

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 01-3139A
AN INTER-GOVERNMENTAL AGREEMENT)
WITH THE CITY OF PORTLAND FOR THE LEASE)
OF CITY PROPERTY AND FOR POST CLOSURE) Introduced by Mike Burton,
CARE OF THE FORMER KFD LANDFILL) Executive Officer

WHEREAS, it is desirable that Metro construct an operation and maintenance facility on the leased portion of Parcel A to best carry out its responsibility to operate, maintain, and monitor St. Johns Landfill; and

WHEREAS, Metro desires to lease for 20 years a 75,000 square foot portion of Parcel A on which to build this operation and maintenance facility for the adjacent St. Johns Landfill; and

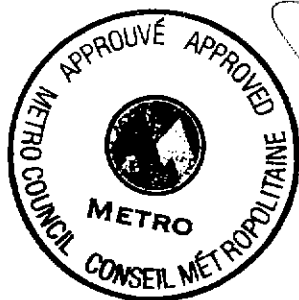
WHEREAS, the City of Portland is willing to enter into an inter-governmental agreement (IGA) with Metro under which Metro will perform routine operation, maintenance, and monitoring at the KFD landfill in exchange for a 20 year lease of a 75,000 square foot portion of City owned property called Parcel A adjacent to St. Johns Landfill; and

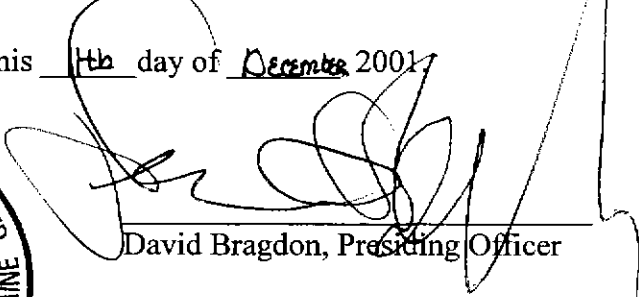
WHEREAS, the City of Portland will reimburse Metro for defined, non-routine, repair and replacement costs incurred at KFD landfill; now therefore,

BE IT RESOLVED, that the Metro Council authorizes the Executive Officer to enter into the intergovernmental agreement with the City of Portland described in EXHIBIT A.

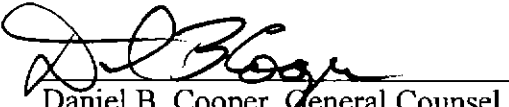
BE IT FURTHER RESOLVED that the Metro Council authorizes the Executive Officer to enter into the lease agreement described in Exhibit C.

ADOPTED by the Metro Council this 14th day of December, 2001.




David Bragdon, Presiding Officer

Approved as to Form:


Daniel B. Cooper, General Counsel

**EXECUTIVE SUMMARY
RESOLUTION 01-3139A**

**INTER-GOVERNMENTAL AGREEMENT FOR THE LEASE OF PARCEL A
AND POST CLOSURE CARE OF KFD LANDFILL**

PROPOSED ACTION

Adopt Resolution No. 01-3139A, which authorizes the Executive Officer to enter into an inter-governmental agreement (IGA) with the City of Portland. Under this IGA the City would lease to Metro for 20 years a 75,000 square foot portion of City property, called Parcel A, adjacent to St. Johns Landfill. On this portion Metro would construct a facility needed to efficiently carry out operation, maintenance, and monitoring of St. Johns Landfill. In exchange for this lease, Metro would perform operation maintenance, and monitoring tasks at the former KFD Landfill for the City of Portland.

WHY NECESSARY

- A long-term lease from the City of Portland of its property would allow Metro to construct a facility needed to efficiently carry out long term operation, maintenance, and monitoring of the environmental protection improvements at St. Johns Landfill.
- Metro has not been able to secure a long-term lease for a reasonable price after several years of negotiations with the City.
- The IGA summarized above provides Metro with a 20 year lease in exchange for providing routine operation, maintenance, and monitoring services at the city-owned former KFD Landfill at no cost to the City.

