnings						
4700	Interest on Investments		4,490		0		4,490
TOTAL RESOURCES			\$389,804		\$8,342		\$398,146
<i>Materials & Services</i>							
BLUE LAKE CONCERT STAGE ACCOUNT							
OTHEXP	Other Expenditures						
5490	Miscellaneous Expenditures		15,000		0		15,000
OXBOW PARK NATURE CENTER ACCOUNT							
OTHEXP	Other Expenditures						
5490	Miscellaneous Expenditures		15,000		0		15,000
Total Materials & Services			\$30,000		\$0		\$30,000
<i>Interfund Transfers</i>							
INTCHG	Internal Service Transfers						
5820	Transfer for Direct Costs						
	* to Regional Parks-Tibbets Flower		100		0		100
	* to Regional Parks-Farmer Family		3,900		0		3,900
Total Interfund Transfers			\$4,000		\$0		\$4,000
<i>Contingency and Ending Balance</i>							
UNAPP	Unappropriated Fund Balance						
5990	Unappropriated Fund Balance						
	* Tibbets Flower		1,096		0		1,096
	* Blue Lake Concert Stage		80,057		0		80,057
	* Oxbow Park Nature Center		192,430		8,342		200,772
	* Willamina Farmer Family Plot		82,221		0		82,221
Total Contingency and Ending Balance			\$355,804		\$8,342		\$364,146
TOTAL REQUIREMENTS			\$389,804		\$8,342		\$398,146

Exhibit A
Ordinance No. 98-746
Support Services Fund

ACCT	DESCRIPTION	FY 1997-98 Adopted		REVISION		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Resources							
<i>Resources</i>							
BEBAL	Beginning Fund Balance		\$1,363,443		\$0		\$1,363,443
CHGSVC	Charges for Service						
4150	Contractor's Business License		360,390		0		360,390
4180	Contract & Professional Service		14,546		0		14,546
INCGRV	Internal Charges for Service						
4670	Charges for Services		859,294		0		859,294
INTRST	Interest Earnings						
4700	Interest on Investments		68,477		0		68,477
MISCRV	Miscellaneous Revenue						
4890	Miscellaneous Revenue		15,000		0		15,000
INTSRV	Internal Service Transfers						
4975	Transfer for Indirect Costs						
	* from General Fund		514,499		0		514,499
	* from Zoo Operating Fund		1,126,282		0		1,126,282
	* from Planning Fund		1,665,149		0		1,665,149
	* from Open Spaces Fund		328,935		0		328,935
	* from Regional Parks Fund		419,649		0		419,649
	* from Smith & Bybee Lakes Fund		17,057		0		17,057
	* from SW Revenue Fund		2,270,455		0		2,270,455
4980	Transfer for Direct Costs						
	* from Planning Fund		25,000		0		25,000
	* from Regional Parks Fund		2,000		17,525		19,525
	* from SW Revenue Fund		103,561		0		103,561
EQTREV	Fund Equity Transfers						
4970	Transfer of Resources						
	* from General Fund		200,000		0		200,000
	* from Risk Mgmt Fund		340,000		0		340,000
TOTAL RESOURCES			\$9,693,737		\$17,525		\$9,711,262

Exhibit A
Ordinance No. 98-746
Support Services Fund

ACCT	DESCRIPTION	FY 1997-98		REVISION		FY 1997-98	
		FTE	Amount	FTE	Amount	FTE	Amount
Resources							
<i>Resources</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>		\$1,363,443		\$0		\$1,363,443
<i>CHGSVC</i>	<i>Charges for Service</i>						
4150	Contractor's Business License		360,390		0		360,390
4180	Contract & Professional Service		14,546		0		14,546
<i>INCGRV</i>	<i>Internal Charges for Service</i>						
4670	Charges for Services		859,294		0		859,294
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		68,477		0		68,477
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4890	Miscellaneous Revenue		15,000		0		15,000
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4975	Transfer for Indirect Costs						
	* from General Fund		514,499		0		514,499
	* from Zoo Operating Fund		1,126,282		0		1,126,282
	* from Planning Fund		1,665,149		0		1,665,149
	* from Open Spaces Fund		328,935		0		328,935
	* from Regional Parks Fund		419,649		0		419,649
	* from Smith & Bybee Lakes Fund		17,057		0		17,057
	* from SW Revenue Fund		2,270,455		0		2,270,455
4980	Transfer for Direct Costs						
	* from Planning Fund		25,000		0		25,000
	* from Regional Parks Fund		2,000		17,525		19,525
	* from SW Revenue Fund		103,561		0		103,561
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from General Fund		200,000		0		200,000
	* from Risk Mgmt Fund		340,000		0		340,000
TOTAL RESOURCES			\$9,693,737		\$17,525		\$9,711,262

Exhibit B
Ordinance No. 98-746
Schedule of Appropriations

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Proposed Appropriation</u>
SUPPORT SERVICES FUND			
Administrative Services			
Personal Services	4,382,424	0	4,382,424
Materials and Services	1,126,419	0	1,126,419
Capital Outlay	1,088,547	0	1,088,547
Debt Service	27,232	0	27,232
Subtotal	<u>6,624,622</u>	<u>0</u>	<u>6,624,622</u>
Office of General Counsel			
Personal Services	655,656	0	655,656
Materials and Services	41,856	0	41,856
Capital Outlay	21,644	0	21,644
Subtotal	<u>719,156</u>	<u>0</u>	<u>719,156</u>
Office of Public and Government Relations			
Personal Services	75,758	0	75,758
Materials and Services	60,427	0	60,427
Capital Outlay	1,750	0	1,750
Subtotal	<u>137,935</u>	<u>0</u>	<u>137,935</u>
Council Office of Public Outreach			
Personal Services	100,049	0	100,049
Materials and Services	31,185	0	31,185
Capital Outlay	8,033	0	8,033
Subtotal	<u>139,267</u>	<u>0</u>	<u>139,267</u>
Office of Citizen Involvement			
Personal Services	61,631	0	61,631
Materials and Services	22,480	0	22,480
Capital Outlay	0	0	0
Subtotal	<u>84,111</u>	<u>0</u>	<u>84,111</u>
Auditor's Office			
Personal Services	394,617	0	394,617
Materials and Services	141,413	0	141,413
Capital Outlay	8,606	0	8,606
Subtotal	<u>544,636</u>	<u>0</u>	<u>544,636</u>
General Expenses			
Interfund Transfers	788,762	0	788,762
Contingency	348,834	0	348,834
Subtotal	<u>1,137,596</u>	<u>0</u>	<u>1,137,596</u>
Unappropriated Ending Fund Balance	306,414	17,525	323,939
Total Fund Requirements	<u>\$9,693,737</u>	<u>\$17,525</u>	<u>\$9,711,262</u>

Exhibit B
Ordinance No. 98-746
Schedule of Appropriations

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Proposed Appropriation</u>
REGIONAL PARKS FUND			
Regional Parks and Greenspaces			
Personal Services	2,109,937	(17,525)	2,092,412
Materials and Services	1,872,575	40,742	1,913,317
Debt Service	0	13,469	13,469
Capital Outlay	2,409,765	(1,962)	2,407,803
Subtotal	<u>6,392,277</u>	<u>34,724</u>	<u>6,427,001</u>
General Expenses			
Interfund Transfers	1,578,398	25,867	1,604,265
Contingency	191,621	(16,591)	175,030
Subtotal	<u>1,770,019</u>	<u>9,276</u>	<u>1,779,295</u>
Unappropriated Ending Fund Balance	1,972,142	0	1,972,142
Total Fund Requirements	<u>\$10,134,438</u>	<u>\$44,000</u>	<u>\$10,178,438</u>
REGIONAL PARKS TRUST FUND			
Materials and Services	30,000	0	30,000
Interfund Transfers	4,000	0	4,000
Unappropriated Ending Fund Balance	355,804	8,342	364,146
Total Fund Requirements	<u>\$389,804</u>	<u>\$8,342</u>	<u>\$398,146</u>

All Other Appropriations Remain As Previously Adopted

STAFF REPORT

CONSIDERATION OF ORDINANCE 98-746 AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE TO RECOGNIZE \$44,000 IN NEW GRANT REVENUES, RECLASSIFY CERTAIN EXPENDITURES, TRANSFER FUNDS FROM THE REGIONAL PARKS FUND CONTINGENCY TO VARIOUS LINE ITEMS WITHIN THE FUND, AND DECLARING AN EMERGENCY.

Date: March 13, 1998

Presented by: Charles Ciecko
Dan Kromer

FACTUAL BACKGROUND

This ordinance requests changes to the Regional Parks Fund for four reasons. Each action will be explained separately below.

M James Gleason Dredging - Operations & Maintenance Division

In July, 1997, it was brought to Regional Parks and Greenspaces staff's attention that an extremely high amount of sand was accumulating within the boat launch basin due to shoaling from flooding earlier in the year. During low tide it was becoming very difficult for large water craft to launch from this facility.

Staff contacted the Oregon State Marine Board for technical assistance in determining the extent of shoaling and the amount of dredging required within the basin to achieve an acceptable depth. Oregon State Marine Board staff determined that sand has also accumulated at a high level underneath the Multnomah County River Patrol's four boat houses, the Port of Portland boat house and the boat ramp's down river boarding floats.

At a meeting between interested parties, the Oregon State Marine Board recommended that approximately 7,000 cubic yards of materials be dredged from around these areas. The State Marine Board developed the technical drawings and specifications for the dredging project and submitted them to Metro. The Regional Parks Department will be responsible for the request for bids and contract administration for the project.

Funding for the project will come from each of the parties benefiting from the dredging. The estimated project cost is \$52,249. A grant request for \$40,000 has been submitted and approved by the Oregon State Marine Board. The Port of Portland and Multnomah County will each contribute \$2,000 and Metro's share will be \$8,249. The grant from the Oregon State Marine Board and the contributions from the Portland of Portland and Multnomah County can be recognized as a resource to the Department's FY 1997-98 budget under Oregon Budget Law, however, Metro's share of \$8,249 needs to be funded from the Department's Contingency.

This action requests the recognition of \$44,000 in grant funds, the transfer of \$8,249 from contingency and the increase in materials and services of \$52,249.

Regional Parks Fund

Resources:

4110	State Grants	\$40,000
4120	Local Grants	4,000
Total Resources		\$44,000

Requirements:

5260	Maintenance & Repairs	\$52,249
5999	Contingency	(8,249)
Total Requirements		\$44,000

Capital Development Supervision - Planning & Capital Development Division

As part of the consolidation agreement between Metro and Multnomah County, Metro's Regional Parks Department assumed responsibility for the Multnomah County Local Share proceeds received under the Open Spaces, Parks and Streams bond measure. These funds were identified to provide capital improvements at facilities now owned and managed by Metro. The budget includes a full time staff member whose responsibilities were to manage the capital improvements funded by the local share proceeds (.50 FTE budgeted in the Regional Parks Fund) as well as to provide stabilization assistance for the properties purchased under the Open Spaces regional share (.50 FTE budgeted in the Open Spaces Fund). Since the development of the initial Open Spaces work plan in FY 1995-96, it has become apparent to the department that the stabilization program is more complicated and time-consuming than originally anticipated. As a result, this employee has been spending more of his time on stabilization and has been unable to provide management of the local share capital improvement projects.

The Regional Parks Department negotiated with the Administrative Services Department for the services of the Construction Manager to manage the local share capital projects. These services will be paid through a direct transfer from the Regional Parks Fund to the Support Services Fund. This action requests the transfer of budget authority from personal services in the Regional Parks Fund to interfund transfers to allow the department to pay the Support Services Fund for the services of the Construction Manager.

Regional Parks Fund

Requirements:

5820	Transfer of Direct Costs to Support Services	\$17,525
5010	Regular Employee Salary	(11,258)
5100	Fringe Benefits	(6,267)
Total Requirements		\$0

Support Services Fund

Resources:

4980 Transfer of Direct Costs from Regional Parks \$17,525

Requirements:

5990 Unappropriated Balance \$17,525

Recoding of Salmon Bake Proceeds - Planning & Capital Development Division

Each year the Salmon Festival is held at Oxbow Park. One of the activities of the festival is the Salmon Bake. Proceeds from the Salmon Bake are given to the Oxbow Park Nature Center Account in the Regional Parks Trust Fund. This policy began when the facilities were with Multnomah County and has been continued at Metro. In FY 1996-97, the proceeds from the Salmon Bake were mistakenly coded to the Regional Parks Operating Fund and not the Regional Parks Trust Fund. Because this error was identified after the financial audit was completed for FY 1996-97 it was not possible to correct the miscoding in the same fiscal year, and the revenue is included in the beginning fund balance for the Regional Parks Operating Fund for FY 1997-98. To correct this error, the department is requesting the transfer of \$8,342 from the Operating Fund to the Regional Parks Trust Fund. This action only requests the authority to transfer to revenues from one fund to another fund; it does not request expenditure authority of those funds.

Regional Parks Fund

Requirements:

5810 Transfer of Resources to Parks Trust Fund \$8,342

5999 Contingency (8,342)

Total Requirements \$0

Regional Parks Trust Fund

Resources:

4970 Transfer of Resources from Regional Parks Fund \$8,342

Requirements:

5990 Unappropriated Balance 8,342

Reclassifying of Sewer Assessment Payment to Debt Service - Operations & Maintenance Division

In 1993, sewer improvements were made at Blue Lake Park. Multnomah County funded the sewer improvements through a 20 year repayment schedule to the City of Portland. Since being transferred to Metro, these payments have been made by the Regional Parks Department and have been classified as a materials and services expenses. It

has recently been determined that this payment is more properly classified as a long term loan obligation of the agency and should be budgeted as a debt service payment. This action requests the reclassification of the budgeted appropriation authority from materials & services to debt service .

Regional Parks Fund

Requirements:

5300	Payments to Other Agencies	(\$13,469)
5610	Loan Payments - Principal	6,152
5615	Loan Payments - Interest	7,317
<hr/>		
Total Requirements		\$0

Computer Upgrade - Administration Division

A computer was budgeted in the Administration Division of Regional Parks in case of any hardware failures in the department. All the computers have held up but the department needs to upgrade software to the latest versions in order to remain compatible with the rest of the agency and PeopleSoft applications that are currently being implemented. Therefore the request is as follows:

Regional Parks Fund

Requirements:

5750	Purchases - Office Furniture and Equipemnt	(\$1,962)
5201	Computer Software	1,962

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 98-746.

Agenda Item Number 8.4

Ordinance No. 98-747, An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule Transferring \$4,000,000 from Open Space Fund Contingency to Capital Outlay in the Open Spaces Fund in the Regional Parks and Greenspaces Department to provide funding for Unanticipated Expenditures, and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98)	ORDINANCE NO. 98-747
BUDGET AND APPROPRIATIONS)	
SCHEDULE TRANSFERRING \$4,000,000)	Introduced by Executive Officer
FROM OPEN SPACE FUND CONTINGENCY)	Mike Burton
TO CAPITAL OUTLAY IN THE OPEN SPACES)	
FUND IN THE REGIONAL PARKS AND)	
GREENSPACES DEPARTMENT FOR)	
UNANTICIPATED EXPENDITURES; AND)	
DECLARING AN EMERGENCY)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in Exhibit A for the purpose of transferring \$4,000,000 from Open Spaces Fund Contingency to Capital Outlay for potential land acquisitions in the Regional Parks and Greenspaces Department.
2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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
Ordinance No. 98-747
Open Spaces Fund

FISCAL YEAR 1997-98 DESCRIPTION	CURRENT BUDGET		REVISION		PROPOSED BUDGET	
	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
<u>Resources</u>						
Beginning Fund Balance		97,735,446		0		97,735,446
Government Contributions		494,000		0		494,000
Retail Sales		0		0		0
Interest Earnings		5,147,493		0		5,147,493
Donation and Bequests		300,000		0		300,000
General Obligation Bond Proceeds		0		0		0
Transfer Direct Costs from Regional Parks/Expo		10,000		0		10,000
TOTAL RESOURCES		103,686,939		0		103,686,939
<u>Capital Outlay</u>						
Purchases - Land		19,258,975		4,000,000		23,258,975
Office Equipment		14,159		0		14,159
Construction Work-Other Improvements		1,800,000		0		1,800,000
Total Capital Outlay		21,073,134		4,000,000		25,073,134
TOTAL REQUIREMENTS	17.25	37,467,739		4,000,000	17.25	41,467,739
<u>Contingency & Unapp. Balance</u>						
Contingency		31,000,000		(4,000,000)		27,000,000
Unappropriated Balance		33,010,075		0		33,010,075
Total Contingency & Unapp. Balance		64,010,075		(4,000,000)		60,010,075
TOTAL REQUIREMENTS	17.25	103,686,939		0	17.25	103,686,939

Exhibit B
Ordinance No. 98-747
Schedule of Appropriations

	Current Appropriation	Revision	Proposed Appropriation
OPEN SPACES FUND			
Personal Services	1,177,634	0	1,177,634
Materials and Services	15,216,971	0	15,216,971
Capital Outlay	21,073,134	4,000,000	25,073,134
Subtotal	37,467,739	0	37,467,739
Interfund Transfers	2,209,125	0	2,209,125
Contingency	31,000,000	(4,000,000)	27,000,000
Subtotal	33,209,125	0	33,209,125
Unappropriated Ending Fund Balance	33,010,075	0	33,010,075
Total Fund Requirements	\$103,686,939	0	\$103,686,939

STAFF REPORT

IN CONSIDERATION OF ORDINANCE 98-747 AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE TRANSFERRING \$4,000,000 FROM OPEN SPACE FUND CONTINGENCY TO CAPITAL OUTLAY IN THE OPEN SPACES FUND IN THE REGIONAL PARKS AND GREENSPACES DEPARTMENT FOR UNANTICIPATED EXPENDITURES; AND DECLARING AN EMERGENCY

Date: April 14, 1998

Presented by:

Charles Ciecko
Jim Desmond

FACTUAL BACKGROUND AND ANALYSIS

OPEN SPACES FUND:

Property purchases have proceeded at a faster pace than budgeted. The Open Spaces Fund has carried a high contingency to accommodate such an occurrence. To date, \$16,786,158 of the originally budgeted \$19,258,975 has been expended from the Open Spaces Fund for land purchases. More than \$6.1 million in properties are currently under negotiation leaving an unacceptably low balance available to purchase land. This action would transfer \$4,000,000 from contingency to Capital Outlay, Land Purchases to cover potential transactions through the close of the fiscal year.

5705-350-02720	Capital Outlay Land Purchases	\$4,000,000
5999-350-02720	Contingency	(\$4,000,000)

Executive Officer's Recommendation:

The Executive Officer recommends adoption of Ordinance No. 98-747.

Ordinance No. 98-749, An Ordinance Amending the FY 1997-98 MERC Operating Fund Budget and Appropriations Schedule for the Purpose of Transferring Appropriations to Increase Operating Expenses, Debt Service and Capital Outlay, and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY	)	ORDINANCE NO. 98-749
1997-98 MERC OPERATING FUND BUDGET)	
AND APPROPRIATIONS SCHEDULE FOR)	
THE PURPOSE OF TRANSFERRING	)	Introduced by Councilor
APPROPRIATIONS TO INCREASE	)	Ruth McFarland
OPERATING EXPENSES, DEBT SERVICE,)	
AND CAPITAL OUTLAY, AND DECLARING)	
AN EMERGENCY.)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 197-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified, and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$56,845 of MERC Operating Fund Contingency to Operating Expenses in the amount of \$2,488 to purchase smallwares at the Expo Center; \$14,352 to increase Debt Services and \$40,000 to Capital Outlay to update Expo Center's sound system and make necessary repairs to Expo Center's parking lot.

2. That the FY 1997-98 Capital Improvement Plan be amended to include the Expo Center Parking Lot project as shown in Exhibit C.

3. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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

ORD.DOC98-739

Exhibit A
Ordinance No. 98-749
FY 1997-1998 Amendment

MERC Operating Fund

ACCT	DESCRIPTION	FY 1997-98 Current		FY 1997-98 Revision		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Resources							
TOTAL RESOURCES			\$35,083,593		\$0		\$35,083,593
Expenditures							
Total Personal Services		155.75	\$10,231,631	0.00	\$0	155.75	\$10,231,631
<u>Materials & Services</u>							
<i>GOODS Goods</i>							
5201	Office Supplies		153,317		0		153,317
5205	Operating Supplies		472,614		2,488		475,102
5210	Subscriptions and Dues		20,719		0		20,719
5214	Fuels and Lubricants		6,191		0		6,191
5215	Maintenance & Repairs Supplies		309,173		0		309,173
5225	Retail		25,700		0		25,700
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		3,199,969		0		3,199,969
5251	Utility Services		1,392,020		0		1,392,020
5255	Cleaning Services		81,650		0		81,650
5260	Maintenance & Repair Services		492,209		0		492,209
5265	Rentals		196,819		0		196,819
5270	Insurance		285,044		0		285,044
5280	Other Purchased Services		633,254		0		633,254
5290	Operations Contracts		6,219,953		0		6,219,953
<i>IGEXP Intergov't Expenditures</i>							
5300	Payments to Other Agencies		71,900		0		71,900
5305	Election Expenses		230,000		0		230,000
<i>INCGEX Internal Charges for Services</i>							
5400	Charges for Services		0		0		0
<i>OTHEXP Other Expenditures</i>							
5450	Travel		64,030		0		64,030
5455	Training and Conference Fees		68,970		0		68,970
5490	Miscellaneous Expenditures		37,720		0		37,720
<i>GAAP GAAP Account</i>							
5520	Bad Debt Expense		7,500		0		7,500
Total Materials & Services			\$13,968,752		\$2,488		\$13,971,240
<u>Debt Service</u>							
<i>CAPLSE Capital Lease Payments</i>							
5600	Capital Lease Pmts-Principal		184,058		14,357		198,415
5605	Capital Lease Pmts-Interest		0		0		0
<i>REVBND Revenue Bond Payments</i>							
5630	Revenue Bond Pmts-Principal		395,000		0		395,000
5635	Revenue Bond Payments-Interest		140,000		0		140,000
Total Debt Service			\$719,058		\$14,357		\$733,415
<u>Capital Outlay</u>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
5710	Improve-Oth thn Bldg (non-CIP)		0		0		0
5720	Buildings & Related (non-CIP)		620,250		0		620,250
5730	Exhibits and Related (non-CIP)		125,000		(50,000)		75,000
5740	Equipment & Vehicles (non-CIP)		197,821		15,000		212,821
5750	Office Furn & Equip (non-CIP)		39,525		0		39,525
<i>CAPCIP Capital Outlay (CIP Projects)</i>							
5715	Improve-Oth thn Bldg (CIP)		100,000		75,000		175,000
5725	Buildings & Related (CIP)		1,125,000		0		1,125,000

Exhibit A
Ordinance No. 98-749
FY 1997-1998 Amendment

MERC Operating Fund

ACCT	DESCRIPTION	FY 1997-98 Current		FY 1997-98 Revision		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
5735	Exhibits and Related (CIP)		0		0		0
5745	Equipment & Vehicles (CIP)		0		0		0
5755	Office Furniture & Equip (CIP)		0		0		0
5775	Leaschold Improvements (CIP)		0		0		0
Total Capital Outlay			\$2,207,596		\$40,000		\$2,247,596
<i>Interfund Transfers</i>							
Total Interfund Transfers			\$0		\$0		\$0
<i>Contingency and Ending Balance</i>							
CONT	Contingency						
5999	Contingency		1,121,263		(56,845)		1,064,418
UNAPP	Unappropriated Fund Balance						
5990	Unappropriated Fund Balance		6,835,293		0		6,835,293
Total Contingency and Ending Balance			\$7,956,556		(\$56,845)		7,899,711
TOTAL REQUIREMENTS		155.75	\$35,083,593	0.00	\$0	155.75	\$35,083,593
			\$0		\$0		\$0

Exhibit A
Ordinance No. 98-749
FY 1997-1998 Amendment

MERC Operating Fund
Information Only

ACCT	DESCRIPTION	FY 1997-98 Current		FY 1997-98 Revision		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Civic Stadium							
<u>Resources</u>							
TOTAL RESOURCES			\$3,674,944		\$0		\$3,674,944
<u>Expenditures</u>							
Total Personal Services		9.80	\$763,695	0.00	\$0	9.80	\$763,695
<u>Materials & Services</u>							
Total Materials & Services			\$1,566,653		\$0		\$1,566,653
<u>Debt Service</u>							
<i>CAPLSE Capital Lease Payments</i>							
5600	Capital Lease Pmts-Principal		18,200		3,512		21,712
5605	Capital Lease Pmts-Interest		0		0		0
<i>REVBND Revenue Bond Payments</i>							
5630	Revenue Bond Pmts-Principal		0		0		0
5635	Revenue Bond Payments-Interest		0		0		0
Total Debt Service			\$18,200		\$3,512		\$21,712
<u>Capital Outlay</u>							
Total Capital Outlay			\$429,125		\$0		\$429,125
<u>Interfund Transfers</u>							
Total Interfund Transfers			\$0		\$0		\$0
Total Contingency and Ending Balance			\$813,783		\$0		\$813,783
TOTAL REQUIREMENTS		9.80	\$3,591,456	0.00	\$3,512	9.80	\$3,594,968

Exhibit A
Ordinance No. 98-749
FY 1997-1998 Amendment

MERC Operating Fund
Information Only

ACCT	DESCRIPTION	FY 1997-98 Current		FY 1997-98 Revision		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Expo Center							
<u>Resources</u>							
TOTAL RESOURCES			\$4,432,755		\$0		\$4,432,755
Expenditures							
Total Personal Services		12.65	\$752,367	0.00	\$0	12.65	\$752,367
<u>Materials & Services</u>							
<i>GOODS Goods</i>							
5201	Office Supplies		2,750		0		2,750
5205	Operating Supplies		38,640		2,488		41,128
5210	Subscriptions and Dues		1,525		0		1,525
5214	Fuels and Lubricants		2,700		0		2,700
5215	Maintenance & Repairs Supplies		26,750		0		26,750
5225	Retail		0		0		0
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		114,428		0		114,428
5251	Utility Services		277,380		0		277,380
5255	Cleaning Services		81,500		0		81,500
5260	Maintenance & Repair Services		40,500		0		40,500
5265	Rentals		13,638		0		13,638
5270	Insurance		22,763		0		22,763
5280	Other Purchased Services		39,250		0		39,250
5290	Operations Contracts		1,110,496		0		1,110,496
<i>IGEXP Intergov't Expenditures</i>							
5300	Payments to Other Agencies		7,125		0		7,125
5305	Election Expenses		0		0		0
<i>INCGEX Internal Charges for Services</i>							
5400	Charges for Services		0		0		0
<i>OTHEXP Other Expenditures</i>							
5450	Travel		3,000		0		3,000
5455	Training and Conference Fees		1,200		0		1,200
5490	Miscellaneous Expenditures		400		0		400
<i>GAAP GAAP Account</i>							
5520	Bad Debt Expense		0		0		0
Total Materials & Services			\$1,784,045		\$2,488		\$1,786,533
<u>Debt Service</u>							
<i>CAPLSE Capital Lease Payments</i>							
5600	Capital Lease Pmts-Principal		82,529		10,845		93,374
5605	Capital Lease Pmts-Interest		0		0		0
<i>REVBND Revenue Bond Payments</i>							
5630	Revenue Bond Pmts-Principal		395,000		0		395,000
5635	Revenue Bond Payments-Interest		140,000		0		140,000
Total Debt Service			\$617,529		\$10,845		\$628,374
<u>Capital Outlay</u>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
5710	Improve-Oth thn Bldg (non-CIP)		0		0		0
5720	Buildings & Related (non-CIP)		2,500		0		2,500
5730	Exhibits and Related (non-CIP)		100,000		(50,000)		50,000
5740	Equipment & Vehicles (non-CIP)		41,500		15,000		56,500

Exhibit A
Ordinance No. 98-749
FY 1997-1998 Amendment

MERC Operating Fund
Information Only

ACCT	DESCRIPTION	FY 1997-98 Current		FY 1997-98 Revision		FY 1997-98 Revised	
		FTE	Amount	FTE	Amount	FTE	Amount
Expo Center							
5750	Office Furn & Equip (non-CIP)		0		0		0
<i>CAPCIP</i>	<i>Capital Outlay (CIP Projects)</i>						
5715	Improve-Oth thn Bldg (CIP)		0		75,000		75,000
5725	Buildings & Related (CIP)		0		0		0
5735	Exhibits and Related (CIP)		0		0		0
5745	Equipment & Vehicles (CIP)		0		0		0
5755	Office Furniture & Equip (CIP)		0		0		0
5775	Leaschold Improvements (CIP)		0		0		0
Total Capital Outlay			\$144,000		\$40,000		\$184,000
Interfund Transfers							
Total Interfund Transfers			\$0		\$0		\$0
Contingency and Ending Balance							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency		105,408		(56,845)		48,563
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance		955,194		0		955,194
Total Contingency and Ending Balance			\$1,060,602		(\$56,845)		\$1,003,757
TOTAL REQUIREMENTS		12.65	\$4,358,543	0.00	(\$3,512)	12.65	\$4,355,031

Exhibit B
Ordinance No. 98-749
Schedule of Appropriations

	FY 1997-1998 Current Appropriations	Revision	FY 1997-1998 Revised Appropriations
MERC OPERATING FUND			
Operating Expenses	24,200,383	2,488	24,202,871
Capital Outlay	2,207,596	40,000	2,247,596
Debt Service	719,058	14,357	733,415
Subtotal	<u>27,127,037</u>	<u>56,845</u>	<u>27,183,882</u>
Interfund Transfers	0	0	0
Contingency	1,121,263	(56,845)	1,064,418
Subtotal	<u>1,121,263</u>	<u>(56,845)</u>	<u>1,064,418</u>
Unappropriated Ending Fund Balance	6,835,293	0	6,835,293
Total Fund Requirements	<u>\$35,083,593</u>	<u>\$0</u>	<u>\$35,083,593</u>

All Other Appropriations Remain As Previously Adopted

EXHIBIT C

PROJECT DETAIL

PROJECT TITLE: PARKING LOT

TYPE OF PROJECT: <input type="checkbox"/> NEW <input type="checkbox"/> EXPANSION <input type="checkbox"/> REPLACEMENT		DEPARTMENT/DIVISION: MERC EXPO			TYPE OF REQUEST: <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> CONTINUATION		DATE: <input type="checkbox"/> REVISION APRIL 16, 1998	
SOURCE OF ESTIMATE: <input type="checkbox"/> BASED ON DESIGN <input type="checkbox"/> PRELIMINARY* <input type="checkbox"/> ACTUAL BID DOCUMENTS		PROJECT START DATE: SPRING 1998	PROJECT COMPLETION DATE: FALL 1998		DEPARTMENT PRIORITY: 2	PREPARED BY: BROWN/BAILEY		
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		\$70,000	\$70,000					\$140,000
EQUIPMENT/FURNISHINGS								
PROJECT CONTINGENCY								
1% FOR ART								
OTHER								
TOTAL		\$70,000	\$70,000					\$140,000
FUNDING SOURCE:								
FUND BALANCE		\$70,000	\$70,000					\$140,000
GRANTS								
G. O. BONDS								
REVENUE BONDS								
OTHER								
TOTAL		\$70,000	\$70,000					\$140,000

PROJECT DESCRIPTION/JUSTIFICATION: Repair and replacement of asphalt parking surfaces, including removal and replacement of slurry seal crack filling and re-striping.	ANNUAL OPERATING BUDGET IMPACT:	
	PERSONAL SERVICES COSTS	
	MATERIALS & SVCS. COSTS	
	CAPITAL OUTLAY COSTS	\$140,000
	OTHER COSTS (REVENUES)	
	NET ANNUAL OPERATING COSTS	\$140,000
	RENEWAL & REPLACEMENT CONTRIBUTION	N/A
	FIRST FULL FISCAL YEAR OF OPERATION:	1997-1998
	FUND(S): MERC OPERATING (EXPO)	

STAFF REPORT

AN ORDINANCE NO. 98-749 AMENDING THE FY 1997-98 MERC OPERATING FUND BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF TRANSFERRING APPROPRIATIONS TO INCREASE OPERATING EXPENSES, DEBT SERVICE, AND CAPITAL OUTLAY, AND DECLARING AN EMERGENCY.

Date: April 17, 1998

Presented by: Mark Williams
Norman Kraft

FACTUAL BACKGROUND AND ANALYSIS

A budget amendment is necessary due to a combination of additional FlexLease interest, catering smallware needs and unforeseen capital outlay needs. This Council action would amend the operating budget for FY 1997-98. Ordinance No. 98-749 revises the FY 97-98 budget and appropriations schedule to recognize changes in the adopted appropriations. Specific changes to the budget under this proposal are explained below.

Increases in Debt Service

In FY 1997-98, the Council created the MERC Operating Fund to account for all revenues and expenditures of the facilities under MERC Management. Debt Service is spread throughout four divisions of MERC for the provision of payment on the Intel loan, capital equipment leases and a FlexLease loan. Due to the timing of the Debt Services interest payments the appropriation category has to be increased to reflect an additional interest payment in FY 1997-98. Civic Stadium and the Expo Center will require additional appropriations of \$3,512 and \$10,845 respectively to avoid a Budget Law violation.

Need for Catering Smallwares

The Expo Center has had limited supplies on hand to perform catering services to its clients. In the past, Fine Host has borrowed the necessary smallware supplies such as flatware, china, box warmers etc. from the Oregon Convention Center, however, increased business and conflicting event dates have made this option inadvisable. The Expo Center finds that it needs an increase in Operating Expense appropriation in the amount of \$2,488 to purchase smallwares to accommodate their present level of business.

Increases in Capital Outlay

- **Sound System - Expo Center**

Due to differences in technology, there has been an ongoing problem in utilizing the combined sound systems in the old buildings and the new building. In the past equipment patches have been performed by an outside sound service for each event but the quality of sound has not been satisfactory. A permanent solution will cost approximately \$15,000 for new equipment to improve the compatibility between the various systems and the quality of sound.

- **Parking Lot - Expo Center**

It has been determined that the costs for patching and re-surfacing part of the parking lot is \$25,000 higher than what was included in the budget. What had been anticipated as an operating capital project (below \$50,000) in this fiscal year now will become a capital improvement project (above \$50,000) due to the revised estimated cost. This change in the adopted CIP is included in Ordinance 98-749. The CIP Project Description Sheet is provided in Exhibit C to the Ordinance.

SUMMARY OF BUDGET IMPACT

Specific line item changes and appropriation modifications are provided in Exhibits A and B to the Ordinance. The above needs can be accomplished with budgeted transfers from Contingency. The following is a summary of the changes requested in the Amended Budget for FY 1997-98:

MERC Operating Fund

Requirements:

• Operating Expenses	\$ 2,488
• Debt Service	14,357
• Capital Outlay	40,000
• Contingency	\$ (56,845)

TOTAL REQUIREMENTS \$ - 0 -

Agenda Item Number 8.6

Ordinance No. 98-751, An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule in the Support Services Fund and in the Building Management Fund for Various Funding Purposes, and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98)
BUDGET AND APPROPRIATIONS)
SCHEDULE IN THE SUPPORT SERVICES)
FUND AND IN THE BUILDING MANAGEMENT)
FUND FOR VARIOUS FUNDING PURPOSES,)
AND DECLARING AN EMERGENCY)
)

ORDINANCE NO. 98-751

Introduced by Executive Officer
Mike Burton

WHEREAS, certain conditions exist within the Support Services Fund and the Building Management Fund that could not have been reasonably anticipated at the time the budget was developed; and

WHEREAS, these conditions require that transfers of appropriations of \$1,200 from Contingency to Debt Service, and of \$38,000 from Contingency to Transfers in the Support Services Fund; and

WHEREAS, these conditions further require a transfer of appropriations of \$25,000 from Contingency to Materials and Services in the Building Management Fund; and

WHEREAS, the Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for various funding purposes.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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
Ordinance No. 98-751

Support Services Fund

ACCT	DESCRIPTION	Current Budget		REVISION		Proposed Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Total Personal Services		89.43	\$5,655,135	0.00	\$0	89.43	\$5,655,135
Total Materials & Services			\$1,443,380		\$0		\$1,443,380
<i>Debt Service</i>							
<i>CAPLSE Capital Lease Payments</i>							
5600	Capital Lease Pmts-Principal		27,232		1,200		28,432
5605	Capital Lease Pmts-Interest		0		0		0
Total Debt Service			\$27,232		\$1,200		\$28,432
Total Capital Outlay			\$1,123,980		\$0		\$1,123,980
<i>Interfund Transfers</i>							
<i>INTCHG Internal Service Transfers</i>							
5800	Transfer for Indirect Costs						
	* to Building Mgmt Fund		741,176		38,000		779,176
	* to Risk Mgmt-Liability		29,145		0		29,145
	* to Risk Mgmt-Worker Comp		18,441		0		18,441
Total Interfund Transfers			\$788,762		\$38,000		\$826,762
<i>Contingency and Ending Balance</i>							
<i>CONT Contingency</i>							
5999	Contingency		348,834		(39,200)		309,634
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance		306,414		0		306,414
Total Contingency and Ending Balance			\$655,248		(\$39,200)		\$616,048
TOTAL REQUIREMENTS		89.43	\$9,693,737	0.00	\$0	89.43	\$9,693,737

**Exhibit A
Ordinance No. 98-751**

Building Management Fund

ACCT	DESCRIPTION	Current Budget		REVISION		Proposed Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Resources							
<i>Metro Regional Center</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
	* Operations		20,000		0		20,000
	* Debt Reserves		128,404		0		128,404
	* Depreciation Reserves		308,000		0		308,000
<i>CHGSVC</i>	<i>Charges for Service</i>						
4610	Contract Revenue		50,430		0		50,430
4620	Parking Fees		79,702		0		79,702
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		29,940		0		29,940
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4890	Miscellaneous Revenue		0		0		0
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4975	Transfer for Indirect Costs		2,067,062		0		2,067,062
4980	Transfer for Direct Costs		100,000		0		100,000
<i>Parking Facility</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>		\$271,580		\$0		\$271,580
<i>CHGSVC</i>	<i>Charges for Service</i>						
4620	Parking Fees		411,773		(38,000)		373,773
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		14,937		0		14,937
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources		0		38,000		38,000
TOTAL RESOURCES			\$3,481,828		\$0		\$3,481,828

Exhibit A
Ordinance No. 98-751

Building Management Fund

ACCT	DESCRIPTION	Current Budget		REVISION		Proposed Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Expenditures							
Total Personal Services		5.20	\$234,165	0.00	\$0	5.20	\$234,165
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
5201	Office Supplies		6,100		0		6,100
5205	Operating Supplies		16,700		0		16,700
5210	Subscriptions and Dues		800		0		800
5214	Fuels and Lubricants		100		0		100
5215	Maintenance & Repairs Supplies		16,000		0		16,000
<i>SVCS Services</i>							
5240	Contracted Professional Svcs		123,932		0		123,932
5251	Utility Services		167,100		0		167,100
5255	Cleaning Services		135,000		0		135,000
5260	Maintenance & Repair Services		59,700		25,000		84,700
5265	Rentals		0		0		0
5280	Other Purchased Services		27,260		0		27,260
<i>IGEXP Intergov't Expenditures</i>							
5300	Payments to Other Agencies		1,500		0		1,500
5310	Taxes (Non-Payroll)		4,770		0		4,770
<i>OTHEXP Other Expenditures</i>							
5450	Travel		1,600		0		1,600
5455	Training and Conference Fees		2,000		0		2,000
5490	Miscellaneous Expenditures		0		0		0
Total Materials & Services			\$562,562		\$25,000		\$587,562
Total Capital Outlay			\$140,933		\$0		\$140,933
Total Interfund Transfers			\$1,549,537		\$0		\$1,549,537
<i>Contingency and Ending Balance</i>							
<i>CONT Contingency</i>							
5999	Contingency		0		0		0
	* Regional Center Operations		27,430		(25,000)		2,430
	* Parking Structure Operations		11,237		0		11,237
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance		0		0		0
	* Metro Center Operations		0		0		0
	* Regional Center Debt Reserves		132,655		0		132,655
	* Depreciation Reserve		567,940		0		567,940
	* Parking Structure Debt Reserves		255,369		0		255,369
Total Contingency and Ending Balance			\$994,631		(\$25,000)		\$969,631
TOTAL REQUIREMENTS		5.20	\$3,481,828	0.00	\$0	5.20	\$3,481,828

Exhibit B
Ordinance No. 98-751

Schedule of Appropriations

	Current Budget	Revision	Proposed Budget
SUPPORT SERVICES FUND			
Administrative Services			
Personal Services	4,367,424	0	4,367,424
Materials and Services	1,126,419	0	1,126,419
Capital Outlay	1,088,547	0	1,088,547
Debt Service	27,232	1,200	28,432
Subtotal	6,609,622	1,200	6,610,822
Office of General Counsel			
Personal Services	655,656	0	655,656
Materials and Services	41,856	0	41,856
Capital Outlay	21,644	0	21,644
Subtotal	719,156	0	719,156
Office of Public and Government Relations			
Personal Services	75,758	0	75,758
Materials and Services	60,427	0	60,427
Capital Outlay	1,750	0	1,750
Subtotal	137,935	0	137,935
Council Office of Public Outreach			
Personal Services	100,049	0	100,049
Materials and Services	31,185	0	31,185
Capital Outlay	8,033	0	8,033
Subtotal	139,267	0	139,267
Office of Citizen Involvement			
Personal Services	61,631	0	61,631
Materials and Services	22,480	0	22,480
Capital Outlay	0	0	0
Subtotal	84,111	0	84,111
Auditor's Office			
Personal Services	394,617	0	394,617
Materials and Services	161,013	0	161,013
Capital Outlay	4,006	0	4,006
Subtotal	559,636	0	559,636
General Expenses			
Interfund Transfers	788,762	38,000	826,762
Contingency	348,834	(39,200)	309,634
Subtotal	1,137,596	(1,200)	1,136,396
Unappropriated Ending Fund Balance	306,414	0	306,414
Total Fund Requirements	\$9,693,737	\$0	\$9,693,737

Exhibit B
Ordinance No. 98-751

Schedule of Appropriations

	Current Budget	Revision	Proposed Budget
BUILDING MANAGEMENT FUND			
Personal Services	234,165	0	234,165
Materials and Services	562,562	25,000	587,562
Capital Outlay	140,933	0	140,933
Interfund Transfers	1,549,537	0	1,549,537
Contingency	38,667	(25,000)	13,667
Unappropriated Ending Fund Balance	955,964	0	955,964
Total Fund Requirements	\$3,481,828	\$0	\$3,481,828

All other appropriations remain as previously adopted

STAFF REPORT

CONSIDERATION OF ORDINANCE 98-751 AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE IN THE SUPPORT SERVICES FUND AND IN THE BUILDING MANAGEMENT FUND FOR VARIOUS FUNDING PURPOSES, AND DECLARING AN EMERGENCY.

Date: April 28, 1998

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

This Ordinance contains actions on three separate items. Each of the actions are described below.

Support Services Fund - Debt Service

A transfer from contingency to debt service is required to prevent this fund from exceeding appropriations in this classification. At the end of FY 1996-97 a capital lease payment was processed. Due to a misunderstanding of the due date of the payment, it was charged against FY 1997-98 rather than FY 1996-97. The error was not discovered until after the audit was complete and the payment for FY 1997-98 was being processed. There are not sufficient appropriations available to cover both year's payments in FY 1997-98. Because a delay in making the payments results in additional fees and charges, a transfer of \$1,200 from contingency to debt service is required.

Support Services Fund and Building Management Fund - Transfers

The revenues received from the parking structure have been less than anticipated in FY 1997-98. When the budget was prepared it was believed that when parking meters were installed in the Lloyd District, there would be additional vehicles utilizing the Metro parking structure. As this prediction did not hold true, the actual revenues received in the Building Management Fund are not sufficient to support the required expenditures in that fund (i.e. debt service, depreciation, required contracts, etc.). Therefore, additional revenues must be found.

The Support Services Fund has \$38,000 of discretionary revenue in its beginning fund balance for FY 1997-98. These discretionary revenues are from the fees charged for contractor's business licenses and from charges for services provided to Tri-Met by Administrative Services Department staff. The proposed action before the Council today moves

\$38,000 from Contingency to Transfers Out to allow for a transfer of these resources to the Building Management Fund. This causes a corresponding increase in Transfers In the Building Management Fund but no changes in expenditure appropriations.

Building Management Fund - Materials and Services

The expenses in the Building Management Fund for the Metro Regional Center are higher than anticipated this fiscal year. This is due to some unanticipated expenditures for work related to the sewer problems, and leaks in the building that needed to be repaired. These expenditures will exceed the appropriations within the Materials and Services portion of the budget in this fund. Therefore, a transfer of \$25,000 from Contingency is required.

BUDGET IMPACT

Sufficient appropriations exist within the contingencies in both of these funds to provide for the changes outlined above.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 98-751.

Agenda Item Number 8.7

Ordinance No. 98-752, An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule by transferring \$120,000 from Contingency to Personal Services in the Zoo Operating Fund to Provide for Increased Temporary Staffing at the Washington Park Zoo (Oregon Zoo), and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98)
BUDGET AND APPROPRIATIONS)
SCHEDULE BY TRANSFERRING \$120,000)
FROM CONTINGENCY TO PERSONAL)
SERVICES IN THE ZOO OPERATING FUND)
TO PROVIDE FOR INCREASED TEMPORARY)
STAFFING AT THE METRO WASHINGTON)
PARK ZOO (OREGON ZOO), AND)
DECLARING AN EMERGENCY)

ORDINANCE NO. 98-752

Introduced by Mike Burton,
Executive Officer

WHEREAS, additional temporary staffing is required in the Visitor Services Division that could not have been reasonably anticipated at the time the budget was developed is necessary in the current fiscal year to provide for patrons visiting the Metro Washington Park Zoo (Oregon Zoo); and

WHEREAS, additional temporary staffing in the Facilities Management Division that could not have been reasonably anticipated at the time the budget was developed is necessary in the current fiscal year due to time loss due to illness, Oregon Project construction, and train operations; and

WHEREAS, the Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified;
and

WHEREAS, Adequate funds exist for other identified needs; now,
therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$120,000 from contingency to personal services in the Zoo Operating Fund for the purpose of providing for temporary staffing at the Metro Washington Park Zoo (Oregon Zoo).