ISSUES/CONCERNS

- Unknown expenses for replacement and repair of equipment at the KFD Landfill. The IGA addresses this concern by providing for reimbursement to Metro for defined, non-routine, potentially expensive replacement and repair expenses. It provides that the City will contribute \$25,000 per year for at least 5 years to an interest accruing trust fund to pay for these expenses. After 5 years the City will continue to contribute \$25,000 per year if the City and Metro cannot agree on a different amount.
- Increased safety and maintenance cost risks if the former KFD landfill property is opened to the public for recreation use prematurely. The IGA addresses this concern by providing that the City will develop a plan in consultation with Metro for limited park use that is protective of the on-site systems. Also, the city will be responsible for all vegetation.

BUDGET/FINANCIAL IMPACTS

- Routine care of KFD Landfill will require an additional 0.4 FTE, which is anticipated in the FY 2001-2002 budget. Total non-reimbursable cost to Metro for routine care at KFD Landfill is estimated to be about \$35,000 per year in current dollars.
- Although Metro would pay in materials and services slightly more than the normal lease value of the portion it needs, it would not have to pay the city \$146,500 to lease all of Parcel A.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 01-3139A OR THE PURPOSE OF AUTHORIZING AN INTER-GOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR THE LEASE OF CITY PROPERTY AND FOR POST CLOSURE CARE OF THE FORMER KFD LANDFILL.

Date: November 15, 2001

Presented by: Terry Petersen

BRIEF DESCRIPTION OF RESOLUTION

Resolution 01-3139A authorizes the Executive Officer to sign an inter-governmental agreement under which the City of Portland would lease to Metro a portion of Parcel A, adjacent to St. Johns Landfill, for 20 years. On this portion Metro could construct one or more structures to facilitate operation, maintenance, and monitoring at St. Johns Landfill. In exchange for the lease, Metro would operate, maintain, and monitor environmental protection improvements at the former KFD Landfill for the City of Portland.

EXISTING LAW

Metro Code 2.04.026 (a)(2) requires Metro Council approval before Metro can acquire an interest in real property or assume the function of a governmental body.

BACKGROUND

Metro is responsible for the proper closure and long term operation, maintenance, and monitoring of St. Johns Landfill. To carry out these responsibilities it is necessary to have a variety of equipment including heavy equipment such as a bulldozer, tractor, backhoe as well as a boat to conduct sampling. This equipment must be properly stored and maintained to protect Metro's investment. An on-site facility is needed to house personnel at one location, maintain and service equipment, and securely store heavy equipment, tools, spare parts and supplies.

Metro had been trying to obtain a long-term lease from the city for a 75,000 square foot portion (less than 2 acres) of Parcel A, on which to construct this facility. City staff first proposed either that Metro pay fair market value, approximately \$1.5 million, for all 18 acres of Parcel A if the City accepted environmental liability risk or that Metro pay \$1.00 if it accepted environmental liability risk. Metro staff found these options unacceptable.

Metro again offered to lease only the 75,000 square foot area that it needed. City staff proposed to lease all of Parcel A for \$146,500 per year. Because the sides could not agree, negotiations have been stalled for more than two years. Meanwhile, the City allows Metro to continue to use temporarily a different 56,000 square foot portion of Parcel A for \$7,620 per year based on a lease that can be terminated with 30 days notice.

City and Metro staff discussed an arrangement under which Metro could lease the 75,000 square foot area at no cost if Metro would operate, maintain, and monitor the former Killingsworth Fast Disposal (KFD) landfill as a city contractor. The KFD property was a 25-acre landfill located north of the intersection of NE Killingsworth Street and NE 75th Avenue in Portland. It closed in 1990.

The Oregon Dept. of Environmental Quality took over site maintenance and monitoring of the KFD property in the mid-1990s. When high methane levels at the site threatened neighboring residences and businesses, the DEQ used money from the state orphan site account to carry out emergency repairs and improvements on the failing cover system and gas collection system.

Portland Parks and Recreation has determined that significant recreational benefits will result if the city acquires this property for use as a park. The City and DEQ desire to assure proper operation, maintenance, and monitoring of the systems and controls on the KFD property to protect public health, safety, and the environment. Recognizing Metro's expertise in performing these tasks at St. Johns Landfill, the City of Portland desires that Metro also perform these tasks at the former KFD landfill property.

An intergovernmental agreement (IGA) between Metro and the City of Portland is shown as Exhibit A. This agreement provides that Metro will perform operation, maintenance, and monitoring of certain on-site systems at the former KFD site. If Metro performs operation, maintenance, and monitoring, the City agrees to lease for 20 years a 75,000 square foot portion of Parcel A, adjacent to St. Johns Landfill.

The City agrees to reimburse Metro for all costs except those associated with routine operation, maintenance, and monitoring. The City agrees to contribute \$25,000 per year for at least five years to a trust fund for operation, maintenance, and monitoring of the KFD property.

The above IGA benefits Metro by allowing it to lease for 20 years an area adjacent to St. Johns Landfill upon which it can build a needed operation and maintenance facility. This will allow Metro to more efficiently perform operation, maintenance, and monitoring at St. Johns Landfill. This facility also could potentially serve as a meeting place for groups touring the Smith and Bybee Lakes Management Area, which includes St. Johns Landfill. At the end of 20 years Metro can either turn the site over to the City or negotiate a new lease based on its needs at that time.

BUDGET IMPACT

Metro staff has proposed an increase of 0.4 FTE in the FY 2001-2002 budget to allow it to carry out routine operation, maintenance, and monitoring at the KFD Landfill. The extra, non-reimbursed cost of labor and materials is expected to total about \$35,000 per year in current dollars. Under the IGA the city would reimburse Metro for the cost of defined, non-

routine, potentially expensive, repair and replacement. Metro will no longer have to pay the City of Portland a lease payment for a portion of Parcel A.

By agreeing to this IGA Metro would lease only the amount of land that it needs. Although Metro would pay slightly more than the normal lease value in the form of labor and materials, it would not have to pay the city \$146,500 to lease the entire parcel.

OUTSTANDING QUESTIONS

None

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 01-3139A

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (the "Agreement") is entered into by and between The City of Portland, Oregon ("City") and Metro, a metropolitan service district organized under the constitution of the State of Oregon and the 1992 Metro Charter and located at 600 NE Grand Avenue, Portland, Oregon 97232-2736.

RECITALS:

1. The City, through its Portland Parks and Recreation Department ("Parks"), has taken title through tax foreclosure to the certain real property in Northeast Portland, as described in Exhibit A attached hereto.
2. The City has entered into an agreement with the Oregon Department of Environmental Quality ("DEQ") to operate a landfill gas and a leachate collection system on the property, and to maintain the groundwater monitoring wells and geo-membrane cap at the Property, both pursuant to a Solid Waste Landfill Closure Permit.
3. The City desires to have Metro operate the landfill gas and the leachate collection system and maintain the groundwater monitoring wells and geo-membrane cap pursuant to the terms of this Agreement, and Metro has the special skills necessary to provide such services to the City.
4. Metro desires to enter into a long-term lease for certain other unrelated real property owned by the City near the St. John's landfill to allow for construction by Metro of an operations and maintenance facility that will allow Metro to perform more efficiently its duties in operating, maintaining and monitoring the St. John's landfill.
5. The City and Metro desire to enter into an agreement pursuant to ORS 190.010 and ORS 268.300 for the exchange of Metro's services in operating and maintaining landfill gas and leachate collection systems and in maintaining the groundwater monitoring wells and geo-membrane cap on the property described in Exhibit A in return for a long-term lease to Metro of other real property owned by the City near the St. John's landfill.
6. Parks, in consultation with Metro, which will act as the operator of the On-Site Systems, will develop a plan for limited park use of the Property, taking into consideration the Property's condition. After the Property is stabilized and the On-Site Systems are no longer needed, Parks will develop the Property as a Community Park.

NOW THEREFORE, pursuant to authority granted in to the City in ORS 190.110 and to Metro in ORS 268.300 and in recognition of the mutual interests of the parties and based upon the terms and conditions herein, it is mutually agreed (1) that the City shall lease certain property as described herein to Metro on the terms and for the consideration set forth in this Agreement and that (2) in exchange for such lease, Metro shall provide services to the City by operating and monitoring certain gas collection and related facilities as set forth in Section II herein.

AGREEMENT

I. Agreement Regarding Long Term Lease of Property

A. The City agrees to lease to Metro, and Metro agrees to lease from the City, for a term of 20-years, a 75,000-square-foot portion of the real property known as "Parcel A" adjacent to the St. Johns Landfill in North Portland, which property is more fully described in Exhibit B attached hereto, for the purpose of constructing and operating a landfill maintenance facility and public parking. The provisions of such long-term lease shall be substantially similar to those set forth on Exhibit C attached hereto. The term of such lease shall commence on the date this Agreement is executed by both parties and shall terminate 20 years thereafter. The City and Metro agree that Metro's obligations under this Agreement shall constitute the full consideration for the long-term lease described herein.