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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**Exhibit A
Ordinance No. 98-752**

Zoo Operating Fund

ACCT	DESCRIPTION	Current Budget		REVISION		Proposed Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Expenses							
<i><u>Personal Services</u></i>							
<i>SALWGE</i>	<i>Salaries & Wages</i>						
5010	Reg Employees-Full Time-Exempt						
	Administrative Assistant	1.00	36,081	0.00	0	1.00	36,081
	Assistant Director	1.00	72,203	0.00	0	1.00	72,203
	Assistant Research Coordinator	1.00	37,438	0.00	0	1.00	37,438
	Assoc. Pub. Affairs Specialist	0.00	0	0.00	0	0.00	0
	Associate Management Analyst	0.00	0	0.00	0	0.00	0
	Associate Program Supervisor	3.00	158,478	0.00	0	3.00	158,478
	Associate Service Supervisor	9.00	317,170	0.00	0	9.00	317,170
	Asst. Management Analyst	0.00	0	0.00	0	0.00	0
	Asst. Pub. Affairs Specialist	1.00	43,869	0.00	0	1.00	43,869
	Catering Coordinator	2.00	73,485	0.00	0	2.00	73,485
	Event Technician	1.00	39,463	0.00	0	1.00	39,463
	Graphics/Exhibit Designer	1.00	39,818	0.00	0	1.00	39,818
	Managers	3.00	185,827	0.00	0	3.00	185,827
	Principal Administrative Service Analyst	0.00	0	0.00	0	0.00	0
	Program Coordinator	2.00	64,938	0.00	0	2.00	64,938
	Program Supervisor	2.00	105,084	0.00	0	2.00	105,084
	Project Coordinator	0.00	0	0.00	0	0.00	0
	Research Coordinator	1.00	55,457	0.00	0	1.00	55,457
	Restaurant Manager	1.00	9,853	0.00	0	1.00	9,853
	Senior Administrative Service Analyst	1.00	55,457	0.00	0	1.00	55,457
	Senior Director	1.00	94,774	0.00	0	1.00	94,774
	Senior Program Supervisor	1.00	61,116	0.00	0	1.00	61,116
	Senior Public Affairs Specialist	1.00	46,061	0.00	0	1.00	46,061
	Senior Service Supervisor	2.00	98,058	0.00	0	2.00	98,058
	Senior Service Supervisor	0.00	0	0.00	0	0.00	0
	Service Supervisor	2.00	58,432	0.00	0	2.00	58,432
	Veterinarian	1.00	49,641	0.00	0	1.00	49,641
	Volunteer Coordinator	0.00	0	0.00	0	0.00	0
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Secretary	3.00	89,968	0.00	0	3.00	89,968
	Administrative Support Assistant C	2.00	66,127	0.00	0	2.00	66,127
	Animal Keeper	25.00	878,582	0.00	0	25.00	878,582
	Custodian	4.00	129,847	0.00	0	4.00	129,847
	Gardener 1	7.00	235,873	0.00	0	7.00	235,873
	Gardener 2	0.00	0	0.00	0	0.00	0
	Maintenance Electrician	1.00	50,196	0.00	0	1.00	50,196
	Maintenance Lead	1.00	43,535	0.00	0	1.00	43,535
	Maintenance Technician	1.00	41,656	0.00	0	1.00	41,656
	Maintenance Worker 1	0.00	0	0.00	0	0.00	0
	Maintenance Worker 2	7.00	252,510	0.00	0	7.00	252,510
	Maintenance Worker 3	0.00	0	0.00	0	0.00	0

Exhibit A
Ordinance No. 98-752

Zoo Operating Fund

ACCT	DESCRIPTION	Current		REVISION		Proposed	
		FTE	Amount	FTE	Amount	FTE	Amount
General Expenses							
	Management Intern	0.00	0	0.00	0	0.00	0
	Master Mechanic	1.00	43,535	0.00	0	1.00	43,535
	Nutrition Technician	1.00	35,016	0.00	0	1.00	35,016
	Office Assistant	1.00	18,593	0.00	0	1.00	18,593
	Program Assistant 1	1.00	28,272	0.00	0	1.00	28,272
	Program Assistant 2	2.00	68,716	0.00	0	2.00	68,716
	Program Assistant 2-Graphics	1.00	34,368	0.00	0	1.00	34,368
	Receptionist	1.00	20,487	0.00	0	1.00	20,487
	Retail Specialist	0.00	0	0.00	0	0.00	0
	Security Officer 1	3.00	71,811	0.00	0	3.00	71,811
	Senior Animal Keeper	7.00	258,849	0.00	0	7.00	258,849
	Senior Gardener	1.00	40,194	0.00	0	1.00	40,194
	Typist/Receptionist-Lead	1.00	26,538	0.00	0	1.00	26,538
	Typist/Receptionist-reg	0.00	0	0.00	0	0.00	0
	Veterinary Technician	1.00	35,016	0.00	0	1.00	35,016
	Warehouse Assistant	1.00	9,398	0.00	0	1.00	9,398
5020	Reg Employees-Part Time-Exempt						
	Associate Service Supervisor	0.50	19,690	0.00	0	0.50	19,690
	Catering Coordinator	0.00	0	0.00	0	0.00	0
	Graphics/Exhibit Designer	1.00	39,818	0.00	0	1.00	39,818
	Veterinarian	0.50	29,117	0.00	0	0.50	29,117
5025	Reg Empl-Part Time-Non-Exempt						
	Administrative Assistant	0.00	0	0.00	0	0.00	0
	Administrative Secretary	1.60	52,350	0.00	0	1.60	52,350
	Animal Hospital Attendant	1.00	24,485	0.00	0	1.00	24,485
	Animal Keeper-PT	1.50	52,524	0.00	0	1.50	52,524
	Clerk/Bookkeeper	1.50	40,497	0.00	0	1.50	40,497
	Custodian	2.80	94,479	0.00	0	2.80	94,479
	Educational Service Aide 2	0.00	0	0.00	0	0.00	0
	Food Service/Retail Specialist	0.00	0	0.00	0	0.00	0
	Maintenance Worker 1-PT	2.35	77,675	0.00	0	2.35	77,675
	Maintenance Worker 2-PT	2.22	80,987	0.00	0	2.22	80,987
	Maintenance Worker 3-PT	0.00	0	0.00	0	0.00	0
	Office Assistant	0.00	0	0.00	0	0.00	0
	Program Assistant 1	1.40	35,199	0.00	0	1.40	35,199
	Program Assistant 2	0.50	13,308	0.00	0	0.50	13,308
	Program Assistant 2-Graphics	0.50	15,597	0.00	0	0.50	15,597
	Secretary	1.75	34,599	0.00	0	1.75	34,599
	Security Officer 1-reg	0.50	10,544	0.00	0	0.50	10,544
	Typist/Receptionist Reg.(Part Time)	1.65	41,721	0.00	0	1.65	41,721
	Veterinary Technician	0.00	0	0.00	0	0.00	0
	Video/Photography Technician	0.50	15,597	0.00	0	0.50	15,597
	Visitor Service Worker 1-reg	0.00	0	0.00	0	0.00	0
	Visitor Service Worker 2-reg	0.00	0	0.00	0	0.00	0

Exhibit A
Ordinance No. 98-752

Zoo Operating Fund

ACCT	DESCRIPTION	Current Budget		REVISION		Proposed Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Expenses							
	Visitor Service Worker 3-reg	4.40	88,469	0.00	0	4.40	88,469
5030	Temporary Employees		398,592		120,000		518,592
5040	Seasonal Employees		498,904		0		498,904
5080	Overtime		180,780		0		180,780
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits		1,904,784		0		1,904,784
Total Personal Services		137.17	\$7,931,506	0.00	\$120,000	137.17	\$8,051,506
Total Materials & Services			\$4,807,868		\$0		\$4,807,868
Total Capital Outlay			\$920,402		\$0		\$920,402
Total Interfund Transfers			\$1,310,974		\$0		\$1,310,974
<i>Contingency and Ending Balance</i>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency		529,416		(120,000)		409,416
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance		9,091,427		0		9,091,427
Total Contingency and Ending Balance			\$9,620,843		(\$120,000)		\$9,500,843
TOTAL REQUIREMENTS		137.17	\$24,591,593	0.00	\$0	137.17	\$24,591,593

Exhibit B
Ordinance No. 98-752

Schedule of Appropriations

	<u>Current Budget</u>	<u>Revision</u>	<u>Proposed Budget</u>
ZOO OPERATING FUND			
Personal Services	7,931,506	120,000	8,051,506
Materials and Services	4,807,868	0	4,807,868
Capital Outlay	920,402	0	920,402
Subtotal	13,659,776	120,000	13,659,776
General Expenses			
Interfund Transfers	1,310,974	0	1,310,974
Contingency	529,416	(120,000)	409,416
Subtotal	1,840,390	(120,000)	1,840,390
Unappropriated Ending Fund Balance	9,091,427	0	9,091,427
Total Fund Requirements	\$24,591,593	\$0	\$24,591,593

All other appropriations remain as previously adopted

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 98-752 AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING \$120,000 FROM CONTINGENCY TO PERSONAL SERVICES IN THE ZOO OPERATING FUND TO PROVIDE FOR INCREASED TEMPORARY STAFFING AT THE METRO WASHINGTON PARK ZOO (OREGON ZOO), AND DECLARING AN EMERGENCY.

Date: May 6, 1998

Presented by: Kathy Kiaunis

FACTUAL BACKGROUND AND ANALYSIS

An adjustment of \$120,000 in the Zoo's operating budget for FY 1997-98 is needed as a result of additional temporary services in two divisions.

In the Visitor Services Division, an increase in the Personal Services budget of \$75,000 in seasonal temporary labor is needed. Higher turnover due to more competition in the marketplace has necessitated hiring a larger volume of workers. The minimum wage increase has also had a larger impact on overall wage costs than originally anticipated.

An increase to the Personal Services budget in Facilities Management is also requested for \$45,000 for temporary labor. Significant time loss in custodial staffing due to injury and illness, extra coordination required as a result of Oregon project construction, and additional train operations for special events that were not budgeted resulted in labor costs that exceeded budgeted amounts.

BUDGET IMPACT

A transfer of \$120,000 to Personal Services from contingency will enable the Visitor Services and Facilities Management divisions to provide adequate coverage for the balance of the fiscal year. There are sufficient funds available in Contingency to provide for this transfer. No additional transfers from Contingency are anticipated for the remainder of FY 1997-98.

EXECUTIVE OFFICE RECOMMENDATIONS

The Executive Officer recommends adoption of Ordinance No. 98-752.

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Agenda Item Number 8.8

Ordinance No. 98-754, An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule by transferring \$10,000 from Contingency to the Office of General Counsel Portion of the Support Services Fund for Various Funding Purposes, and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1997-98)
BUDGET AND APPROPRIATIONS)
SCHEDULE BY TRANSFERRING \$10,000)
FROM CONTINGENCY TO THE OFFICE OF)
GENERAL COUNSEL PORTION OF THE)
SUPPORT SERVICES FUND FOR VARIOUS)
FUNDING PURPOSES, AND DECLARING AN)
EMERGENCY)

ORDINANCE NO. 98-754

Introduced by Mike Burton,
Executive Officer

WHEREAS, expenditures for Land Use Board of Appeals actions and office relocation costs that could not have been reasonably anticipated at the time the budget was developed are necessary in the current fiscal year to successfully meet the needs of the agency; and

WHEREAS, the Metro Council has reviewed and considered the need to transfer appropriations with the FY 1997-98 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified;
and

WHEREAS, Adequate funds exist for other identified needs; now,
therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1997-98 Budget and Schedule of Appropriations is hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$3,500 from contingency to materials and services and \$6,500 from contingency to capital outlay in the Office of General Counsel portion of the Support Services Fund.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

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

DBC:CY:rs

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Exhibit A
Ordinance No. 98-754

Support Services Fund

ACCT	DESCRIPTION	Current Budget		REVISION		Proposed Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Office of the General Counsel							
Total Personal Services		9.00	\$655,656	0.00	\$0	9.00	\$655,656
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
5201	Office Supplies		8,379		0		8,379
5205	Operating Supplies		515		0		515
5210	Subscriptions and Dues		19,423		0		19,423
<i>SVCS Services</i>							
5260	Maintenance & Repair Services		1,545		0		1,545
5280	Other Purchased Services		2,627		3,000		5,627
<i>OTHEXP Other Expenditures</i>							
5450	Travel		3,238		0		3,238
5455	Training and Conference Fees		4,320		0		4,320
5490	Miscellaneous Expenditures		1,809		500		2,309
Total Materials & Services			\$41,856		\$3,500		\$45,356
<i>Capital Outlay</i>							
<i>CAPNON Capital Outlay (Non-CIP Projects)</i>							
5750	Office Furn & Equip (non-CIP)		21,644		3,500		25,144
5725	Buildings & Related (CIP)		0		3,000		3,000
Total Capital Outlay			\$21,644		\$6,500		\$28,144
<i>Contingency and Ending Balance</i>							
<i>CONT Contingency</i>							
5999	Contingency		0		0		0
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance		0		0		0
Total Contingency and Ending Balance			\$0		\$0		\$0
TOTAL REQUIREMENTS		9.00	\$719,156	0.00	\$10,000	9.00	\$729,156

Exhibit B
Ordinance No. 98-754

Schedule of Appropriations

	<u>Current Budget</u>	<u>Revision</u>	<u>Proposed Budget</u>
SUPPORT SERVICES FUND			
Administrative Services			
Personal Services	4,367,424	0	4,367,424
Materials and Services	1,126,419	0	1,126,419
Capital Outlay	1,088,547	0	1,088,547
Debt Service	28,432	0	28,432
Subtotal	6,610,822	0	6,610,822
Office of General Counsel			
Personal Services	655,656	0	655,656
Materials and Services	41,856	3,500	45,356
Capital Outlay	21,644	6,500	28,144
Subtotal	719,156	10,000	729,156
Office of Public and Government Relations			
Personal Services	75,758	0	75,758
Materials and Services	60,427	0	60,427
Capital Outlay	1,750	0	1,750
Subtotal	137,935	0	137,935
Council Office of Public Outreach			
Personal Services	100,049	0	100,049
Materials and Services	31,185	0	31,185
Capital Outlay	8,033	0	8,033
Subtotal	139,267	0	139,267
Office of Citizen Involvement			
Personal Services	61,631	0	61,631
Materials and Services	22,480	0	22,480
Capital Outlay	0	0	0
Subtotal	84,111	0	84,111
Auditor's Office			
Personal Services	394,617	0	394,617
Materials and Services	161,013	0	161,013
Capital Outlay	4,006	0	4,006
Subtotal	559,636	0	559,636
General Expenses			
Interfund Transfers	826,762	0	826,762
Contingency	309,634	(10,000)	299,634
Subtotal	1,136,396	(10,000)	1,126,396
Unappropriated Ending Fund Balance	306,414	0	306,414
Total Fund Requirements	\$9,693,737	\$0	\$9,693,737

All other appropriations remain as previously adopted

STAFF REPORT

CONSIDERATION OF AN ORDINANCE AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING \$10,000 FROM CONTINGENCY TO THE OFFICE OF GENERAL COUNSEL PORTION OF THE SUPPORT SERVICES FUND FOR VARIOUS FUNDING PURPOSES, AND DECLARING AN EMERGENCY.

Date: May 7, 1998

Presented by: Daniel B. Cooper

FACTUAL BACKGROUND AND ANALYSIS

This ordinance contains actions on two separate items. Each of the actions is described below.

1. Materials and Services

A transfer from contingency to materials and services is required to prevent this department from exceeding appropriations in this classification. There has been an increase in expenditures in several accounts due to the increased costs associated with Land Use Board of Appeals (LUBA) actions. These costs include conference calls with various parties, increased printing costs, etc. Although additional funds were budgeted to cover these expenses, the actual costs have exceeded the planned expenditures. The amount needed to be transferred is \$3,500.

2. Capital Outlay

Costs related to the relocation of the Office of General Counsel (OGC) from the third floor to the first floor exceeded the planned expenditures. These costs included adjustments to the construction plans to provide a more usable space for OGC staff, and higher than anticipated expenditures for new office furniture. The amount needed to be transferred is \$6,500

BUDGET IMPACT

Sufficient appropriations exist within the Support Services Fund contingency to provide for the changes outlined above.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 98-754.

DBC:CY:rs

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Agenda Item Number 9.1

**Resolution No. 98-2640B, For the Purpose of Establishing Timelines for Meeting Metro's Obligation to
Expand the Urban Growth Boundary.**

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING	)	RESOLUTION NO. 98-2640B
TIMELINES FOR MEETING METRO'S)	
OBLIGATION TO EXPAND THE URBAN	)	Introduced by Councilors
GROWTH BOUNDARY	)	Morissette and McLain
)	

WHEREAS, Periodic Review of Metro's acknowledged regional Urban Growth Boundary (UGB) was completed in December 1992 and the date for the next Periodic Review of the boundary has not been established; and

WHEREAS, Metro Code 3.01 "Urban Growth Boundary Amendment Procedures" were acknowledged for compliance with statewide planning goals in that 1992 Periodic Review; and

WHEREAS, ORS 197.296(3) and (1997) HB 2493 require Metro to complete: (a) an inventory of the supply of buildable lands within the urban growth boundary, (b) a calculation of actual density and average housing mix during the past five years, and (c) an analysis of 20-year housing need by type and range by January 1, 1998; and

WHEREAS, preliminary 1997 Urban Growth Report tables, policy variables estimating trends, and the estimated number of needed housing units were adopted in Resolution No. 97-2550A; and

WHEREAS, the Metro Council has held public hearings providing the opportunity to comment on the comparison of the buildable lands inventory and the population and employment forecast, the analysis of whether there is any significant surplus in any land use categories to address the unmet forecasted need, and the Housing Needs Analysis; and

WHEREAS, the acknowledged Metro Code Chapter 3.01 process for 5-year review of the regional urban growth boundary (UGB) shall continue as locations are reviewed for the scheduled consideration of a first legislative UGB amendment in 1998;

WHEREAS, on December 18, 1997, the Metro Council adopted Resolution 97-2559B for the purpose of adopting the 1997 Buildable Lands and Capacity Analysis and the Regional Forecast of Population, Households and Employment, Actual Density Analysis and 1997 Housing Needs Analysis, in which the Council determined that there was a Urban Growth Boundary capacity deficit of 32,370 dwelling units; and

WHEREAS, ORS 197.299 requires that Metro accommodate one-half of the deficit building land supply within one year of completing the analysis; and

WHEREAS, the Metro Council desires to establish timelines for meeting Metro's obligation to expand the Urban Growth Boundary;

WHEREAS, expanding the Urban Growth Boundary inside Metro's jurisdictional boundary will be accomplished by adoption of an appropriate ordinance. For areas outside Metro's jurisdictional boundary, the Council will adopt a resolution of intent subject to annexation of the territory to Metro; now therefore,

BE IT RESOLVED:

1. That prior to August 13, 1998, the Metro Council, in order to satisfy one-half of the need to expand the buildable land supply as required by ORS 197.299, will review existing procedures and determine whether amendments to the Metro Code are appropriate, and will establish a schedule for considering Urban Growth Boundary Amendments; and

BE IT FURTHER RESOLVED:

2. That prior to September 22, 1998, the productivity analysis of existing Urban Reserves will be presented to and reviewed by the Council Growth Management Committee;
3. That by September 29, 1998, proposals shall be introduced providing for a legislative expansion of the Urban Growth Boundary to meet one-half of the need for the buildable land supply as required by ORS 197.299; and
4. The Council shall tentatively schedule public hearings and vote on the proposals, as they may be amended, no later than November 5, 1998.

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

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

COMMITTEE REPORT

CONSIDERATION OF RESOLUTION 98-2640B, FOR THE PURPOSE OF ESTABLISHING TIMELINES FOR MEETING METRO'S OBLIGATION TO EXPAND THE URBAN GROWTH BOUNDARY

Date: June 3, 1998

Presented by: Councilor Morissette

Committee Action:

At its June 2, 1998 meeting, the Growth Management Committee voted 2-1 to move Resolution No. 98-2640B to the full Council for adoption. Councilors Morissette and Naito voted aye; Councilor McCaig voted no.

Committee Issues/Discussion:

Prior to the Committee, Resolution 98-2640 was amended. The amendments substitute the earlier language for the following:

1. Add Councilor McLain as a sponsor;
2. Provide that by August 13, 1998, the Council will review existing procedures and determine whether amendments to the Metro Code are necessary to accomplish the state requirement that one-half of the buildable land supply need is accommodated within the Urban Growth Boundary (UGB) by Jan. 1, 1999;
3. Provide that by August 13, 1998 the Council will establish a schedule for moving the UGB to meet half of the need by Jan. 1, 1999;
4. Provide that prior to September 22, 1998, the productivity analysis of the Urban Reserves will be reviewed by the Growth management Committee;
5. Provide that by September 29, 1998, proposals shall be introduced providing for a legislative expansion of the UGB to meet one-half of the need; and
6. Provide that the Council shall tentatively schedule public hearings and vote on the proposals by November 5, 1998.

Councilor Naito stated that she was more comfortable with adding "tentatively" to the final requirement so that the Council could remain flexible as to the date of the actual vote.

Councilor Morissette stated that his intent in bringing this resolution forward was to ensure that our obligation to move the UGB by the end of the year as required by the state was met. Councilor Morissette thought that it was important to review the requirements for bringing the necessary land into the UGB as soon as possible, so that if adjustments were needed, such as adjusting the requirement for concept planning, those adjustments could be made and Metro could meet its obligations under state law.

STAFF REPORT

CONSIDERATION OF RESOLUTION 98-2640, FOR THE PURPOSE OF ESTABLISHING TIMELINES FOR MEETING METRO'S OBLIGATION TO EXPAND THE URBAN GROWTH BOUNDARY

Date: May 20, 1998

Introduced by: Councilor Morissette

Proposed Action:

Councilor Morissette requests that the Committee adopt this resolution, which designates certain deadlines associated with the required expansion of the urban growth boundary. Specifically, all preliminary steps necessary to determine where to expand the urban growth boundary to accommodate half of the 20-year housing need, including concept planning, would have to be completed by August 1, 1998; the ordinance to expand the boundary to accommodate half the need would have to be introduced by September 15, 1998; and public hearings and a vote on the ordinance would have to be done by October 15, 1998.