B. Within six months after the date of this Agreement, the City shall grant to Metro, and Metro shall accept from the City, permanent easements for road access and utilities across Parcel A, as outlined in Exhibit D attached hereto.

C. Within six months after the completion of the construction of facilities on the real property described in Exhibit B, and upon receipt of a written request from the City, Metro shall remove within a reasonable time any existing office trailers and scales and demolish the existing scale houses from the locations depicted on Exhibit E, attached hereto. The City and Metro agree to extend any existing lease for such property until the date of completion of the construction of facilities on the real property described in Exhibit B.

II. Agreement Regarding Metro's Provision of Landfill Services

A. Duties of Metro.

1. Metro shall perform and bear the cost of routine operation, monitoring and maintenance of the landfill gas and the leachate collection systems, and perform routine maintenance of the groundwater monitoring wells and geo-membrane cap (referred collectively herein as "the On-Site Systems") at the Property in accordance with regulatory permits and the Site Management Plan, Killingsworth Fast Disposal, Portland Oregon, by Ecology and Environment Inc., August 2000, and Killingsworth Fast Disposal, Landfill Gas Extraction Manual Volume 1 and 2, by Wilder Construction Co., July 2000 or as modified by Metro after written approval by DEQ ("Approved Plans and Permits"). As used in this section "routine operation, monitoring and maintenance" does not include replacement of equipment or parts; excavation, repair and re-sloping of underground pipes; abandonment, repair, or construction of monitoring wells; unplugging or construction of underground dry-wells for storm water disposal; filling of ponds on the cover system; performing tests of flare emissions; repair of damage to the cover system due to leakage, underground fire, subsidence, slides, or erosion; or monitoring beyond the boundaries of the landfill.
2. Subject to reimbursement from the City as provided in Section II.B.2., Metro shall perform equipment repair and replacement for the On-Site Systems at the Property

including, but not limited to, replacement of equipment or parts; excavation, repair and re-sloping of underground pipes; abandonment, repair, or construction of monitoring wells; unplugging or construction of underground dry-wells for storm water disposal; filling of ponds on the cover system; performing tests of flare emissions; repair of damage to the cover system due to leakage, underground fire, subsidence, slides, or erosion; or monitoring beyond the boundaries of the landfill.

3. Additionally, Metro shall consult with Parks staff to ensure that public use of the Property is protective of the On-Site Systems.

B. Obligations of the City. The City shall:

1. Deposit in a separate interest-bearing sub-fund of the Portland Parks Trust Funds designated for equipment repair and replacement ("Trust Fund"), \$25,000 each year for the first five years of this Agreement. These funds shall be used for repair and replacement of the On-Site Systems. Any funds not spent shall remain in the Trust Fund for future repairs and equipment replacement and, if necessary, for the purchase and installation of any additional equipment necessary to protect human health and the environment. Funds shall be released after review and approval by the representative for Parks designated in this Agreement. The City and Metro shall review the status of the Trust Fund after five years and mutually agree to change the amount of the annual deposit by the City, if appropriate. If no such agreement is reached, the City shall continue to deposit \$25,000 into the Trust Fund for the term of this Agreement. Any funds remaining in the Trust Fund after the expiration of this Agreement shall be released for other park purposes. If the balance in the Trust Fund at any time is not sufficient to cover approved or anticipated expenditures, Metro shall notify the City as early as reasonably possible and Parks shall consult with Metro and, if necessary, seek additional funding from the City Council. Metro shall not be responsible in any respect to bear any cost other than as set forth in this Agreement in the event that the Trust Fund is not sufficient to cover approved or anticipated expenditures.
2. Bear all costs associated with equipment repair and replacement for the On-Site Systems at the Property including, but not limited to, replacement of equipment or parts; excavation, repair and re-sloping of underground pipes; abandonment, repair, or construction of monitoring wells; unplugging or construction of underground dry-wells for storm water disposal; filling of ponds on the cover system; performing tests of flare emissions; repair of damage to the cover system due to leakage, underground fire, subsidence, slides, or erosion; or monitoring beyond the boundaries of the landfill. The City shall reimburse Metro for such costs from the Trust Fund within 30 days of receipt of an invoice from Metro. After prior notice by Metro to the City of any additional equipment or expenses, including any additional labor costs, required by any regulatory agency, the City shall reimburse Metro for all reasonable costs of purchase, installation, replacement and repair of such additional on-site systems or equipment or for all associated labor costs, required by regulatory agencies or mutually agreed upon by the City and Metro. The City shall not be required to reimburse Metro for expenditures required for routine operation, monitoring and maintenance costs.