Background and Analysis:

State law requires that sufficient land to accommodate one-half of the 20-year housing need be brought within the urban growth boundary by January 1, 1999. To meet this requirement, Metro must bring in enough land to accommodate 16,185 units. The urban growth management functional plan requires that any urban reserves brought into the urban growth boundary have a concept plan which, among other things, states generally the housing, commercial, transportation and public facilities systems that will be used in the area. These concept plans are required by the functional plan in an effort to ensure that new lands brought into the urban growth boundary are consistent with the 2040 design types and have adequate transportation and public facilities.

The Executive Officer has let a contract for a productivity analysis of the first tier urban reserves. This analysis will determine the actual capacity of each first tier urban reserve for housing, commercial and industrial sites, infrastructure and facilities. This report will inform the decision of the Council regarding exactly which urban reserves should be brought in to meet the 16,000-unit need. This report will be completed in August.

Current urban reserve concept planning is progressing slower than expected. At this time, there are no completed urban reserve concept plans. The time and cost to complete an urban reserve concept plan depends on the size and characteristics of the urban reserve, the degree to which public hearings are held and the level of staff time devoted to the planning.

This resolution requires all concept planning and other preliminary steps required for inclusion in the urban growth boundary to be completed by August 1, 1998.

Budget Impact:

The FY 97-98 growth management budget has no money for concept planning grants, though growth management staff is available for technical assistance. The proposed FY 98-99 budget, which takes effect July 1, has \$200,000 that could be used for concept planning grants.

Resolution No. 98-2649, For the Purpose of Authorizing the Release of RFB 98B-32-REM, for the Construction of an Extension of the Main Transfer Building at Metro South Station.

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING RELEASE	)	RESOLUTION NO. 98-2649
OF RFB #98B-32-REM FOR THE CONSTRUCTION)	
OF AN EXTENSION OF THE MAIN TRANSFER	)	Introduced by Mike Burton,
BUILDING METRO SOUTH STATION	)	Executive Officer

WHEREAS, For reasons of improving materials recovery and service for both commercial and public customers as described in the accompanying staff report, Metro requires expansion of the commercial tipping floor at Metro South Station; and

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

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

BE IT RESOLVED,

1. That the Metro Council authorizes issuance of RFB #98B-32-REM attached hereto as Exhibit "A".
2. That the Metro Council, pursuant to Section 2.04.026(b) of the Metro Code, authorizes the Executive Officer to execute a contract with the lowest responsive bidder.

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

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

Exhibit "A"

REQUEST FOR BIDS
FOR
METRO SOUTH TRANSFER STATION
BUILDING EXTENSION

RFB # 98B-32-REM

May 1998

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

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**EXECUTIVE SUMMARY FOR RESOLUTION 98-2649
CONSTRUCTION OF AN EXTENSION OF THE MAIN TRANSFER BUILDING AT
THE METRO SOUTH TRANSFER STATION**

PROPOSED ACTION

- Adopt Resolution No. 98-2649, which authorizes release of RFB #98B-32-REM and authorizes the Executive Officer to execute a contract for the construction of an extension of the commercial side of the main transfer building at the Metro South Transfer Station.

WHY NECESSARY

- The extension would increase the recovery of wood and yard debris by permitting the stockpiling of materials for later processing, some of which are currently dumped into the pit and disposed of.
- The extension would reduce waiting times for commercial haulers by increasing the number of stalls available for tipping on weekdays and for public use on the weekends.
- Safety should be improved for both customer groups because more maneuvering space would be available.
- The extension would also permit direct-loading of wood into the compactor, preventing the need to clean the pit floor before loading wood into the compactor. Direct-loading would also provide an opportunity to easily load other recovered materials (such as organics) in the future.

ISSUES/CONCERNS

- Construction of the expansion might cause some disruption for commercial haulers using the station.

BUDGET/FINANCIAL IMPACTS

- The Engineer's Estimate for the extension of the tipping floor is \$356,000. This estimate is approximately \$50,000 higher than the construction estimate contained in the Capital Improvement Plan. This is because the original engineers' estimate did not take into consideration that the existing transformer would need to be moved and that helical piles will be needed to support the new column loads. However, sufficient funds are available in the General Account to complete the project.

RS:gbc

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 98-2649, FOR THE PURPOSE OF AUTHORIZING RELEASE OF RFB #98B-32-REM FOR THE CONSTRUCTION OF AN EXTENSION OF THE MAIN TRANSFER BUILDING AT METRO SOUTH STATION

Date: April 30, 1998

Presented by: Bruce Warner

PROPOSED ACTION

Adopt Resolution No. 98-2649, which authorizes release of RFB #98B-32-REM and authorizes the Executive Officer to execute a contract for the construction of an extension of the commercial side of the main transfer building at the Metro South Transfer Station.

FACTUAL BACKGROUND AND ANALYSIS

This project would extend the tipping floor on the commercial side of the transfer station by 4,000 square feet, toward the rear of the facility. The expansion is necessary to improve the operator's ability to recover wood at the facility. The additional space will provide room for stockpiling and initial processing of the wood on the tipping floor without occupying needed tipping stalls.

It also provides an opportunity to load recovered materials directly into the compactor's hopper without first placing the materials in the pit. Currently, recovered wood can only be loaded into the compactor from the pit, after the pit floor has been cleaned. This is an operational problem, because the layer of waste is normally left to protect the asphalt floor from the operation of the dozer. However, if waste were allowed to remain in the pit, the recovered materials would become contaminated. The expansion should eliminate these problems.

Direct-loading into the hopper also provides an opportunity to easily load other materials that we may wish to recover in the future. With a decrease in the availability of materials such as wood due to the licensing of material recovery facilities, direct-loading, combined with the availability of additional space, permits the segregation and stockpiling of multiple materials without cross-contamination. This new operational capability would allow the station operator to recover materials in a manner similar to that of Metro Central that has additional room and a higher recovery rate.

The expansion will also improve service for commercial customers. Now, particularly during the morning rush, most stalls are continuously in use and some queuing occurs. An expanded tipping area would decrease such wait time, and improve safety by providing more maneuvering room.

The commercial side is available for public use on weekends, since most commercial haulers do not use the facility then. The expansion will provide more unloading stalls, which will decrease congestion and queuing times, as well as improve safety. In addition, more material recovery should occur from the public on weekends because of the extra space.

BUDGET IMPACT

The project is included in the approved Capital Improvement Plan. The Engineer's Estimate for the extension of the tipping floor is \$356,000. This is approximately \$50,000 higher than the construction estimate contained in the Capital Improvement Plan, because the original engineers' estimate did not consider that the existing transformer would need to be moved and that helical piles would be needed to support the new column loads. However, sufficient funds are available in the General Account to complete the project.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 98-2649.

RS:gbc
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Agenda Item Number 9.3

Resolution No. 98-2650, For the Purpose of Authorizing the Release of RFB #98B-33-REM, for the Construction of a Truck Wash at Metro South Station.

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING RELEASE) RESOLUTION NO. 98-2650
OF RFB #98B-33-REM FOR THE CONSTRUCTION)
OF A TRUCK WASH AT THE MAIN TRANSFER) Introduced by Mike Burton,
BUILDING METRO SOUTH STATION) Executive Officer

WHEREAS, A new truck wash is required to replace the wind-damaged truck wash; the existing truck wash location is needed for a public unloading area; and truck wash water quality improvements are needed as described in the accompanying staff report, Metro requires the construction of a truck wash at Metro South Station; and

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

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

BE IT RESOLVED,

1. That the Metro Council authorizes issuance of RFB #98B-33-REM attached hereto as Exhibit "A".
2. That the Metro Council, pursuant to Section 2.04.026(b) of the Metro Code, authorizes the Executive Officer to execute a contract with the lowest responsive bidder.

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

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

Exhibit "A"

REQUEST FOR BIDS
FOR
METRO SOUTH TRANSFER STATION
TRUCK WASH

RFB # 98B-33-REM

May 1998

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

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EXECUTIVE SUMMARY FOR RESOLUTION 98-2650 CONSTRUCTION OF A TRUCK WASH AT THE METRO SOUTH TRANSFER STATION

PROPOSED ACTION

- Adopt Resolution No. 98-2650, which authorizes release of RFB #98B-33-REM and authorizes the Executive Officer to execute a contract for the construction of a truck wash at the Metro South Transfer Station.

WHY NECESSARY

- A truck wash is needed at the facility to clean vehicles prior to leaving the site, thereby minimizing litter and liquids escaping onto the roadways. The truck wash is also an environmental service requested by the haulers to minimize the number of such facilities in the community—a service that they are willing to pay for in their rate.
- A new truck wash is necessary because the existing one was damaged in a windstorm and no longer has a roof. A roof is required by the sewerage agency serving the facility to minimize the amount of water requiring treatment.
- The existing truck wash has been a continual source of oil and grease contamination, causing sewer effluent to exceed permit quantities for oil.
- The current location limits future activities, such as the public unloading area proposed in the draft Master Facilities Plan.

ISSUES/CONCERNS

- Construction of the truck wash would require temporary relocation of employee parking. However, a convenient location has been found across the street at the Rossman's Landfill.

BUDGET/FINANCIAL IMPACTS

- The Engineer's Estimate for the truck wash project is \$110,000. This estimate is consistent with the estimate included in the approved Capital Improvement Plan.

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 98-2650, FOR THE PURPOSE OF AUTHORIZING RELEASE OF RFB #98B-33-REM FOR THE CONSTRUCTION OF A TRUCK WASH AT METRO SOUTH STATION

Date: April 30, 1998

Presented by: Bruce Warner

PROPOSED ACTION

Adopt Resolution No. 98-2650, which authorizes release of RFB #98B-33-REM and authorizes the Executive Officer to execute a contract for the construction of a truck wash at the Metro South Transfer Station.

FACTUAL BACKGROUND AND ANALYSIS

A truck wash has been a critical part of the Metro South Station since it was opened. It was provided to minimize the amount of debris and contaminated liquids escaping out of hauling vehicles after unloading, and to provide a service to our customers that was requested. The hauling community consists of many companies of various sizes. Access to an environmentally sound truck wash in the community is limited due to the nature of the material. Both the hauling community and Metro realized that a central, conveniently located truck wash would be more cost effective for the hauling community, as well as environmentally preferable. The cost of the truck wash and its maintenance is incorporated into the commercial rate.

The existing on-site truck wash was damaged during a 1996 windstorm that required removal of its roof. It was not rebuilt because the Department was considering moving the location of the truck wash to facilitate other activities on the site. These other activities, such as a public unloading and materials recovery area, are needed to increase materials recovery and customer service.

REM has developed a draft Master Facilities Plan that would utilize the current truck wash location for accessing a public unloading area. Construction of the unloading area is scheduled in the Capital Improvement Plan to begin in FY 1999-2000. This facility change is contingent upon the relocation of the Waste Transport Services Contractor's (STS) parking to an offsite location.

The location of the proposed truck wash contained in RFB # 98B-33-REM would be in the area currently occupied by a portion of the site's employee parking near the rear entrance to the facility. Employee parking would temporarily be relocated across Washington Street at a parking area on the closed Rossman's Landfill. Once the existing truck wash had been demolished, parking would occupy that space.

The new truck wash will be a three-sided pre-engineered steel building, as opposed to the current design, which only has a roof. The sides were added to improve appearance, since the new location of the truck wash is close to Washington Street, as well as to minimize the possibility of truck wash waste blowing off site. In addition, the facility will provide improved wastewater treatment. The accumulation of solids and grease at the existing truck wash has resulted in water quality violations. Wastewater treatment systems in the new facility should prevent such

violations in the future. These upgrades would have been necessary even if the facility was not relocated.

BUDGET IMPACT

The project is included in the approved Capital Improvement Plan. The Engineer's Estimate for the truck wash project is \$110,000. This estimate is consistent with the estimate included in the Capital Improvement Plan.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 98-2650.

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Agenda Item Number 9.4

Resolution No. 98-2653, For the Purpose of Authorizing the Execution and Delivery of a Lease/Purchase Agreement, Declaring Intent to Reimburse Expenditures, and Related Matters.

**Metro Council Meeting
Thursday June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

A RESOLUTION FOR THE PURPOSE OF)
AUTHORIZING THE EXECUTION AND DELIVERY)
OF A LEASE PURCHASE AGREEMENT,)
DECLARING INTENT TO REIMBURSE)
EXPENDITURES, AND RELATED MATTERS)

Resolution No. 98-2653

Introduced by Mike Burton
Executive Officer.

WHEREAS, the Council of Metro, which is located Washington, Multnomah and Clackamas Counties, Oregon (the "District") finds:

A. The District is authorized pursuant to the Constitution and laws of the State of Oregon, specifically Oregon Revised Statutes Section 279.101, the 1992 Metro Charter, and the Metro Code 8.01 (the "Acts") to enter into lease-purchase agreements to finance authorized projects; and

B. It is in the best interest of the District to authorize and enter into a Lease-Purchase Agreement to finance (1) the acquisition of computer network upgrades (the "Project") and to pay all costs incidental thereto; and

C. The District anticipates incurring expenditures ("Expenditures") to finance the costs of the Project and wishes to declare its official intent to reimburse itself for the Expenditures made on the Project from the proceeds of obligations, the interest on which shall be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); and

D. It is in the best interest of the District to enter into the Lease-Purchase Agreement with Bank of America National Trust and Savings Association (the "Bank");

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. Authorization. The Council hereby authorizes the execution and delivery of a Lease-Purchase Agreement (the "Lease-Purchase Agreement") to acquire the Project. The aggregate principal amount of the Lease-Purchase Agreement shall not exceed \$135,750. The true interest cost of this lease-purchase financing shall not exceed six percent (6.00%) per annum.

2. Lease Payments. Lease payments due under the Lease-Purchase Agreement shall be general revenue credit obligations of the District payable from non-restricted revenues received by the District and available funds of the District and shall not be subject to annual appropriation. The District hereby covenants to deposit annually in the District's Support Services Fund from its non-restricted revenues and available funds amounts sufficient to make the lease payments.

3. Designation of Authorized Representative. Pursuant to ORS 279.101 and Metro Code Section 8.01.0110, the District hereby authorizes the Executive Officer or his designee (the "Authorized Representative") to act on behalf of the District and determine the remaining terms of the Lease-Purchase Agreement as specified in Section 4.

4. Delegation of Final Terms of Lease-Purchase Agreement and Additional Documents. The Authorized Representative is hereby authorized, on behalf of the District, to:

a. establish the dated date, interest payment dates, interest rates (not to exceed the true interest cost stated in Section 1.a. of this Resolution), the principal maturities and final principal amount, not to exceed \$135,750;

b. make changes to the Lease-Purchase Agreement which the Authorized Representative determines to be in the best interests of the District, and to execute and deliver the Lease-Purchase Agreement; and

c. enter into any other agreements and to execute any other certificates or documents, and take any actions, which are necessary to finance the Project in accordance with this Resolution.

5. Declaring Intent to Reimburse. The District hereby declares its official intent to reimburse itself with proceeds of the Lease-Purchase Agreement for any of the expenditures incurred by it prior to the issuance of the Lease-Purchase Agreement.

6. Maintenance of Tax-Exempt Status. The District hereby covenants for the benefit of the Bank to use the Lease-Purchase Agreement proceeds and the Project financed with Lease-Purchase Agreement proceeds, and to otherwise comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest component of lease payments payable under the Lease-Purchase Agreement to be excluded from gross income for federal income tax purposes, as provided in the Lease-Purchase Agreement. The District makes the following specific covenants with respect to the Code:

i. The District will not take any action or omit any action if it would cause the Lease-Purchase Agreement to become arbitrage bonds under Section 148 of the Code.

ii. The District shall operate the Project financed with the Lease-Purchase Agreement so that the Lease-Purchase Agreement does not become a private activity bond within the meaning of Section 141 of the Code.

iii. The District shall comply with appropriate reporting requirements.

iv. The District shall pay, when due, all rebates and penalties with respect to the Lease-Purchase Agreement which are required by Section 148(f) of the Code.

The covenants contained in this Section 6 and any covenants in the closing documents for the Lease-Purchase Agreement shall constitute contracts with the

Bank, and shall be enforceable by them. The Authorized Representative may enter into covenants on behalf of the District to protect the tax-exempt status of the Lease-Purchase Agreement.

7. Bank Designation. The District designates the Lease-Purchase Agreement as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code. The District does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during calendar year 1998.

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

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

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**NETWORK INFRASTRUCTURE FLEXLEASE
B OF A – 98-2653**

Network Switching Equipment

Anticipated Cost

Gigabit Backbone equipment with 10/100Mbps switchports for workstations & servers	\$ 85,000
Edge switches 10 and 10/100Mbps	15,000
Equipment racks, cables, cable management	2,000
Upgrade Network card to 10/100Mbps on HP 9000/K410	2,500
Network Management Software	<u>500</u>
Sub-total	<u>\$ 105,000</u>

Firewall & Remote Access

Anticipated Cost

Multi-interface Firewall with network address translation, stateful inspection, and secure authentication	\$ 20,000
Remote access server integrated with secure authentication on firewall	<u>10,000</u>
Sub-total	<u>\$ 30,000</u>

FINANCING TOTAL \$ 135,000

Issuance Costs 750

GRAND TOTAL \$ 135,750

STAFF REPORT

CONSIDERATION OF RESOLUTION 98-2653 FOR THE PURPOSE OF AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE/PURCHASE AGREEMENT, DECLARING INTENT TO REIMBURSE EXPENDITURES, AND RELATED MATTERS.

May 6, 1998

Presented by: Craig Prosser

Factual Background and Analysis

Resolution 98-2653 approves a lease financing agreement with Bank of America for the lease/purchase of computer equipment identified in the Network Upgrade Project included in the FY 1998-03 Capital Improvement Plan.

In the past, Metro has used the FlexLease program offered by the Special Districts Association of Oregon (SDAO) through Strand, Atkinson, Williams, and York (SAWY) for this type of financing. SDAO is currently in the process of moving this business to a different underwriter, however, and the FlexLease program is not available at the time this financing must be completed.

Under the Bank of America lease arrangement, the interest rate will be set at the time of closing (currently expected to be June 15, 1998). Interest rates remain in force during the term of the financing. True interest cost (TIC) includes both interest expenses and all other expenses paid. The current anticipated TIC is 4.7%. The maximum TIC for this financing, however, cannot exceed 6%. This rate is lower than other lease rates available at this time.

The total principal amount of this FlexLease is \$135,750, including costs of issuance.

The Network Upgrade project was included in the Information Technology briefing presented to Council in March 1998. Funds for FY 1998-99 debt service for this lease purchase have been included in the FY 1998-99 Approved Budget within the Administrative Services Department.

Executive Officer's Recommendation

The Executive Officer recommends approval of Resolution No. 98-2653.

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Agenda Item Number 9.5

Resolution No. 98-2656, For the Purpose of Authorizing the Release of RFB #98-35-REM, for the Provision of Diesel Fuel.

**Metro Council Meeting
Thursday, June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING RELEASE)
OF RFB # 98B-35-REM, FOR THE PROVISION OF)
OF DIESEL FUEL)

RESOLUTION NO. 98-2656

Introduced by
Mike Burton, Executive Officer

WHEREAS, Metro currently purchases the diesel fuel used by the Waste Transport Services Contractor in order to realize savings due to avoidance of the federal excise tax on the fuel; and

WHEREAS, The current supplier agreements expire June 30, 1998; and

WHEREAS, RFB # 98B-35-REM attached as Exhibit "A" will procure replacement supply agreements so that Metro may continue to realize savings of at least twenty four cents per gallon;
and

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

BE IT RESOLVED,

1. That the Metro Council authorizes issuance of RFB # 98B-35-REM, attached hereto as Exhibit "A".
2. That the Metro Council, pursuant to Section 2.04.026(b) of the Metro Code, authorizes the Executive Officer to execute a contract with the lowest responsive bidder.

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

Approved as to Form:

Jon Kvistad, Presiding Officer

Daniel B. Cooper, General Counsel

**EXECUTIVE SUMMARY
RESOLUTION NO. 98-2656
AUTHORIZING RELEASE OF RFB # 98B-35-REM,
FOR THE PROVISION OF DIESEL FUEL**

PROPOSED ACTION

- Adopt Resolution No. 98-2656 which authorizes release of RFB #98B-35-REM and authorizes the Executive Officer to execute a contract for the provision of diesel fuel for use in the Waste Transport Services contract.

WHY NECESSARY

- The fuel contracts are necessary for Metro to purchase the fuel for the transport of waste and to take advantage of excise tax savings (\$0.24 per gallon).
- The existing contracts were signed in April 1995 and expire June 30, 1998, and must be replaced in order for Metro to continue to save \$0.24 per gallon for the 1.4 million gallons purchased annually

ISSUES/CONCERNS

- At the Council's REM Committee meeting of May 5, 1998, the committee declined to recommend extension of the existing agreements
- The RFB recommended for release would procure replacement agreements that would provide a level of service consistent with the previous agreements while allowing Metro to continue to save money.

BUDGET/FINANCIAL IMPACTS

- Metro will continue to enjoy a \$0.24 per gallon savings in Federal Excise Tax, as well as any savings due to lower fuel prices than anticipated. Such savings have averaged an additional \$0.06 per gallon during the first eight months of the current fiscal year.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 98-2656 FOR THE PURPOSE OF AUTHORIZING RELEASE OF RFB # 98B-35-REM, FOR THE PROVISION OF DIESEL FUEL.

Date: May 15, 1998

Presented by: Bruce Warner

PROPOSED ACTION

Adopt Resolution No. 98-2656 which authorizes release of RFB #98B-35-REM and authorizes the Executive Officer to execute a contract for the provision of diesel fuel for use in the Waste Transport Services contract.

FACTUAL BACKGROUND AND ANALYSIS

In April 1994, Metro began purchasing diesel fuel required to transport waste from Metro facilities to the Columbia Ridge Landfill per Change Order No. 15 to the Waste Transport Services Contract. Since Metro purchases the fuel, the federal excise tax of approximately 24 cents per gallon is avoided. These savings accrue to Metro on each of the approximately 1.4 million gallons purchased annually. In addition, Metro currently secures additional savings, since the price of fuel is lower than that negotiated with the Waste Transport Services Contractor. The current supplier agreements to purchase fuel began in April 1995 and will expire June 30, 1998.

The request for bids attached to Resolution No. 98-2656 as Exhibit "A", would procure replacement contracts for those which will expire. The RFB solicits bids for an eastern-end supply cardlock and two western-end cardlocks. The eastern cardlock, which will supply approximately 98% of the fuel purchased under these agreements, must be located on Highway 19 between the city of Arlington, Oregon and the Columbia Ridge Landfill. Two western cardlock locations are also being solicited. One would be near I-84 between the Sandy River and I-205 to service trucks based at the Metro Central Transfer Station, and another would be in Oregon City near the Metro South Transfer Station for occasional use as a backup fueling site.

The term of the agreements will be from July 1, 1998 until June 30, 2000. No extensions are provided for in the agreements.

BUDGET IMPACTS

Metro would continue to save the avoided federal excise tax.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 98-2656.

REQUEST FOR BIDS

for

THE PROVISION OF DIESEL FUEL

RFB #98B-35-REM

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

June 1998



METRO
Regional Services

**REQUEST FOR BIDS
FOR
THE PROVISION OF DIESEL FUEL**

RFB #98B-35-REM

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

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INVITATION TO BID

Metro is requesting bids for the supply of approximately 1.4 million gallons of No. 2, low sulfur diesel fuel. Portions of the fuel are to be provided at separate locations. The location at which the majority of the fuel will be supplied is in eastern Oregon on Highway 19 between the city of Arlington and the Columbia Ridge Landfill. Two western supply locations are also needed, one on I-84 and one in Oregon City. Bids may be submitted on one or more of these locations.

Prospective bidders may obtain bid documents by contacting the Regional Environmental Management Department of Metro at (503) 797-1650. Sealed bids must be delivered to the Regional Environmental Management Department at Metro, 600 NE Grand Avenue, Portland, Oregon, 97232-2736, to the attention of Chuck Geyer, no later than 3:00 p.m., Wednesday, June 23, 1998, at which time they will be publicly opened and read in Room 275 Metro Regional Center. The effective date of contracts awarded under this request for bids will be July 1, 1998.

INSTRUCTIONS TO BIDDERS

BID

Metro is soliciting Bids for the provision of No. 2 low sulfur diesel fuel. Bids must be enclosed in a sealed envelope and mailed or delivered to the Metro Regional Environmental Management Department, 600 NE Grand, Portland, Oregon 97232-2736, Attention, Chuck Geyer, Project Manager, no later than 3:00 p.m., Wednesday, June 23, 1998, at which time they will be publicly opened. A bid may not be submitted by Facsimile (FAX) transmittal.

The outside of the envelope shall plainly identify the subject of the Bid, the opening date, and the Bid number.

All bids must be clearly and distinctly typed or written with ink or indelible pencil. All blank spaces must be completed. No erasures are permitted. Mistakes must be crossed out and corrections typewritten or written in ink adjacent thereto, and initialed in ink by the party signing the Bid, or his authorized representative.

All bids must be on the forms furnished by Metro or they may be rejected by Metro. The forms should be accompanied by technical information demonstrating compliance with the requirements of the Scope of Work.

COST OF BID

This invitation to Bid does not commit Metro to pay any costs incurred by any Bidder in the submission of a bid, or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the items to be furnished under the invitation to bid.

ERRORS/OMISSIONS

Any Bid may be deemed non-responsive by the Procurement Officer if it is: Not on the Bid forms provided; contains errors or omissions, erasures, alterations, or additions of any kind; proposes prices which are unsolicited or obviously unbalanced; or not in complete conformance with any and all conditions of the bidding documents.

ADDENDA TO PLANS OR SPECIFICATIONS

Requests for additional information or interpretation of the contract documents shall be delivered to the Project Manager, in writing, at least five (5) business days prior to the Bid opening date and time. If, in the opinion of the Project Manager, additional information or interpretation is needed by the Bidders, an addendum will be issued to all known specification holders. The provisions of any written addenda issued by the Procurement Officer or Project Manager at least seventy two (72) hours prior to the Bid

opening date and time shall be binding upon the Bidders, and failure of a Bidder to obtain such addenda shall not excuse compliance therewith by the successful bidder.

MODIFICATION OF BID

An offer to modify the bid which is received from the successful Bidder after award of contract which makes the terms of the Bid more favorable or advantageous to Metro will be considered, and may thereafter be accepted. To be effective, every modification must be made in writing over the signature of the Bidder.

WITHDRAWAL OF BIDS

A Bidder may withdraw its bid in person, or by written or telegraphic request which are received prior to the scheduled closing time for filing Bids. A bid may not be withdrawn by FAX. Negligence on the part of the Bidder in preparing his bid confers no right to withdraw the bid after the scheduled closing time for filing Bids.

LATE BID

Bids received after the scheduled closing time for filing Bids will be returned to the Bidder unopened, unless such closing time is extended by Metro.

EXECUTION

Each Bid shall give the Bidder's full business address and bear its legal signature.

Bids by partnerships must list the full name of all partners and be signed by a partner or agent authorized to execute the contract on behalf of the partnership and identified by printed name and title.

Bids by corporations must bear the legal name of the corporation, the name of the state of incorporation, and the signature of the officer or agent authorized to legally bind the corporation.

Upon request by Metro, satisfactory evidence of the authority of the partner or officer shall be furnished.

If the Bid is signed by an agent who is not an officer of the corporation or a member of the partnership, a notarized Power of Attorney must be on file with Metro prior to the opening of Bids or be submitted with the Bid. Without such notice of authority, the Bid shall be considered improperly executed, defective and therefore nonresponsive.

A Bid submitted by a joint venture must include a certified copy of the terms and conditions of the agreement creating the joint venture.

EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK

It is understood that the Bidder, before submitting a Bid, has made a careful examination of the plans, specifications, and contract; that it has fully informed itself as to the quality and quantity of materials and the character of the work required; and that it has made a careful examination of the location and condition of the work and the sources of supply for materials.

COMPLIANCE

Each Bidder shall inform itself of, and the Bidder awarded a contract shall comply with, federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, waste reduction and recycling, the protection of natural resources, fire protection, burning and nonburning requirements, permits, fees and similar subjects.

ELIGIBILITY

Prior to submitting a Bid, all Bidders on public works/construction projects are required to be registered with the State of Oregon Construction Contractors Board, pursuant to ORS 701.035.

This project is not considered a public works or construction project.

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of the contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin.

PERMITS AND LICENSES

Each Bidder shall obtain and include in his Bid the cost for all permits and licenses which may be required to perform the contract.

CONFLICT OF INTEREST

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

IMMATERIAL VARIANCES

Metro reserves the right to determine whether equipment or materials that comply substantially in quality and performance with the specifications are acceptable to Metro, and whether any variance listed by the Bidder in a bid is material or immaterial.

LATEST MODEL

Parts and materials must be new, of latest model, of current date, and meet specifications. This provision excludes all surplus, remanufactured, and used products, unless such material is proposed in lieu of items specified.

"OR APPROVED EQUAL" CLAUSE

In order to establish a basis of quality, certain processes, types of machinery and equipment, or kinds of materials may be specified, either by description of process or by designating a manufacturer by name and referring to his brand or product designation, or by specifying a kind of material. It is not the intent of these specifications to exclude other processes, equipment, or materials of equal value, utility or merit.

Whenever a process is designated or a manufacturer's name, brand, or product is described, it shall be understood that the words, "or approved equal" follow such name, designation, or description, whether in fact they do so or not.

If a Bidder proposes to furnish an item, process or material which it claims to be of equal utility to the one designated, then:

1. Bidder shall submit to Metro, in care of the Project Manager, a written statement describing it together with supporting data and details sufficient to permit Metro to evaluate the same, five (5) work days prior to the Bid opening date and time.

If the product contains chemical properties, the relevant Material Safety Data Sheets (MSDS) shall be included to document all health and physical hazards, chemical ingredients, exposure limits, personal protective equipment for handling and use, and emergency procedures in response to unanticipated spills or environmental release.

2. Metro may require demonstration, additional tests, and additional data, all to be supplied at the expense of the Bidder.
3. If Metro determines that the proposed item, material or process is of equal value, utility or merit, the Project Manager shall notify all potential Bidders of record by issuance of an addendum at least seventy two (72) hours prior to the Bid opening date and time.

QUANTITIES

Metro makes no guarantees as to the exact quantities to be purchased. The figures provided are intended merely as guides and Bidders are warned not to construe them as a guarantee to purchase any amount.

Payment will be made only for quantities actually ordered, delivered, and accepted whether greater or less than the stated amounts.

TERMS

A Bid may be rejected if it requires payment in less time than the period specified in the Scope of Work.

PRICES

All prices submitted shall be firm during the contract period. If unit prices are requested, they should be provided for each unit on which there is a Bid. In case of mistake in extension of price, unit prices shall govern. All prices shall be F.O.B. the destination designated by Metro.

WARRANTY/GUARANTY

Each Bid for the furnishing of materials and equipment shall provide an explanation of both the Bidder's and manufacturer's warranties on materials and workmanship.

Every Bid shall indicate any warranty costs to Metro, including but not limited to, all parts, labor, and shipping costs required for compliance with any specific requirement(s) contained in the special conditions.

Each Bidder on a public works/ construction project shall provide at minimum a one year's guaranty on all materials and workmanship.

SERVICE

Each Bidder shall furnish detailed information on any service facilities, locations, and procedures as well as information on any maintenance agreements or contracts available to the Metro.

DELIVERY

Each Bidder shall provide a delivery schedule for each item offered. The successful Bidder shall notify Metro, in writing, within two (2) business days of bid opening if delivery cannot be completed as required.

Upon receipt of such notice from the successful Bidder, Metro reserves the right to cancel the order and make the purchase from the second lowest, responsible Bidder.

If Metro does not elect to cancel the contract initially, subsequent failure to meet the then current delivery requirement does not foreclose Metro's option for later cancellation.

BID SECURITY

All Bids in excess of \$25,000 must be accompanied by a Bid deposit in the form of cashier's check or certified check drawn on a bank in good standing, or a Bid bond issued by a surety authorized to conduct such business in the state of Oregon. The deposit will be \$500.00. The deposit shall serve as a guarantee that the Bidder will not withdraw the Bid for a period of sixty (60) days after Bid opening, and if awarded the Contract will execute the Metro contract and furnish all bond(s) as required and within the time frame specified herein.

The Attorney-in-Fact (Resident Agent) who executes any bond on behalf of the Surety must attach a notarized copy of his/her Power of Attorney as evidence of his/her authority to bind the Surety on the date of execution of the bond.

Bid security is not required for food products and may be waived by the Metro Council if expressly deleted by the special conditions attached.

Bid security is not required for food products and may be waived by the Metro Council if expressly deleted by the special conditions attached.

RESIDENT/NON-RESIDENT BIDDER

Oregon law requires Metro, in determining the lowest responsive Bidder, to add a percent increase on the Bid of a non-resident Bidder equal to the percent, if any, of the preference given to that Bidder in the state in which that Bidder resides. Therefore, each Bidder must indicate whether it is a resident or non-resident Bidder. A resident Bidder is a Bidder that has paid unemployment taxes or income taxes in the state of Oregon during the twelve (12) months immediately preceding submission of this Bid, has a business address in Oregon, and has stated in its Bid that it is a "resident Bidder."

BASIS OF AWARD

The award shall be made to the responsible Bidder(s) submitting the lowest responsive Bid to Metro. Any determination of the responsible Bidder(s) submitting the most advantageous Bid and the award are subject to review and determination by the Metro Legal Counsel as to legal sufficiency of any Bid submitted. Metro reserves the right to reject any and/or all Bids in whole or in part, and to waive irregularities not affecting substantial rights.

Bids will be evaluated for responsiveness using the following criteria:

- Compliance with all instructions specified in the request for bids related to bid preparation and documentation (see in particular "Errors/Omissions");
- Cost (per Schedule of Bid Prices);
- Compliance with the Scope of Work (see in particular "OR APPROVED EQUAL" CLAUSE). Metro will utilize the technical materials submitted with the bid in making this determination.

GENERAL CONDITIONS

NOTICE OF AWARD

Within 20 calendar days after the opening of Bids, Metro will accept one of the Bids, or combination of Bids, or reject all Bids in accordance with the Basis of Award. The acceptance of the Bid will be by written Notice of Award, mailed or delivered to the office designated in the Bid. The Notice of Award shall not entitle the party to whom it is delivered to any rights whatsoever.

CONTRACT

Within 10 business days of receipt of the contract from Metro, the successful Bidder shall sign and deliver the Contract to Metro together with the required performance bond.

BID SECURITY

Bid securities will be held until the Contract has been finally executed, after which all Bid securities, other than those which have been forfeited, will be returned to the respective Bidders whose Bid they accompanied.

FOREIGN CONTRACTOR

A Contractor that is not domiciled in or registered to do business in the State of Oregon shall, upon execution of a contract in excess of \$10,000, promptly report the total contract price, terms of payment, length of contract and all other required information to the Oregon Department of Revenue. Compliance shall be documented and Metro shall be fully satisfied as to complete compliance prior to release of final payment.

INSURANCE (or as indicated in attached contract)

The Contractor shall purchase and maintain at his expense the following types of insurance covering the Contractor, and his 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. The policy must be endorsed with contractual liability coverage.
2. Automobile bodily injury and property damage liability insurance.

Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an 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 or policy cancellation shall be provided to Metro thirty (30) days prior to the change.

The Contractor shall comply with ORS 656.017 for all employees who work in the state of Oregon for more than 10 days. The Contractor shall provide Metro with certification of workers' compensation insurance including employer's liability.

WORKERS' COMPENSATION

The Contractor, and all subsequent subcontractors and suppliers performing work pursuant to this contract shall provide Workers' Compensation benefits as required by and in accordance with all applicable state and federal laws.

NOTICE OF ASSIGNMENT

Metro will not recognize any assignment or transfer of any interest in this contract without written notice to the Procurement Officer by the new vendor.

HAZARD COMMUNICATION

The Contractor shall be required to strictly adhere to, coordinate with Metro and document full compliance with the policies and procedures of the Oregon Occupational Health and Safety Code, OAR Chapter 437, Division 155, Hazard Communication.

Therefore, the Contractor and all subcontractors and suppliers within his control shall notify Metro and all parties to the agreement as to:

- Hazardous materials to which they may be exposed on site;
- Employee measures to lessen the possibility of exposure;
- All contractor measures to reduce the risk;
- Procedures to follow if exposed.

The Contractor shall provide Metro with all Material Safety Data Sheets (MSDS) prior to delivery or introduction of the material on site.

For further information or clarification, contact the Metro Risk Management Division at 797-1615.

DELIVERY TIMES

The Contractor shall deliver the fuel as described in the Scope of Work.

FAILURE TO PERFORM

Should the Contractor fail to meet the agreed upon delivery schedule, thereby making it necessary for Metro to purchase urgently-needed items from another source, the low Bidder shall pay the difference between the accepted low Bid price and the purchase price or accept an offset against any monies then owed by Metro.

PATENTS

The Contractor agrees to protect, to defend (if Metro requests) and save the agency harmless against any demand for payment for wrongful or unauthorized use of any patented material, process, article, or device that may enter into manufacture, construction, or forms a part of the work covered by this contract.

INVOICES

Invoices shall be prepared and submitted unless otherwise specified. Invoices shall contain the following information: Contract number, item numbers, description of supplies as described in the Scope of Work.

LAW OF STATE OF OREGON

This contract is entered into within the state of Oregon, and the law of said State, whether substantive or procedural, shall apply and be followed with respect to this contract.

SPECIAL CONDITIONS

MINORITY AND WOMEN-OWNED BUSINESS PROGRAM

In the event that any subcontracts are to be utilized in the performance of this agreement, the Bidder's attention is directed to Metro Code Section 2.04.100.

Copies of that document are available from the Risk & Contracts Management Division, Metro Regional Center, 600 NE Grand Avenue, Portland, OR 97232 or by calling (503) 797-1714.

BONDS/BID SECURITY

No bid security or performance bonds are required for this project.

PREVAILING WAGE

Prevailing wage requirements do not apply to this project.

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SCOPE OF WORK

SCOPE OF WORK

I. BACKGROUND/HISTORY OF PROJECT

In 1991, Metro began transporting solid waste generated in the region to the Columbia Ridge Landfill located in Gilliam County, Oregon approximately 150 miles east of Portland, Oregon. Transport of the waste is provided through a contract with Specialty Transportation Services, Inc. (STS).

Loads of waste to be transported are prepared at Metro transfer stations by compactors. One transfer station is located in Oregon City (Metro South Station) and the other in northwest Portland (Metro Central Station). A load of waste is 7 x 7 x 39 feet in size and weighs about 29 tons. In calendar year 1997, STS transported 25,000 loads of waste from the transfer stations to the Columbia Ridge Landfill.

The typical STS driver transports two loads per day. Beginning at the landfill, a driver takes an empty trailer to a transfer station, picks up a full trailer which is transported to a staging area located in Rufus. At the staging area, an empty trailer is picked up for another trip to a transfer station, where a full trailer is picked up and transported to the landfill. Full trailers left at the staging area in Rufus are shuttled to the landfill. Several tractors are based at the Metro Central Station, the rest are based at the landfill. Over 95% of the tractors are fueled at the beginning of a driver's shift at a cardlock located on HWY 19 between the landfill and the city of Arlington.

STS utilizes approximately 45 tractors and 200 trailers. The tractors are Standard Peterbilt 378 three-axle conventionals with a 262 inch wheel base, plus a drop axle. The trailers are 48 foot Fruehaufs. Engines are a combination of 425 hp Cat 3406C ATAAC mechanical diesels and Cat's new electronic 3406-rated 435 hp with 1,650 pounds per foot of torque. They drive through Fuller Super 10 transmissions and Rockwell 3.90 rearends. Each tractor is equipped with one, 120 gallon fuel tank which is accessed from the driver's side.

The original contract between Metro and STS provided that STS purchase all the fuel to be used in performance of the work. In April 1994, Metro began to purchase the fuel used by STS for its over-the-road vehicles through a modification of the contract. Metro proposed this modification to realize substantial cost savings. These cost savings are incurred because Metro is a political subdivision of the state of Oregon and as such is exempt from payment of federal fuel excise taxes.

As part of this modification to the STS contract, Metro agreed to provide the fuel to STS "in a manner ... reasonably consistent with historical service levels...." In 1993, STS purchased approximately 1.4 million gallons of fuel for use by its over-the-road vehicles. About 95% of the fuel was purchased from a cardlock located in Gilliam County, on

HWY 19 between the City of Arlington and the landfill. The remaining amount was purchased from a cardlock located off Interstate 84 between I-205 and the Sandy River. Metro has continued to purchase fuel in the same proportion from these two general locations since 1994, and plans to do so under this contract.

Since the cardlocks currently in use also supply fuel to customers who must pay the federal excise tax, the cardlock must pay the excise tax on Metro fuel when purchased from a terminal and request a refund of the tax from the federal government. The vendor must therefore be a "registered ultimate vendor" under IRS rules and comply with all IRS rules.

Detailed information on fuel purchases is located in the Appendix. While fuel has been, and still must be in the future, available on a 24 hour, seven day a week basis, most of the fuel purchases occur during the weekday/daylight hours. Branded, No. 2 low sulfur fuel is used exclusively, except when weather conditions require "blending" to achieve non-gel operation.

The current agreements for the provision of fuel expire June 30, 1998. This RFB is intended to result in replacement agreements taking effect on July 1, 1998.

II. SCOPE OF WORK/SCHEDULE

Metro is seeking bids from qualified firms to perform the following services and to deliver the products described below. Since Metro will be purchasing fuel in both eastern and western portions of the state, the tasks below are divided into three parts. Section "A" contains those general requirements that apply to the fuel purchased at either location. Section "B" contains those specific requirements to provide fuel only for two locations at 1) I-84 between I-205 and the Sandy river (see map in the Appendix) and 2) in Oregon City. Section "C" contains the specific requirements to provide fuel in Gilliam County at a cardlock located on HWY 19.

A. General Requirements

1. Low sulfur, No. 2 diesel fuel¹ shall be available 24 hours per day, seven days a week. All fuel provided shall be filtered and free from impurities that might cause damage or impairment to vehicle operation. Contractor shall be liable for damages caused by fuel that is contaminated or otherwise does not meet specifications.
2. Fuel shall be winterized during cold weather to ensure 100% non-gel operation by blending with low sulfur heating fuel #1 or use of chemical additives. Contractor shall be liable for damages caused by fuel that is not properly winterized.

¹ See Sections "B" and "C" for specific requirements regarding the supply of branded and unbranded fuel.

3. If the primary fueling system is disabled, Contractor shall provide an alternative fuel supply on an "as needed" basis² until the primary system is available. Any and all sites or systems must comply with applicable laws and regulations.
4. All cardlock sites must have restrooms, water, and emergency phone services; be capable of fueling two vehicles simultaneously with high pressure pumps.
5. Fuel shall be accessed through the use of a card assigned to a specific tractor. The system shall be programmable to limit purchases per use and to record the invoice information described below. Contractor shall be able to cancel access to fuel within 24 hours notice from Metro, either system-wide or on an individual card basis. Contractor shall provide cards to Metro (or a designated party at STS) to access the system within 7 working days of a request.
6. The Contractor's invoice shall contain the following information.
 - for each transaction by card:

Date / time / tractor # / odometer reading / m.p.g. / # of gallons / price per gallon / total price
 - At the end of the invoice the following summary information shall be included:

For invoice period: Total gallons / total charge / average m.p.g. / average price per gallon / total excise tax avoided

Year to date: Total gallons / total charge / average m.p.g. / average price per gallon / total excise tax avoided
7. Payment/Bid Assumptions:
 - No excise tax will be charged to Metro (contractor will have to pay excise tax if applicable and obtain a refund from IRS)
 - Metro payment within 10 working days
 - Payment to the Contractor shall be based upon the "base cost" for #2 low sulfur diesel, plus the "markup" as bid on the bid sheet, plus winterization costs

² See Sections "B" and "C" for applicable requirements.

- For the purposes of payment, the "base cost" for #2 low sulfur diesel during any given week (Thursday through Wednesday) shall be as published in the weekly newsletter of the Oil Price Information Service, for the City of Portland³. The newsletter price is available electronically on Friday, and the published price shall apply to the period beginning with the preceding Thursday. Metro will make this price available to the Contractor.

Example: Metro receives the OPIS newsletter on Friday, July 10th, and the appropriate #2 low sulfur diesel average is \$.65/gal. This is the "base cost" to which Metro will add the "markup" bid, to make payment for fuel purchases during the period July 9th through and including July 15th.

- The "markup" price bid on the bid sheet shall be added to the "base cost" as reimbursement for each gallon of fuel purchased under this contract. The markup price should include all freight, overhead, profit, load fees, any applicable taxes (except federal excise) and lifting fees, the Contractor wishes to be reimbursed for above the base cost of fuel⁴: The markup shall be no more than 3 decimal places. The markup price will not change during the contract period, except for cost changes due to State or Federal taxes or fees (except the federal excise tax) which will increase or decrease the markup price upon implementation.

Example: Contractor has the following costs \$0.048 (freight from Portland) + \$0.03 (profit and overhead) + \$0.01 (applicable taxes and lifting fees). The "markup" bid would be \$.088/gallon. Total reimbursement (except in the case of winterization costs) would be the markup plus the OPIS price for the week. Using the example for the base cost above of \$.65, the Contractor would receive \$.738 per gallon for each gallon supplied to Metro during the example period of July 9th through July 15th.

- ⇒ Contractor shall be reimbursed for costs incurred to meet the winterization specifications as follows. Contractor shall winterize the fuel as appropriate and determine the corresponding "blend" of #1 low sulfur heating oil which would have been required for the period (Thursday through Wednesday). Utilizing the price published in the weekly newsletter of the Oil Price Information Service, for the City of Portland - "Average", Metro will compensate the Contractor for its winterization costs. An example of the OPIS index is contained in the Appendix.

Example: If a blend of 30% heating oil was needed, and the published cost of the fuel was \$.12 per gallon more than #2 low sulfur diesel, the Contractor would receive an additional \$.036 per gallon payment for the week.

³ The particular average to be used are described in more detail in Sections "B" and "C"

⁴ Additional compensation will be made for winterization costs as described in the next bullet.

8. Wait times to access pumps cannot exceed 10 minutes. Onsite queuing for two vehicles shall be available at all times.
9. Term - The term of this agreement shall be for a period of July 1, 1998, to June 30, 2000.

B. Specific Requirements for Western Fueling Location

1. Fuel must be provided through a cardlock located within one quarter mile of I-84, between I-205 and the Sandy River, and another located within one half mile of Metro South Station (2001 Washington Street, Oregon City, Oregon).
2. For the Western fueling locations, the "base cost" shall be the OPIS average for both branded and unbranded #2 low sulfur diesel. An example is contained in the Appendix.
3. Weatherization of fuel for Portland area conditions, consistent with the practices of major suppliers.
4. Within 10 business days from the provision of fuel to Metro by Contractor under this Contract, Metro shall provide the Contractor with a deposit in the amount of \$2,500. The entire deposit shall be applied as partial payment to the final payment due under this Contract.

C. Specific Requirements for Eastern Fueling Location

1. The cardlock must be located on HWY 19, between the City of Arlington and Cedar Springs Road.
2. If the cardlock is disabled, Contractor shall provide fuel through a delivery truck with a meter and issue hand written receipts until the cardlock is operational. The delivery truck shall dispense fuel either at the cardlock or another location acceptable to Metro and STS. The cost and quality of fuel supplied in this manner shall be the same as if the cardlock was available, except that the Contractor may pass through to Metro any additional, documented costs due this alternative fueling method, if the disabling of the cardlock was beyond the control of the Contractor, as determined by Metro in its sole opinion.
3. For the Eastern fueling location, the "base cost" shall be the OPIS average for "branded" #2 low sulfur diesel. An example is contained in the Appendix.

4. Within 10 business days from the provision of fuel to Metro by Contractor under this Contract, Metro shall provide the Contractor with a deposit in the amount of \$25,000. The entire deposit shall be applied as partial payment to the final payment due under this Contract.

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APPENDIX TO SCOPE OF WORK

- Fuel Consumption History
- OPIS Index and example "base cost"
- Sample Public Contract

Fuel Consumption History

EASTERN FUEL PAYMENT AND CONSUMPTION
Contract #904179 - July 1, 1996 to June 30, 1997 ACCT #54040
531-310290-521410-75408 VID #11209

PAYMENT			CONTRACT			PAYMENT			CONTRACT		
DATE	INVOICE	PAYMENT	BALANCE	GALLONS	TIME PERIOD	DATE	INVOICE	PAYMENT	BALANCE	GALLONS	TIME PERIOD
			\$829,126.84								
7/19/96	709	19,003.94	810,122.90	28,181.900	7/1-7/8	1/17/97	107	22,968.13	291,355.22	28,044.100	1/1/97-1/6/97
7/26/96	716	17,495.00	792,627.90	26,179.700	7/9-7/15	1/24/97	115	22,466.08	268,889.14	27,034.700	1/7 - 1/13
8/2/96	723	16,407.26	776,220.64	24,002.500	7/16-7/22	1/31/97	121	20,637.44	248,251.70	24,811.600	1/14 - 1/20
8/9/96	3499	22,912.24	753,308.40	33,261.100	7/23-7/31	2/7/97	128	20,246.92	228,004.78	25,041.400	1/21 - 1/27
8/16/96	806	10,534.27	742,774.13	15,178.900	8/1-8/5	2/13/97	339	15,617.29	212,387.49	19,256.800	1/28 - 1/31
8/23/96	813	17,286.26	725,487.87	24,674.300	8/6-8/12	2/21/97	211	26,220.81	186,166.68	32,072.700	2/1 - 2/10
8/30/96	820	18,272.78	707,215.09	24,297.500	8/13-8/19	3/7/97	222	32,666.89	153,499.79	40,198.400	2/11 - 2/21
9/6/96	827	18,990.33	688,224.76	24,407.100	8/20-8/26	3/13/97	937	19,855.48	133,644.31	24,566.100	2/22 - 2/28
9/13/96	3930	15,810.85	672,413.91	19,819.400	8/27-8/31	3/20/97	310	19,962.95	113,681.36	24,881.400	3/1 - 3/7
9/20/96	910	26,650.47	645,763.44	30,034.500	9/1-9/9	3/28/97	318	22,686.98	90,994.38	28,432.800	3/10 - 3/17
9/27/96	917	24,617.62	621,145.82	26,135.300	9/10-9/16	4/4/97	325	19,182.30	71,812.08	25,204.500	3/18 - 3/24
10/4/96	924	24,289.46	596,856.36	25,229.100	9/17-9/23	4/11/97	1504	19,231.28	52,580.80	26,062.600	3/25 - 3/31
10/13/96	930	23,231.41	573,624.95	25,510.900	9/24-9/30	4/18/97	408	19,044.75	33,536.05	25,723.800	4/1 - 4/7
10/18/96	1008	21,440.71	552,184.24	24,694.600	10/1-10/7	4/25/97	415	19,089.34	14,446.71	26,063.600	4/8 - 4/14
10/25/96	1015	20,632.44	531,551.80	24,032.200	10/8-10/14	5/2/97	422	17,585.17	(3,138.46)	24,510.700	4/15 - 4/21
11/1/96	1022	20,308.19	511,243.61	24,098.600	10/15-10/21	5/9/97	2088	26,709.66	(29,848.12)	37,647.600	4/22 - 4/30
11/1/96	8035	(86.50)	511,330.11	(100.000)	credit memo	5/16/97	506	10,545.92	(40,394.04)	15,046.400	5/1 - 5/5
11/8/96	1029	20,404.39	490,925.72	24,371.600	10/22-10/28	5/23/97	513	19,252.60	(59,646.64)	27,945.400	5/6 - 5/12
11/15/96	4945	12,974.59	477,951.13	15,462.600	10/29-10/31	5/30/97	520	17,693.30	(77,339.94)	26,765.800	5/13 - 5/19
11/15/96	1106	12,623.04	465,328.09	15,271.200	11/1-11/5	6/6/97	527	17,306.79	(94,646.73)	26,327.800	5/20 - 5/26
11/22/96	1112	16,738.88	448,589.21	20,639.800	11/6-11/11	6/12/97	2616	13,970.14	(108,616.87)	20,602.700	5/27 - 5/31
11/27/96	1119	19,928.32	428,660.89	25,061.600	11/12-11/18	6/20/97	610	23,100.34	(131,717.21)	32,520.600	6/1 - 6/6
12/6/96	1126	20,958.71	407,702.18	27,073.100	11/19-11/25	6/27/97	617	19,883.43	(151,600.64)	29,132.000	6/10 - 6/16
12/6/96	5505	13,964.78	393,737.40	18,352.800	11/26-11/30	7/3/97	624	17,403.46	(169,004.10)	26,622.000	6/17 - 6/23
12/27/96	1210	23,359.03	370,378.37	30,560.500	12/1-12/9	7/11/97	3061	17,640.05	(186,644.15)	27,672.000	6/24 - 6/30
12/21/96	1217	20,167.25	350,211.12	26,030.800	12/10-12/ 16	4/10/97			750,000.00		
12/31/96	1224	19,632.24	330,578.88	24,283.100	12/17-12/23				563,355.85		
1/10/97	6099	16,255.53	314,323.35	19,848.000	12/24-12/31						

hange Order 2
Balance 6-30-97

YTD Gallons =	1,318,780.20
YTD Costs =	\$1,015,770.99
AVE Cost/Gal	\$0.7702

WESTERN FUEL PAYMENT AND CONSUMPTION
Contract #904180 - July 1, 1997 to June 30, 1998
531-310290-521410-75408 VID #11200 ACCT #10605

PAYMENT DATE	INVOICE	PAYMENT	CONTRACT BALANCE	GALLONS	TIME PERIOD
			\$12,286.33		
8/1/97	64002	495.62	\$11,790.71	771.730	7/1-7/15
8/15/97	64592	405.77	\$11,384.94	648.560	7/16 - 7/31
8/29/97	64886	416.77	\$10,968.17	579.440	8/1 - 8/15
9/19/97	65182	414.51	\$10,553.66	513.530	8/16 - 8/31
9/26/97	65476	654.66	\$9,899.00	794.600	9/1 - 9/15
10/24/97	65767	497.82	\$9,401.18	634.860	9/16 - 9/30
11/14/97	66058	224.80	\$9,176.38	302.210	10/1 - 10-15
11/14/97	66947	307.76	\$8,868.62	404.200	10/16 - 10/31
11/28/97	67546	440.91	\$8,427.71	563.130	11/01 - 11/15
12/10/97	67841	510.80	\$7,916.91	666.950	11/16 - 11/30
12/26/97	68139	870.19	\$7,046.72	1,159.330	12/01 - 12/15
1/9/98	68728	709.93	\$6,336.79	1,065.270	12/16 - 12/31
1/30/98	69016	585.27	\$5,751.52	969.980	1/1 - 1/15
2/13/98	69310	383.87	\$5,367.65	715.520	1/16 - 1/31
2/27/98	69605	473.51	\$4,894.14	859.840	2/1 - 2/15
3/13/98	Corr 69016	38.39	\$4,855.75	50.000	2/1
3/13/98	69898	505.79	\$4,349.96	907.580	2/16 - 2/28
3/27/98	70768	451.40	\$3,898.56	882.180	3/1 - 3/15
4/10/98	71352	879.77	\$3,018.79	1,749.740	3/16 - 3/31
5/1/98	71936	323.45	\$2,695.34	582.780	4/1 - 4/15
5/8/98	72231	528.25	\$2,167.09	957.640	4/16 - 4/30

OPIS Index and example "base cost"

PORTLAND, OR

05-14-1998

OPIS CONVENTIONAL CLEAR GROSS PRICES

7.8 RVP

Company	Terms	Reg	Unl	Pre	Eff. Date
76	b N-10	-- --	59.65	74.65	05/13
Cenex	b N-10	-- --	59.50	70.50	05/14
Chevron	b N-10	67.00m	60.00	75.00	05/13
EOTT	u N-10	64.00m	59.00	70.00	05/14
Exxon	b N-10	65.20m	59.40	73.40	05/12
Exxon	u N-10	66.50m	62.00	73.00	04/30
Flying J	u N-10	-- --	59.25	70.25	05/08
Northrdge	u N-10	-- --	59.00	70.00	05/06
Shell	b N-10	65.50m	59.70	73.70	05/09
Shell	u N-10	-- --	59.00	70.00	05/14
Tesoro	u N-10	-- --	59.50	71.50	05/09
Texaco	b N-10	67.00m	60.00	75.00	05/14
Tosco	b 1-10	66.25m	60.25	75.15	05/13
Tosco	u N-10	-- --	59.00	70.00	05/07
RANGE - LOW		-- --	59.00	70.00	
HIGH		-- --	62.00	75.15	
AVERAGE		-- --	59.66	72.30	
AVG -- Mid. Unl.			65.92		

PORTLAND, OR

05-14-1998

OPIS CONVENTIONAL GROSS DISTILLATE PRICES

Company	Terms	Lo Sul No.2	Hi Sul No.2	Lo Sul No.1	Hi Sul No.1	Eff. Date
76	b N-10	48.00	-- --	57.50	-- --	05/12
Arco	u Net	47.20	44.80	-- --	-- --	05/13
Cenex	b N-10	47.50	45.00	-- --	-- --	05/14
Chevron	b N-10	47.30	-- --	-- --	-- --	05/14
EOTT	u N-10	47.25	-- --	-- --	-- --	05/14
Exxon	b N-10	48.00	-- --	-- --	-- --	05/13
Flying J	u N-10	47.25	48.00	57.50	-- --	04/08
McCall	u N-30	49.00	46.00	-- --	-- --	05/12
Northrdge	u N-10	47.00	-- --	-- --	-- --	05/14
Shell	u N-10	47.50	-- --	57.00	-- --	05/07
Tesoro	u N-10	47.50	46.50	-- --	-- --	05/14
Texaco	b N-10	47.30	44.50	58.30	-- --	05/14
Tosco	b 1-10	48.65	-- --	58.25	-- --	05/12
Tosco	u N-10	47.50	47.25	57.00	-- --	05/07
RANGE - LOW		47.00	44.50	57.00	-- --	
HIGH		49.00	48.00	58.30	-- --	
AVERAGE		47.64	46.01	57.59	-- --	

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BASE COSTS

Branded Average for Eastern Contractor = \$.478

Average for Western Contractor = \$.476

WINTERIZATION AVERAGE = \$.576

Sample Contract

NOTICE TO ALL BIDDERS

The public contract included herein is a standard agreement approved for use by Metro's General Counsel. This is the contract the successful bidder will enter into with Metro; it is included for your review prior to submitting a bid.

ATTACHMENT A To Standard RFB

CONTRACT NO. _____

SAMPLE - STANDARD PUBLIC CONTRACT

THIS Contract is entered into between Metro, a Metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, whose address is 600 NE Grand Avenue, Portland, Oregon 97232, and _____, whose address is _____, hereinafter referred to as the "CONTRACTOR."

In exchange for the promises and other consideration set forth below, the parties agree as follows:

ARTICLE I SCOPE OF WORK

CONTRACTOR shall perform the work and/or deliver to METRO the materials described in Attachment A, the Scope of Work, which is incorporated herein by this reference. All services and materials shall be of good quality and, otherwise, in accordance with the Scope of Work.

ARTICLE II TERM OF CONTRACT

The term of this Contract shall be for the period commencing July 1, 1998, through and including June 30, 2000.

ARTICLE III CONTRACT SUM AND TERMS OF PAYMENT

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

ARTICLE IV LIABILITY AND INDEMNITY

CONTRACTOR is an independent contractor and assumes full responsibility for the content of its work and performance of CONTRACTOR's labor, and assumes full responsibility for all liability for bodily injury or physical damage to person or property arising out of or related to this Contract, and shall indemnify, defend and hold harmless METRO, its agents and employees, from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is solely responsible for paying CONTRACTOR's subcontractors and nothing contained herein shall create or be construed to create any contractual relationship between any subcontractor(s) and METRO.

ARTICLE V TERMINATION

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

ARTICLE VI INSURANCE

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

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

B. Automobile bodily injury and property damage liability insurance.

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

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

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

**ARTICLE VII
PUBLIC CONTRACTS**

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

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

**ARTICLE VIII
ATTORNEY'S FEES**

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

**ARTICLE IX
QUALITY OF MATERIALS AND SERVICES**

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades.

CONTRACTOR guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment by METRO, whichever is later. All guarantees and warranties of materials furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO.

**ARTICLE X
OWNERSHIP OF DOCUMENTS**

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

**ARTICLE XI
SUBCONTRACTORS**

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

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

ARTICLE XII RIGHT TO WITHHOLD PAYMENTS

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

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

ARTICLE XIII SAFETY

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

ARTICLE XIV INTEGRATION OF CONTRACT DOCUMENTS

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

ARTICLE XV
ASSIGNMENT

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

_____	METRO
_____ Signature	_____ Signature
_____ Print name and title	_____ Print name and title
_____ Date	_____ Date

Metro Contract No.

**Attachment A
TO METRO CONTRACT
SCOPE OF WORK**

BID FORMS
(To be submitted with Bid)

SCHEDULE OF BID PRICES

SCHEDULE OF BID PRICES - For Western Portion of Fuel RFB

1. Per gallon markup bid for cardlock off I-84 between I-205 and the Sandy River

a. \$._____ b. _____
(figures) (words)

2. Per gallon markup bid for cardlock in Oregon City, Oregon

a. \$._____ b. _____
(figures) (words)

TOTAL BID = \$._____ + \$._____ = \$._____
(1.a) (2.a)

SCHEDULE OF BID PRICES- For Eastern Portion of Fuel RFB

1. Per gallon markup bid for cardlock on HWY 19 between Arlington and Columbia Ridge Landfill

a. \$._____ (figures)

b. _____ (words)

CHECKLIST

BIDDER REPRESENTS/CERTIFIES/ACKNOWLEDGES AS PART OF THIS OFFER THAT:

(Check or complete all applicable boxes or blocks.)

- NA 1. **BID BOND:** Bidder has complied with Metro's requirements for \$500.00 bid surety and guarantees that this bid is irrevocable for the period specified herein;
- NA 2. **PERFORMANCE BOND:** Cost of the Bond, if required, will be: _____ (\$ _____). This amount will be reimbursed by Metro over and above the contract bid price.
- ___ 3. **CONFLICT OF INTEREST:** Bidder hereby certifies that no officer, agent, or employee of Metro has participated on behalf of Metro in preparation of this bid, that the bid is made in good faith without fraud, collusion, or connection of any kind with any other Bidder for the same work, and the Bidder is competing solely in its own behalf without connection or obligation to any undisclosed person or firm.
- ___ 4. **RESIDENT/NON-RESIDENT:** Undersigned Bidder states that it is a ___ resident or ___ non-resident of the state of Oregon. State in which Bidder resides: _____.
- ___ 5. **TYPE OF BUSINESS ORGANIZATION:** Bidder operates as ___ an individual, ___ a corporation, incorporated under the laws of the state of _____, ___ a non-profit organization, ___ a partnership. (If partnership, list/attach names of the partners)
- ___ 6. **OREGON LICENSE:** If a corporation, ___ it is, or ___ is not, licensed with Oregon Corporation Commission.
- ___ 7. **REGISTRATION NO:** _____ with Construction Contractors Board.
- ___ 8. **DOING BUSINESS AS:** Provide any assumed names utilized:

FIRM OR CORPORATION NAME: _____

NAME OF LOCAL REPRESENTATIVE: _____

MAILING ADDRESS: _____

	STREET	CITY	STATE ZIP
--	--------	------	-----------

TELEPHONE NUMBER: () _____

FAX NUMBER: () _____

NAME AND TITLE OF PERSON AUTHORIZED TO CONTRACT/SIGN OFFER (TYPE OR PRINT)

SIGNATURE OF AUTHORIZED PERSON:

Bids must be enclosed in a sealed envelope, endorsed on the outside, indicate the bid subject, Request for Bid number and opening date, and delivered to Metro on or before the date and time of the bid opening. (See Instructions to Bidders)

BIDDER SIGNATURE Print Name of Bidder _____

Signature _____

Print Name and Title _____

S:\SHARE\GEYEMISC\Diesel\fuel98rfp.doc

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING A	)	RESOLUTION NO. 98-2663
REQUEST FOR PROPOSALS FOR A)	
PERSONAL SERVICES CONTRACT TO	)	Introduced by Mike Burton
REPRESENT METRO BEFORE THE 1999	)	Executive Officer
SESSION OF THE OREGON LEGISLATURE)	

WHEREAS, Metro needs to maintain liaison with the state and federal legislature;
and

WHEREAS, Funds were placed in the Support Services Materials & Services to be available for this purpose when an appropriate plan was presented to the Metro Council;
and

WHEREAS, The request for proposals, attached as Exhibit "A," describes the proposal contents, evaluation criteria and scope of work, attached as Attachment A; and

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

BE IT RESOLVED;

1. That the Metro Council approves the release of the request for proposals, attached as Exhibit "A," for a personal services contract to represent Metro before the 1999 session of the Oregon Legislature.
2. That the firm or individual submitting the highest ranking proposal shall be subject to Council confirmation prior to the execution of a personal services contract with the firm or individual.

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

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B Cooper, General Counsel

Exhibit "A"

REQUEST FOR PROPOSALS

FOR

**Personal Services Contract to Represent Metro Before
The 1999 Session of the Oregon Legislature**

I. INTRODUCTION

The Office of the Executive of Metro, on behalf of the Metro Council, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, is requesting proposals for a personal services contract to represent Metro during the 1999 Session of the Oregon Legislature. Proposals will be due no later than **3:00 p.m., Friday, July 17, 1998** in Metro's business offices at 600 NE Grand Avenue, Portland, OR 97232-2736. Details concerning the project and proposal are contained in this document.

II. BACKGROUND/HISTORY OF PROJECT

Metro has a need to manage and coordinate its legislative agenda for Fiscal Year 1998-99 and maintain ongoing contact with individual state legislators. During the 1997 legislative session, Metro contracted with an individual lobbying firm. Prior to that, for four legislative sessions, Metro contracted with the Special Districts Association (SDAO) for legislative contact and monitoring services associated with both the regular session and interim activities.

III. PROPOSED SCOPE OF WORK/SCHEDULE

Metro is seeking proposals from qualified firms and/or individuals to perform the following services and to deliver the products described in Attachment A.

IV. QUALIFICATIONS/EXPERIENCE

Proposers shall have the following experience:

1. Demonstrated success at lobbying/government relations with the Oregon Legislature for at least three legislative sessions.
2. Experience with, or ability to work with a government agency.
3. Excellent interpersonal and communication skills.
4. Excellent writing skills.
5. Ability to synthesize complex data and present in a format accessible to the legislators and general public.

V. CONTRACT ADMINISTRATION

Contract administration, including payment, billing and verification procedures, will be performed by the Metro Executive Officer.

VI. PROPOSAL INSTRUCTIONS

A. Submission of Proposals

5 copies of the proposal shall be furnished to Metro, addressed to:

Metro
Office of the Executive/Attn: Ealy
600 NE Grand Avenue
Portland, OR 97232-2736

B. Deadline

Proposals will not be considered if received after **3:00 p.m., July 17, 1998.**

C. RFP as Basis for Proposals:

This Request for Proposals represents the most definitive statement Metro will make concerning the information upon which Proposals are to be based. Any verbal information which is not addressed in this RFP will not be considered by Metro in evaluating the Proposal. All questions relating to this RFP should be addressed to Randy Ealy at (503) 797-1501. Any questions, which in the opinion of Metro, warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP.

D. Information Release

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

E. Minority and Women-Owned Business Program

In the event that any subcontracts are to be utilized in the performance of this agreement, the proposer's attention is directed to Metro Code provisions 2.04.100.

Copies of that document are available from the Risk and Contracts Management Division of Administrative Services, Metro, Metro Center, 600 NE Grand Avenue, Portland, OR 97232 or call (503) 797-1714.

VII. PROPOSAL CONTENTS

The proposal should contain not more than 5 pages of written material (excluding biographies and brochures, which may be included in an appendix), describing the ability of the consultant to perform the work requested, as outlined below. The proposal should be submitted on recyclable, double-sided recycled paper (post consumer content). No waxed page dividers or non-recyclable materials should be included in the proposal.

- A. Transmittal Letter: Indicate who will be assigned to the project, who will be project manager, and that the proposal will be valid for ninety (90) days.
- B. Approach/Project Work Plan: Describe how the work will be done within the given timeframe and budget. Include a proposed work plan and schedule.
- C. Staffing/Project Manager Designation: Identify specific personnel assigned to major project tasks, their roles in relation to the work required, percent of their time on the project, and special qualifications they may bring to the project. Include 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 consultant effort.

- D. Experience: Indicate how your firm meets the experience requirements listed in section IV. of this RFP. List projects conducted over the past five years which involved services similar to the services required here. For each of these other projects, include the name of the customer contact person, his/her title, role on the project, and telephone number. Identify persons on the proposed project team who worked on each of the other projects listed, and their respective roles.
- E. Clients and Legislative Interests: Present a list of clients and legislative interests including the respective roles of staff proposed to represent Metro.
- F. Cost/Budget: Present the proposed cost of the contract and the proposed method of compensation. List hourly rates for personnel assigned to the contract, total personnel expenditures, support services, and subconsultant fees (if any). Requested expenses should also be listed. Metro has established a budget not to exceed \$60,000 for this contract.
- G. Exceptions and Comments: To facilitate evaluation of proposals, all responding firms will adhere to the format outlined within this RFP. Firms wishing to take exception to, or comment on, any specified criteria within this RFP are encouraged to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized.

VIII. GENERAL PROPOSAL/CONTRACT CONDITIONS

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

- B. **Billing Procedures:** Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, and will not be submitted more frequently than once a month. Metro shall pay Contractor within 30 days of receipt of an approved invoice.
- C. **Validity Period and Authority:** The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- D. **Conflict of Interest.** A Proposer filing a proposal thereby certifies that no officer, agent, or employee of Metro, or Metro, has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other Proposer for the same call for proposals; the Proposer is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

IX. EVALUATION OF PROPOSALS

- A. **Evaluation Procedure:** Proposals received that conform to the proposal instructions will be evaluated. The evaluation will take place using the evaluation criteria identified in the following section. Interviews may be requested prior to final selection of one firm.
- B. **Evaluation Criteria:** This section provides a description of the criteria which will be used in the evaluation of the proposals submitted to accomplish the work defined in the RFP.

35% Work Plan/Approach:

1. Demonstration of understanding of the contract objectives.
2. Client/issue compatibility with Metro.

55% Experience:

1. Experience and ability of firm and/or staff.
2. Resources and staff committed to contract.

10% Budget/Cost Proposal:

1. Practicality and value of proposed budget.
2. Commitment to budget and schedule parameters.

X. NOTICE TO ALL PROPOSERS-- STANDARD AGREEMENT

The attached personal services agreement is a standard agreement approved for use by the Metro Office of General Counsel. This is the contract the successful proposer will enter into with Metro; it is included for your review prior to submitting a proposal. Failure to respond will be interpreted as acceptance of the standard terms and conditions for contract and subsequent changes will not be considered.

Attachment A

SCOPE OF WORK

1. Description of the Work

A. 1999 Legislative Session

The contractor will represent Metro before the 1999 session of the Oregon Legislature by arranging for introduction of any legislation which the agency requests to be put forth and monitoring all legislation which may impact Metro through daily attendance at committee meetings, work sessions and hearings, meetings with individual legislators and other appropriate means. The contractor will arrange for Metro testimony at hearings where appropriate or appear on behalf of Metro as directed by the Council and the Executive Officer and will advise Metro of any additional communication

B. Contact with Individual Legislators

The contractor will establish contact with individual legislators on behalf of Metro and will work with the Council and Executive Office to conduct a briefing for legislators prior to the beginning of the 1999 session.

C. Coordination and Management of Contract

Metro's legislative agenda is developed jointly between the Executive Officer and the Metro Council. Direction and supervision of the Scope of Work shall be accomplished through oversight by the Council Government Affairs Committee and the Executive Officer. The contractor shall report to the Metro Council at least once a month during the legislative session to transmit a progress report. Additional meetings may be scheduled upon request of any of the parties.

The contractor shall meet with Metro staff on a regular basis to ensure familiarity with Metro programs and issues. In addition, Metro will be represented at other meetings which are necessary to carry out the 1999 Legislative Agenda.

2. Payment and Billing

Contractor shall perform the above work for a maximum price not to exceed **SIXTY THOUSAND DOLLARS (\$60,000.00)** for the period of September 8, 1998 to June 30, 1999.

The maximum price includes all fees, costs and expenses of whatever nature. Contractor's billing statements will include an itemized statement of work done and expenses incurred during the billing period, will not be submitted more frequently than once a month, and will be sent to Metro, attention:

Accounts Payable, 600 NE Grand Avenue, Portland, OR 97232-2736.
Metro will pay Contractor within 30 days of receipt of an approved billing statement.

STAFF REPORT

**IN CONSIDERATION OF RESOLUTION NO. 98-2663 FOR THE PURPOSE OF
AUTHORIZING A REQUEST FOR PROPOSALS FOR A PERSONAL
SERVICES CONTRACT TO REPRESENT METRO BEFORE THE 1999
SESSION OF THE OREGON LEGISLATURE**

Date: May 4, 1998

Presented by: Mike Burton

PROPOSED ACTION:

Adoption of Resolution No. 98-2663 would authorize the Executive Officer to release a request for proposals and negotiate and execute a personal services contract to represent Metro before the 1999 session of the Oregon Legislature.

FACTUAL BACKGROUND AND ANALYSIS

Metro has a need to manage and coordinate its legislative agenda for Fiscal Year 1998-99 and maintain ongoing contact with individual state legislators. During the 1997 legislative session, Metro contracted with an individual lobbying firm for legislative contact and monitoring services associated with both the regular session and interim activities. Prior to 1997, Metro contracted for four legislative sessions with the Special Districts Association (SDAO).

The Executive Officer is initiating a Request for Proposals (Exhibit A) for a personal services contract to represent Metro before the 1999 session of the Oregon Legislature. The contractor shall perform the work described in Attachment A for a maximum price not to exceed \$60,000.00. The request for proposals seeks to secure the highest quality legislative representation of Metro at the lowest possible cost.

The Council approved \$75,000 in the Fiscal Year 1998-99 Contracted Professional Services for Public Affairs and Government Relations within the Office of the Executive Officer for this purpose pending a proposal for state and federal legislative activities.

Executive Officer's Recommendation:

The Executive Officer recommends adoption of Resolution No. 98-2663.

GOVERNMENTAL AFFAIRS COMMITTEE REPORT
CONSIDERATION OF RESOLUTION 98-2663, FOR THE PURPOSE OF
AUTHORIZING A REQUEST FOR PROPOSALS FOR A PERSONAL SERVICES
CONTRACT TO REPRESENT METRO BEFORE THE 1999 SESSION OF THE
OREGON LEGISLATURE

Date: June 2, 1998

Presented by: Councilor McLain

Committee Action:

At its June 1, 1998, meeting, the Governmental Affairs Committee voted to recommend to the full council adoption of Resolution 98-2663. Councilors McLain, Naito and McFarland voted in favor.

Committee Discussion:

There was no substantive discussion on this resolution.

Agenda Item Number 10.1

Resolution No. 98-2654, For the Purpose of Authorizing Change Order No. 1 to the Contract for Operating Metro Central and South Transfer Station.

Contract Review Board

**Metro Council Meeting
Thursday June 11, 1998
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSES OF AUTHORIZING CHANGE) RESOLUTION NO. 98-2654
ORDER NO. 1 TO THE CONTRACT FOR OPERATING)
METRO CENTRAL AND SOUTH TRANSFER) Introduced by Mike Burton
STATIONS) Executive Officer
)

WHEREAS, The Metro Council awarded the operating contract for the Metro South and Central Transfer Stations to Browning-Ferris Industries, Inc. beginning October, 1997; and,

WHEREAS, Contract modifications are needed in order to respond to requests of customers of the Metro Transfer Stations for additional services and to make other necessary operational changes that will expand waste reduction and improve operations; and,

WHEREAS, Change Order No. 1, attached as Exhibit "A" provides the necessary modifications to the contract for the operation of Metro South and Central Transfer Stations; and;

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

BE IT RESOLVED, That the Metro Council

1. Approves Change Order No. 1 to the contract between Metro and Browning-Ferris Industries, Inc. for the operation of Metro Central and South Transfer Stations; and
2. Authorizes the Executive Officer to execute Change Order No. 1 to the contract between Metro and Browning-Ferris Industries, Inc. for the operation of Metro Central and South Transfer Stations.

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

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

**MODIFICATION TO THE CONTRACT BETWEEN METRO
AND BROWNING-FERRIS INDUSTRIES OF OREGON, INC.**

This change order, dated as of the last signature date below, is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, and Browning-Ferris Industries of Oregon, Inc., "Contractor," pursuant to the Public Contract dated July 1997 (the "original contract"). In exchange for the promises and other valuable consideration described in the original contract and in this change order, the parties agree as follows:

Landscape Maintenance at Metro Central Transfer Station

1. From April 1st through September 30th of each year, Contractor shall perform landscape maintenance at Metro Central Transfer Station. Contractor shall provide an average of 16 hours per week of labor dedicated to landscape maintenance during these months. Any landscape maintenance work of more than 16 hours per week shall be approved in advance by Metro's Regional Environmental Management Director.
2. Contractor shall follow Metro's directions regarding the general nature of landscape maintenance work that is required. Contractor acknowledges that it is aware that it is Metro's policy to rely on non-chemical means of pest control and to create a native landscape that requires as little maintenance as possible.
3. For the landscape maintenance work specified in this Change Order, Metro agrees to pay Contractor \$15.00 per hour for labor costs.
4. Metro shall bear the cost of all fertilizer and other necessary supplies. All purchases of fertilizer and necessary supplies made by Contractor at Metro's expense shall be approved in advance by Metro. Metro shall bear 100% of the cost of landscape maintenance supplies approved in advance. Contractor will provide and maintain necessary tools.
5. The price paid for Contractor's labor costs will be adjusted using the Consumer Price Index as specified in Article 13 "Basis and Method of Payment" of the original Contract. The first adjustment shall be made as of July 1, 1999.
6. Metro reserves the right to cancel the Contractor's obligation to perform landscape maintenance work with 30 days prior notice to the Contractor.

Labor To Assist in Public Unloading at Metro South Station

1. From April 1st through September 30th of each year, Contractor agrees to provide laborers to assist public customers in unloading waste at Metro South Station.
2. The number and scheduling of laborers shall be based on the anticipated need for such work given expected wait times. Contractor shall submit a staffing plan to the Director of the Regional Environmental Management Department no less than 15 days before the first day of each month. In its sole discretion Metro reserves the right to change in the number and scheduling of laborers based on its expectations regarding needed assistance.
3. Metro agrees to pay for Contractor's labor costs as specified in Article 15 "Additional or Deleted Work" of the original Contract.

4. Metro reserves the right to cancel the Contractor's obligation to perform public unloading work with 30 days prior notice to the Contractor.

Transfer of Treated Non-Infectious Medical Waste

1. Contractor shall transfer non-infectious medical waste including, but not limited to autoclaved sharps delivered to the Metro Transfer Stations with an approved Special Waste Permit issued to the generator by Metro.
2. Contractor reserves the right to reject any medical waste that it determines in the Contractor's sole discretion to be unsafe for handling.
3. Metro agrees to pay Contractor a special handling fee of the greater of \$10.00 per ton or \$10.00 per pallet, of medical waste transferred under this Change Order. Such payment shall be in addition to the per ton unit prices specified in Article 13 "Basis and Method of Payment" in the original Contract.
4. Metro reserves the right to cancel the Contractor's obligation to perform the transfer of medical waste with 30 days prior notice to the Contractor.

Pilot Project for Expanded Operating Hours for Automated Transactions

1. Contractor shall cooperate with Metro in a pilot project designed to examine the need for 24-hour operation of the transfer stations. The pilot project shall run through September 1, 1998, at which time Metro shall, at its option, determine whether to extend 24-hour operations under the conditions described in this Change Order for the duration of the contract.
2. Contractor shall provide at each transfer station one employee trained in handling and management of commercial waste to manage commercial waste received through the automated scalehouse during all times that Metro has opened the Transfer Stations to automated transactions. Such employee shall conduct necessary observation of loads, conduct load checks, respond to hazardous waste incidents, and operate equipment necessary for transfer operations.
3. Metro retains the right to determine the hours that the Transfer Stations are open for commercial haulers using the automated scale system. The hours may be different for Metro Central Station and Metro South Station, based on the demand for off-hour deliveries.
4. In the event of failure of the automated scale system during hours that Metro has not staffed the scalehouses, Contractor shall respond by manually recording truck weights and operating gates necessary to allow commercial haulers to continue to tip waste.
5. Contractor shall not be required to respond to failures of the automated scale system if the failure rate is higher than 5% of all transactions between the hours of 6 P.M. to 7 A.M. Metro will be responsible for either correcting the automation problem or providing necessary staff for manual processing of transactions if the failure rate is higher than 5%.
6. Metro shall pay Contractor for labor costs associated with this change in work at the rate of \$21.84 per hour. In the event that Metro determines, in its sole discretion, to implement this work during weekends, weekend payment rates shall be adjusted to reflect overtime as required by State law.

7. The price paid for Contractor's labor costs shall be adjusted using the Consumer Price Index as specified in Article 13 "Basis and Method of Payment" of the original Contract.

Except as modified herein, all other terms and conditions of the original contract and previous change orders (if any) remain in full force and effect.

CONTRACTOR

METRO

Signature

Signature

Print name and title

Print name and title

Date

Date

EXECUTIVE SUMMARY
RESOLUTION 98-2654
BFI TRANSFER STATION OPERATIONS

PROPOSED ACTION

Resolution 98-2646 authorizes Change Order No. 1 to the contract with Browning-Ferris Industries, Inc. for the operation of the Metro transfer stations. The Change Order establishes prices that BFI will charge Metro for:

- Expanded hours for haulers using the automated scale system,
- Transfer of treated medical waste,
- Labor to assist the public in unloading waste at Metro South, and
- Landscape maintenance at Metro Central

WHY NECESSARY

- Expanded Hours. Haulers are requesting 24-hour access to the stations to avoid traffic congestion. Change Order No. 1 allows Metro to conduct a pilot study of expanded hours.
- Transfer of Medical Waste. Hospitals in the region are installing on-site sterilizers to reduce disposal costs for medical waste. The hospitals have requested that Metro accept sterilized waste.
- Public Unloading. A major cause of long lines at Metro South is the time it takes the public to unload vehicles. Change Order No. 1 allows Metro to direct BFI to assist in unloading if necessary to reduce long lines.
- Landscape Maintenance at Metro Central. BFI can provide the most cost-effective labor for landscape maintenance during the summer at Metro Central.

ISSUES/CONCERNS

- Appropriate procedures will be followed to ensure that treated medical waste is safely transferred without hazardous exposure to workers.

BUDGET/FINANCIAL IMPACTS

- Change Order No. 1 would increase the BFI contract by up to \$921,713 if Metro chooses to extend the contract for the full 5 years.
- These costs were either already budgeted (landscape maintenance), will be passed on to customers as special waste charges (medical waste), or can be implemented as needed to match the revenue growth associated with increasing customers and tonnage (public unloading and extended hours).

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 98-2654 FOR THE PURPOSE OF AUTHORIZING CHANGE ORDER NO. 1 TO THE CONTRACT FOR OPERATING METRO CENTRAL AND SOUTH TRANSFER STATIONS

Date: April 21, 1998

Presented by: Bruce Warner,
Terry Petersen

PROPOSED ACTION

Adopt Resolution No. 98-2654 for the purpose of authorizing Change Order No. 1 to the contract for operating Metro Central and South Transfer Stations.

FACTUAL BACKGROUND AND ANALYSIS

Browning-Ferris Industries, Inc. (BFI) was awarded the contract for operating the Metro Central and South Transfer Stations beginning October 1, 1997. Metro, BFI, and the customers of the transfer stations have identified several changes that are needed in the contract in order to expand waste reduction, improve operations, and expand services. In order to make these changes, the original contract between BFI and Metro needs to be modified.

The contractual changes included in Change Order No. 1 that would be implemented by approval of Resolution No. 98-2654 are as follows:

1. Landscape Maintenance at Metro Central Transfer Station. When the original contract was negotiated with BFI, Metro intended to contract with the Multnomah County Department of Juvenile and Adult Community Justice for laborers to do landscape maintenance at Metro Central Station. However, given the size of the County work crews and the amount of landscaping at Metro Central Station, it has been difficult for the County to provide the proper level of landscape maintenance. There often has been either too much or too little work to be done given the size of the crew. In lieu of the County contract, this Change Order establishes a price that BFI will charge Metro for providing 16 hours of labor per week for landscape maintenance at Metro Central Station during the months of April through September. Metro would continue to be responsible for landscape maintenance at Metro South Station and during the winter at Metro Central Station.
2. Labor to Assist in Public Unloading at Metro South Station. Metro has recently made a number of improvements at Metro South Station that should significantly reduce long lines during peak hours. These include a new scale, new scalehouse, and an additional traffic lane on the approach to the scales. However, the number of public customers continues to increase. Considering the growth in public customers combined with the construction that Metro plans for Metro South this summer, there are likely to be continued traffic problems during peak hours. This Change Order establishes a price that BFI will charge Metro for additional laborers to assist the public in unloading waste during peak periods. Because the typical long unloading time by public customers is one of the main causes of long lines, this additional staffing should help reduce traffic problems. This Change Order allows Metro to specify how much additional labor is needed, based on the expected number of customers.
3. Transfer of Treated Non-Infectious Medical Waste. Several hospitals in the Metro region are planning to install large-scale sterilizers to treat their medical waste. The hospitals have requested that Metro develop procedures for transferring treated medical waste to the Columbia Ridge Landfill. This Change Order establishes a price that BFI will charge for transferring treated non-infectious

medical waste.

4. Pilot Project for 24-Hour Operation of the Automated Scale System. Metro has recently installed an automated scale system for weighing commercial trucks at the transfer stations. Several haulers have requested that Metro allow access to the facilities during the night. This would help reduce both on-site traffic during peak daytime hours and congestion on roads leading to the stations. This Change Order establishes a price that BFI will charge for the necessary staffing during the expanded hours of operation. The hours of operation will be expanded to 24-hours per day on a pilot basis through August 1998. At that time, the REM Department will examine the amount of usage and determine whether continuation of the expanded hours is justified given the additional cost.

BUDGET IMPACT

The FY97-98 REM Department budget includes \$6,760,479 for transfer station contractual operations with actual expenditures expected to be \$5,981,301, primarily due to the lower contract prices in the BFI contract that began October 1997. The work described in this Change Order would be paid for from this appropriation. The FY98-99 REM Department budget includes \$5,981,301 for transfer station contractual operations which should be a sufficient appropriation to cover the work in this Change Order.

1. Landscape Maintenance at Metro Central Transfer Station. The REM Department's FY97-98 budget includes \$23,607 for contracts related to landscape maintenance. The proposed budget for FY98-99 includes \$20,000 for contractual services required for landscape maintenance. The total annual cost associated with this change order would be \$6,192 (plus minor costs for materials). The remainder of the appropriation will be used for landscape maintenance at Metro South Transfer Station.
2. Labor to Assist in Public Unloading at Metro South Station. The annual cost of this contract change is expected to range from \$13,824 (1,152 labor hours @ \$12 per hour) to \$51,840 (4,320 labor hours @ \$12 per hour). Actual hourly rates will be determined when BFI hires the employees, but the \$12 per hour figure is a reasonable estimate. The REM Department will determine the appropriate level based on actual traffic problems with the goal being to avoid public lines spilling out onto Washington Street in front of the transfer station.
3. Transfer of Treated Non-Infectious Medical Waste. The REM Department expects that total expenditures related to transfer of medical waste would not exceed \$10,000 per year. Metro Code Chapter 5.02 specifies that "a special waste surcharge and a special waste permit application fee shall be collected on all special wastes disposed of at Metro facilities." Per this requirement, the REM Department will pass the BFI contract price for medical waste established under this Change Order on to all customers delivering medical waste to the Metro transfer stations.
4. Pilot Expanded Hours for Haulers Using the Automated Scale System. The annual cost of this contract change is expected to range from \$48,266 (2,210 labor hours @ \$21.84 per hour for weekday 24-hour operation at Metro Central only) to \$184,548 (4,940 labor hours @ \$21.84 per hour weekday 24-hour operation and 2,340 labor hours @ \$32.76 for weekend 24-hour operation at both Metro Central and South). The wide variation in costs reflects the uncertainty regarding the demand for night delivery of solid waste at each of the transfer stations. There appears to be sufficient demand at Metro Central during weekdays because of the proximity to downtown Portland where night collection is required. The REM Department will expand the automated hours of operation to include Metro South and weekends at Metro Central only if there is sufficient demand to justify the extra expenditures.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 98-2654.

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METRO COUNCIL REGULAR MEETING MINUTES

June 4, 1998

2:00 PM

Council Chamber

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

Councilors Absent:

Presiding Officer Kvistad convened the Regular Council Meeting at 2:05 p.m.

1. INTRODUCTIONS

None

2. CITIZEN COMMUNICATIONS

None

3. EXECUTIVE OFFICER COMMUNICATIONS

None

4. AUDITOR COMMUNICATIONS

None

5. MPAC COMMUNICATIONS

None

6. CONSENT AGENDA

6.1 Consideration of Minutes for the May 28, 1998 Metro Council Regular Meeting.

Motion: Councilor McFarland moved to adopt the meeting minutes of May 28, 1998 Metro Council Regular Meeting.

Seconded: Councilor Washington seconded the motion.

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

7. ORDINANCES - FIRST READING

7.1 Ordinance No. 98-755, Amending the Metro Code regarding the Office of Citizen Involvement Effective June 1998.

Presiding Officer Kvistad assigned Ordinance No. 98-755 to the Government Affairs Committee

7.2 **Ordinance No. 98-759**, Amending the FY 1997-98 budget and appropriations schedule by transferring \$8,000 from materials and services to personal services within the Office of the Auditor to complete a cash receipts audit; and declaring an emergency.

Presiding Officer Kvistad assigned Ordinance No. 98-759 to the Finance Committee.

8. ORDINANCES - SECOND READING

8.1 **Ordinance No. 98-730B**, For the Purpose of Amending Ordinance Nos. 96-647C and No. 97-715B, to amend Title 3 of the Urban Growth Management Functional Plan, and amend the Regional Framework Plan, appendix A, and adopt the Title 3 Model Ordinance and Water Quality and Flood Management Maps. (*PUBLIC HEARING, NO FINAL ACTION*)

Motion: Councilor Naito moved Ordinance No. 97-730.

Seconded: Councilor McLain seconded the motion.

Discussion: Councilor Naito commented that this matter had been a work in progress at Metro for some time. She thanked Councilors McLain, Morissette and McCaig and the Committee, and legal counsel Ken Helm for all of their hard work. She reported on the process and pointed out several points, including wetlands and notice and the committee's recommendations.

Councilor Morissette added that the notifications were to be as specific as reasonably possible, talking about the affected property owner's adjustments and setbacks, non-native vegetation and activities to be regulated on the enlarged buffer zone. He said that once notification had happened and the issues had been identified, there would be a public hearing at Metro Council in case any issues would need modification.

Councilor Washington asked Councilor Naito to explain who would be responsible for the regular review of the maps per the Ordinance, when and how that review would take place, and who would determine who would do it.

Councilor Naito asked Elaine Wilkerson to answer the question.

Elaine Wilkerson, Director of Growth Management Services, said the provisions of the Title required local adoption of the maps, whether used as a reference document or for determinations. To be used for determinations, the maps must be field verified. She explained that field verification required public involvement and review by all interested parties. The map would then be included in the periodic review process of a local jurisdiction, usually every 5-7 years. She explained the administration provision allowed correction of a map. She said it stipulated that if someone brought a correction, within 90 days the municipality must initiate their process to correct it. That process would also be included in the periodic review. There was a specific provision that said local jurisdictions must adopt changes to include missing wetlands.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-730B.

Mike Houck Audobon Society of Portland and Coalition for a Livable Future, highlighted critical points he included in the information he handed out to Councilors. He pointed out concerns regarding the language in several places and suggested possible modifications. (A copy of the written testimony can be found in the permanent record of this meeting.) He suggested adding a subsection C which would deal with protected water features that were not wetlands.

Beverly Bookin Commercial Real Estate Economic Coalition Creek and Columbia Corridor Association and Homebuilder's Association said the work being done on this ordinance was commendable. She said they were pleased to see specific limitations in the provisions and the work Metro staff had been doing. She felt this was the best compromise all around.

Abe Farcus Director of Development for the Portland Development Commission, commended the extraordinary work done. He said they concurred with the language changes Steve Fifer submitted to clarify assistance for local jurisdictions preparing their own regulations but added the language did not include other similar area references like the river district, south waterfront of the downtown area and the central east side, all of which were subject to similar plans for redevelopment.

James Dalton was concerned about the identification process for notification. He felt all interested parties in the watershed and not just identified property owners should be included in the notification process. He wondered if it would be possible to include in the language issues regarding zoning changes and the comprehensive plan.

Ken Helm, Legal Counsel answered that it was already provided for under the existing proposed amendments Growth Management had brought before Council.

Presiding Officer Kvistad closed the public hearing.

Motion: Councilor Naito moved to substitute the B version of Ordinance No. 98-730.

Seconded: Councilor McLain seconded the motion.

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

Motion: Councilor Naito moved to amend the B version of Ordinance No. 98-730 with Office of General Counsel's technical amendments, A through I. (These amendments can be found in the June 3, 1998 Ken Helm memo included in permanent record of this meeting.)

Seconded: Councilor McLain seconded the amendment.

Ken Helm went through the technical amendments and explained what they would correct or clarify and the reasons they were needed. He answered Councilor questions to clarify certain points.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Morissette voting no. (Councilor Morissette changed and clarified his vote at a later time in this meeting.)

Councilor Naito referred to Wilkerson June 3, 1998 memo identifying map changes. She said these were considered map errors.

Motion: Councilor Naito moved to amend the B version of Ordinance No. 98-730 to include Title 3 Map changes D(1) through D(4) reflected in the Wilkerson June 3, 1998 memo (a copy of which may be found in the permanent record of this meeting).

Councilor Morissette stated that his no vote would not mean he disagreed with the amendments, but that he had not had enough time to go over them because he had just received the memo.

Seconded: Councilor McLain seconded the motion.

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

Councilor Naito asked **Ken Helm** to speak about the June 4 Schnitzer Investment letter (a copy of which may be found in the permanent record of this meeting).

Ken Helm commented that the letter suggested amending Title 3 language to specifically make clear certain areas of the region were taken off the Metro map and intentionally excluded from Title 3 regulation. She suggested staff go back and annotate existing maps to more fully explain the reasons those areas were taken off.

Presiding Officer Kvistad said if Council did not object this could be treated as a technical amendment to the maps and added as D(5).

Councilor Naito said an amendment was not needed, she was looking for agreement from Council that staff could go ahead and make the annotations.

Councilor McCaig said the other items had been before committee to be reviewed and this had not come until the last 24 hours. She said she was not comfortable amending this property in such a short time. It was not the same as technical amendments.

Presiding Officer Kvistad said it could be a stand alone amendment or send it back to committee.

Motion: **Councilor Morissette** moved to amend the B version of Ordinance No. 98-730 to include the Schnitzer annotation on the Title 3 map

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

Councilor McLain said she was not comfortable with the amendment as it had not been reviewed by the Growth Management Committee. She said she agreed with staff suggestion to make notations on the map, not change Title 3 text.

Presiding Officer Kvistad said his objective was to do it officially rather than administratively.

Ken Helm, Legal Counsel clarified the procedure. The annotations to the map would be prepared before final vote and be part of the record. He said Council could make a motion directing that the annotations be placed on the map before adoption by the Council.

Councilor McCaig said her understanding was that the compromise that had been reached was that this was an issue worth reviewing, not an issue to amend the ordinance.

Councilor Naito said Committee was only seeking some clarification of existing policy that certain properties intentionally be left off the map. She wanted annotations on the maps to state that the properties were considered carefully and left off on purpose. She felt annotation was the preferred method and no action was needed.

Ken Helm, Legal Counsel said they were verifying what was not on the map or why it was not there.

Councilor Naito said she thought everyone was agreeing and they could proceed just by directing staff or by motion.

Presiding Officer Kvistad said the motion was to direct staff to include annotations not to change language.

Vote: The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed with Councilors McCaig and McLain voting no.

Councilor Morissette clarified an earlier mistake. He meant to vote for Amendment A and not for the package. He said he would have to change his vote to no on the package because he had objections to G and H.

Presiding Officer Kvistad said since that did not change the outcome, it was agreed to.

Councilor Morissette asked how many amendments there were because they had asked everyone to notify Council of last minute amendments.

Presiding Officer Kvistad said they had asked as a general courtesy for amendments to be brought forward early but any Councilor had the right to bring amendments to a work session.

Councilor McCaig rebutted Councilor Morissette. She said she understood they had agreed to a limited number of amendments for this meeting. The motion he just made on the Schnitzer property was not discussed at that meeting and was in fact a new amendment today.

Councilor Morissette said his amendment could also have been sent back to Committee.

Councilor McCaig said her objection was that Councilor Morissette's amendment had altered the Title 3 in a manner which most of the people following the proceedings knew nothing about.

Councilor Naito felt her amendment offered a bit of clarification.

Ken Helm spoke to Naito Amendment #1. He said he developed the language at Councilor Naito's request. He said Houck's proposal was to amend the definition of Title 3 wetland to include the statement "Title 3 wetlands do not include artificially created and managed storm water and water quality treatment facilities which solely serve a water quality function". He said their conclusion was there was no substantive difference but it added a concept that was probably implied the first time.

Councilor McCaig said she would appreciate it if Rosemary Furfey could join Ms. Wilkerson because this was discussed at the WRPAC Committee Meeting.

Presiding Officer Kvistad reminded that there was not a motion before Council at this time.

Motion: Councilor Naito moved the Naito Amendment #1 which stated Title 3 Wetlands - wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands added to city or county adopted Water Quality and Flood Management Area maps. Title 3 wetlands do not include artificially created and managed water quality or stormwater and water quality treatment, detention facilities.

Seconded: Councilor McLain seconded the motion.

Rosemary Furfey said the terminology used at WRPAC was "constructed wetlands". She recommended that be used instead of "artificially created".

Councilor McLain asked for a definition of "constructed".

Councilor Naito withdrew her amendment.

Elaine Wilkerson said it included any structure or drainage way that was designed, constructed and maintained to collect and filter, retain and detain surface water runoff during and after a storm event for the purpose of water quality improvement.

Rosemary Furfey recommended replacing "artificially" with "constructed".

Councilor McLain suggested Councilor Naito replace the word in her motion.

Motion: Councilor McLain moved the amendment with the word "artificially" replacing "constructed".

Seconded: Councilor Morissette seconded the motion.

Discussion: None.

Vote: The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed as presented with Councilor McCaig and Presiding Officer Kvistad voting no.

Councilor McLain brought up a letter from the City of Hillsboro regarding the issue of Title 3 conflict with Title 1 in the Functional Plan on density. Their issue was that the mixed use areas should have been taken out as far as requirements for Title 3. She asked Council to consider having a transmittal letter indicating the Council understood the competing values in Title 1 and Title 3 and there was a resolution on the books indicating Council did not, for the sake of density, want them to apply Title 3 to important water quality, water features, or stream corridors. She felt this allowed the jurisdictions to look at the competing Titles in the Functional Plan and explain their need for not complying or using a different way to handle the requirements. She reminded Council that this was just one of 6 Titles that worked together. Her other issue was notification. She pledged she would look at future budgets and other ways to find out what was the best public notice for support of the local jurisdictions.

She said it was her understanding that public testimony would be taken on the 18th. She asked if there was a need for them, where would the technical amendments appear.

Councilor Naito said the technical amendments had been adopted today and there were no additional matters that she was aware of.

Councilor McLain understood that anytime there was an amendment, technical or otherwise, that changed an ordinance that there had to be a 2 week waiting period before you could vote on it to allow for review by the public.

Presiding Officer Kvistad answered that nonsubstantive technical amendments did not require the item to be held over. A substantive change would need a minimum of 1 week for outreach.

Councilor McLain said she would like to check that with legal staff.

Ken Helm deferred until Dan Cooper returned.

Presiding Officer Kvistad assured Councilor McLain that this was the way it operated but would wait for legal counsel to return. He said they would ask Mr. Cooper upon his return.

Councilor McLain asked Council if this issue was done with unless legal counsel found a problem that needed attention and was told this had been the general discussion and final action would be on June 18th.

David Cooper returned and responded to Councilor McLain's question that there was a one week time delay after a substantial material amendment. It could not be vote on today due to changes. The Council could vote on it anytime at least a week after this meeting.

Councilor Naito commented that the public was routinely informed of public decisions by governmental bodies and if Metro could enhance that through workshops or other notification, Council would be happy to assist the local governments in doing that. She said a celebration at Willamette Park was slated for Monday June 22 at 10 am on Title 3 to thank all the participants for their work on this and the public was welcome.

Presiding Officer Kvistad said he had been concerned about property rights and takings when this process had begun. He congratulated the committee, the business community and the coalitions for all their hard work. He said the document added a lot of protections and took care of many of his substantive concerns.

Councilor Morissette said he still had Title 3 concerns and believed the property right issues had not been properly dealt with among others.

Presiding Officer Kvistad continued this item to the meeting on June 18th.

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

9.1 Resolution No. 98-2655, For the Purpose of Authorizing the Executive Officer to Acquire Rights to Construct and Maintain a Trail in the Existing Railroad Corridor Located in the OMSI to Springwater Corridor of the Willamette River Greenway Target Area.

Presiding Officer Kvistad opened a public hearing on Resolution No. 98-2655.

Charles Ciecko, Regional Parks and Greenspaces Director, gave a brief overview of the coming discussion. He said acquisition of OMSI to Springwater property closed with PGE just over a month ago for \$350,000. He said this had been an important step in the reality of a pedestrian trail as envisioned in the Regional Trails Plan. He explained the rail rights that remained on the property. He said he was excited to come before Council to talk about a proposed agreement that would clear the way for the construction of the entire trail. He said he wanted to acknowledge Amy Chestnut for her hard work and sensitivity to the needs and desires of the landowners.

Jim Desmond, Regional Parks and Greenspaces, said the transaction had 3 pieces. The business terms would be discussed in Executive Session. He said the OPRR had executed an Agreement of Relinquishment and Release and Conveyance of Easement, Right-of-Way and Real Property that morning which meant basically that Mr. Samuels relinquished his railroad right-of-way in this 3.09 mile corridor for all but 17' x 60' strip on which to run his train. It consented to construction of the trail and provided crossings to the Oak Bottom area. He said the track would have to be moved and Mr. Samuels had asked to be reimbursed by Metro for that because it was an extraordinary expense. He said the third piece was that the Union Pacific Railroad had the right to consent to the entire transaction. He said they had worked closely with Portland Parks and finalized the precise design of the trail with Mr. Samuels. He reminded Council of the extensive public support that had already been shown for the project.

Margaret Branson 625 SE Manchester Pl., Portland, Sellwood area, said she enthusiastically supported Resolution 98-2655 and was excited about completing one more link in the 40 mile land loop and its tributaries. She felt it would greatly enhance the quality of life for visitors who used the trail and could be a popular alternative transportation route to downtown.

Dick Samuels, owner and President of Oregon Pacific Railroad, related a number of problems and liabilities that had come along with owning the piece of property. He said he was happy to be a part of this project and working with the park department.

Councilor McCaig asked for a timeline and completion date for moving the rail.

Dick Samuels said the agreement called for it to be completely moved and ready by April 30 of 1999. He said they would be moving the track, in phases during the upcoming Sam Track operating season and then would work full time to get it moved and ready by April.

Presiding Officer Kvistad called an Executive Session held pursuant to ORS 19.2660(1)(e). Deliberations with persons designated to negotiate real property transactions.

Presiding Officer Kvistad closed the Executive Session and reminded those present that what went on in Executive Session was not to be reported or leave the room.

Motion: Councilor McFarland moved adoption of Resolution 98-2655.

Seconded: Councilor McCaig seconded the motion.

Discussion: Councilor McFarland urged passage of this Resolution.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. Resolution 98-2655 passed unanimously.

10. COUNCILOR COMMUNICATION

Councilor Washington presented Presiding Officer Kvistad with the award for the Council that he and other Councilors had received last week from Tri-Met in recognition of their leadership and progressive commute options.

Presiding Officer Kvistad thanked him and announced that Ordinance 98-730B was now 730C as amended. He said on June 16th at 6 PM at Brentwood Darlington Community Center was the public hearing on filling the seat that would be vacated by Councilor Naito.

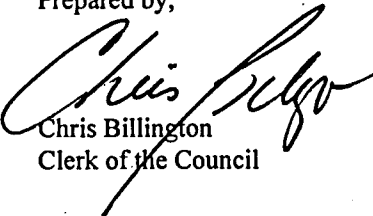
Jeff Stone reminded that at least 3 Councilors needed to be present at the public hearing for replacement.

Councilor Morissette said he would not be able to make that meeting. He asked Councilor McCaig if she would be chairing the prison meeting and was told she would.

11. ADJOURN

There being no other business before the Council, Presiding Officer Kvistad adjourned the meeting at 4:33 PM.

Prepared by,


Chris Billington
Clerk of the Council

REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 98-2656, FOR THE PURPOSE OF
AUTHORIZING THE RELEASE OF RFB #98B-35-REM, FOR THE PROVISION OF DIESEL
FUEL

Date: June 2, 1998

Presented by: Councilor McLain

Committee Recommendation: At its June 2 meeting, the Committee considered Resolution 98-2656 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors McFarland and Washington and Chair Morissette.

Background: Federal law provides an exemption from the payment of federal gasoline taxes for local governments that purchase fuel for their own use. Since April 1994, Metro has purchased the fuel used by STS (formerly Jack Gray Trucking) to transport the region's solid waste to the Columbia Ridge Landfill. These purchases qualify for the federal tax exemption. Metro purchases about 1.4 million gallons annually. Since April 1995, Metro has had a contract with Devin and Stein Oil Companies for the purchase of this fuel. The existing contract provides that Metro may extend the contract in one-year increments through June 1999.

At its May 5 meeting, the Regional Environmental Committee considered Resolution No. 98-2639, for the purpose of extending the existing fuel contract for one year, through June 30, 1999, at which time the contract would be rebid. The committee also received testimony from a potential vendor who urged that the contract be rebid immediately. The vendor, Hattenauer Distributing, indicated that they had a cardlock facility in Arlington and that they could "beat" Metro's current price. The committee did not act on the proposed resolution and directed the staff to return with a resolution to rebid the contract immediately.

Committee Issues/Discussion: Bruce Warner, Director, Regional Environmental Management Department, presented the staff report. He noted that, in response to the committee's earlier request, the proposed resolution provides for the release of a request for bids for the purchase of diesel fuel for solid waste transport. The request would continue the current practice of purchasing nearly all (98%) of the fuel at a location in or near Arlington, close to the landfill and the truck overnight staging area.

Warner also noted that staff and STS had recently visited the Hattenauer Distributing site in Arlington and have significant concerns about accessibility and safety issues to service two trucks simultaneously, a requirement of the RFB. Of particular concern were the very tight turning radii at the site and the potential that a truck might extend out onto the adjacent highway if it had to wait to be fueled.

Doug DeVries, representing STS, noted that the company has submitted two letters expressing their concerns about the Hattenauer site.

REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 98-2654, FOR THE PURPOSE OF AUTHORIZING CHANGE ORDER NO. 1 TO THE CONTRACT FOR OPERATING METRO CENTRAL AND SOUTH TRANSFER STATIONS

Date: June 2, 1998

Presented by: Councilor McLain

Committee Recommendation: At its June 2 meeting, the Committee considered Resolution 98-2654 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors McFarland and Washington and Chair Morissette.

Background: Metro entered into a contract with Browning-Ferris Industries (BFI) to operate the Metro Central and South Transfer Stations beginning October 1, 1997. Several issues have arisen affecting operations and maintenance at the two stations. These include landscape maintenance, unloading assistance for self-haulers, handling and disposal of treated medical waste and installation of a 24-hour automated scale system. Each of these issues is addressed in the proposed resolution as change orders to the original contract..

Committee Issues/Discussion: Bruce Warner, Director, Regional Environmental Management, presented the staff report. He indicated that the resolution addressed four main issues. First, he noted that the resolution would transfer responsibility for landscape maintenance at Metro Central to BFI during the spring and summer months. Second, the resolution would authorize BFI to hire additional labor to assist self haulers with unloading at Metro South. The staffing level would be determined by the need to meet REM's goal of not having traffic extend out on to Washington Street near the transfer station. The budget impact could range from \$14,000 to \$51,000.

The third issue addressed in the resolution is the disposal of treated non-infectious medical waste. Several major hospitals in the region are installing equipment to treat certain types of medical wastes prior to disposal. The intent is to qualify such wastes for disposal through a transfer station. The hospitals have requested that Metro develop a fee system for such disposal. The change order establishes a special handling fee the greater of \$10/ton or \$10 per pallet. This fee would be collected by Metro and then passed on to BFI. Councilor Washington asked if staff intends to inspect the treatment systems in use at the various hospitals. Warner responded that staff would examine the loads at the transfer stations but that it did not intend to directly visit the hospitals.

The fourth change relates to the installation of automated scaling systems at both transfer stations. These systems would allow the stations to operate up to 24 hours a day. While no scalehouse staff would be needed, limited on site staffing would be needed during the overnight hours. REM Staff has determined that there appears to be enough traffic to operate Metro Central 24 hours a days on weekdays. Additional pilot tests are being conducted at Metro South. The change order would pay BFI for any additional staffing needed for additional hours of operation beyond those specified in the original contract. The potential annual cost of this additional staffing could range from \$48,266 (24-hour operation of Metro Central on weekdays only) to \$184,548 (24 hour operation of both stations, seven days a week).

REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 98-2650, FOR THE PURPOSE OF
AUTHORIZING THE RELEASE OF RFB-98B-33-REM, FOR THE CONSTRUCTION OF A
TRUCK WASH AT METRO SOUTH STATION

Date: June 2 1998

Presented by: Councilor McFarland

Committee Recommendation: At its June 2 meeting, the Committee considered Resolution 98-2650 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors McFarland and Washington and Chair Morissette.

Background: Metro has historically provided truck wash services as a convenience to the haulers using the transfer stations. The facilities provide an environmentally sound way for the trucks to be cleaned and insuring that the waste water is properly disposed. Many smaller haulers do not have the capacity to install such a system with their own resources.

Committee Issues/Discussion: Bruce Warner, Director, Regional Environmental Management, presented the staff report. He noted that the intent of the proposed resolution was to authorize the release of an RFB for the construction of a new truck wash facility at Metro South Transfer Station. The need for a new facility is two-fold. First, a 1996 windstorm blew the roof off of the existing facility, and second, it is necessary to move the existing facility to accommodate other improvements at the Metro South site.

Warner explained that the project was included in the adopted Capital Improvement Plan (CIP) and in the approved FY 98-99 budget. The estimated cost is \$110,000, which is the budgeted amount and the amount included in the CIP. Warner indicated that the new site for the truck wash would not be affected by Title 3.

REGIONAL FACILITIES COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 98-752, AN ORDINANCE AMENDING THE FY 1997-98 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING \$120,000 FROM CONTINGENCY TO PERSONAL SERVICES IN THE ZOO OPERATING FUND TO PROVIDE FOR INCREASED TEMPORARY STAFFING AT THE METRO WASHINGTON PARK ZOO (OREGON ZOO), AND DECLARING AN EMERGENCY. .

Date: June 10, 1998

Presented by: Councilor McCaig

Committee Action: At its June 3, 1998 meeting, the Regional Facilities Committee unanimously recommended Council adoption of Ordinance 98-752. Voting in favor: Councilors McCaig, Naito and McFarland.

Council Issues/Discussion: Kathy Kiaunis, Deputy Zoo Director made the Zoo presentation. This ordinance provides funds from contingency to allow for additional temporary staffing in the areas of visitor services and facilities management. For various reasons, turnover has been higher than in previous years, injury and illness has been a problem and minimum wage increase has impacted the budget.

In response to committee questions Ms. Kiaunis pointed out that revenues remain strong, partly due to the Koala exhibit. She also said that sufficient funds remain in the contingency line.

REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 98-2649, FOR THE PURPOSE OF AUTHORIZING THE RELEASE OF RFB-98B-32-REM, FOR THE CONSTRUCTION OF AN EXTENSION OF THE MAIN TRANSFER BUILDING AT METRO SOUTH STATION

Date: June 2 1998

Presented by: Councilor

Committee Recommendation: At its June 2 meeting, the Committee considered Resolution 98-2649 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors McFarland and Washington and Chair Morissette.

Background: The REM master facility plan recognizes the need to expand the tipping area at the Metro South transfer station. Expansion of the tipping floor will allow commercial and residential haulers to move through the facility more quickly and provide additional space for the storing and more efficient processing of recyclable materials, particularly wood.

Committee Issues/Discussion: Bruce Warner, Director, Regional Environmental Management, presented the staff report. Warner explained that the intent of the proposed resolution is to authorize the release of an RFB for the construction of a 4,000 square foot expansion of the tipping floor at Metro South. The project is included in the adopted Capital Improvement Plan and the approved budget for FY 98-99.

Warner noted that cost estimate of \$356,000 is about \$50,000 higher than the original estimate. He indicated that the cost increase resulted from the need to move an existing transformer and additional foundation costs because Metro South is built on an old landfill site. He indicated that sufficient funds are available in the proposed budget to cover these increased costs.