3. Allow Metro access to the Property to conduct the activities outlined in this Agreement and obtain permission as needed for Metro to enter adjacent properties to collect samples.
4. Provide Metro with all required sampling equipment.
5. Perform laboratory tests on all samples of groundwater, wastewater, and stormwater required by regulatory agencies; carry out record keeping and reporting of test results.
6. Prepare reports required by all regulatory agencies and submit one copy to Metro at the time these reports are submitted to the regulatory agencies.
7. Maintain all permits in the City's name and prepare applications for any other related permits, permit modifications, or permit renewals related to discharge of leachate to the sanitary sewer system.
8. Pay all electricity charges and all City charges related to wastewater and stormwater disposal.
9. Develop a plan for limited park use of the Property, in consultation with Metro to ensure that use of the Property is protective of the On-Site Systems.
10. Establish and maintain all vegetation on the Property. Maintenance shall include mowing sufficient to keep the grass below eighteen inches in height.

III. GENERAL TERMS

- A. Non-admission; No Other Beneficiaries. The City and Metro acknowledge they are performing activities under the terms of this Agreement for their mutual benefit and that this Agreement and the performance of such activities do not constitute any admission of responsibility for any condition or contamination at the Property. This Agreement is intended for the benefit only of the City and Metro and shall be enforceable only by either of them.
- B. Modification. This Agreement may be modified only in writing executed by both parties.
- C. Term. This Agreement shall be in effect for twenty years from the date of its execution by all parties.
- D. Dispute Resolution. If any dispute should arise between the City and Metro concerning the provisions of this Agreement or the parties' obligations under this Agreement and the parties are unable to resolve the dispute informally, the dispute shall be submitted to mediation before a mediator agreed to and compensated equally by both parties prior to commencement of arbitration or litigation. If the parties fail to agree on a mediator, a mediator shall be appointed by the presiding judge of the Multnomah County Circuit Court.

- E. Indemnification. To the extent allowed under Oregon law, the City agrees to indemnify, hold harmless and defend Metro, its commissioners, directors, officers and employees from and against all claims and damages arising in connection with Metro's performance under this Agreement except for claims arising out of the sole negligence, gross negligence or willful misconduct of Metro, its agents, contractors or employees. To the extent allowed under Oregon law, Metro agrees to indemnify, hold harmless and defend the City, its commissioners, officers and employees from and against all claims and damages arising out of the sole negligence, gross negligence or willful misconduct of Metro, its agents, contractors or employees in the performance of this Agreement

- F. Separate Governments. The City and Metro hereby agree and acknowledge that each is a separate and independent governmental body and that the actions of the City, its officers, agents and employees shall not constitute actions of Metro for any purpose whatsoever.

- G. Project Managers; Notices. Any notices under this Agreement shall be in writing and may be given by personal delivery, facsimile, or U.S. mail to the project managers designated herein (or successor designated his or her agency) at the following addresses:

<u>For the City:</u> John O'Donovan Bureau of Environmental Services 1120 SW 5th Ave., #1000 Portland, OR 97204 Fax: (503) 823-5228 Tel: (503) 823-7881	<u>For Parks:</u> Zari Santner Portland Parks 1120 SW 5 th Ave., #1302 Portland, OR 97204 Fax: (503) 823-5570 Tel: (503) 823-5119	<u>For Metro:</u> Dennis O'Neil Metro 600 N.E. Grand Ave. Portland, OR.97232 Fax: (503) 797-1795 Tel: (503) 797-1697
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FOR THE CITY:

FOR METRO:

 Jim Francesconi
 Commissioner of Public Utilities

 Mike Burton
 Metro Executive Officer

 Date

 Date

APPROVED AS TO FORM:

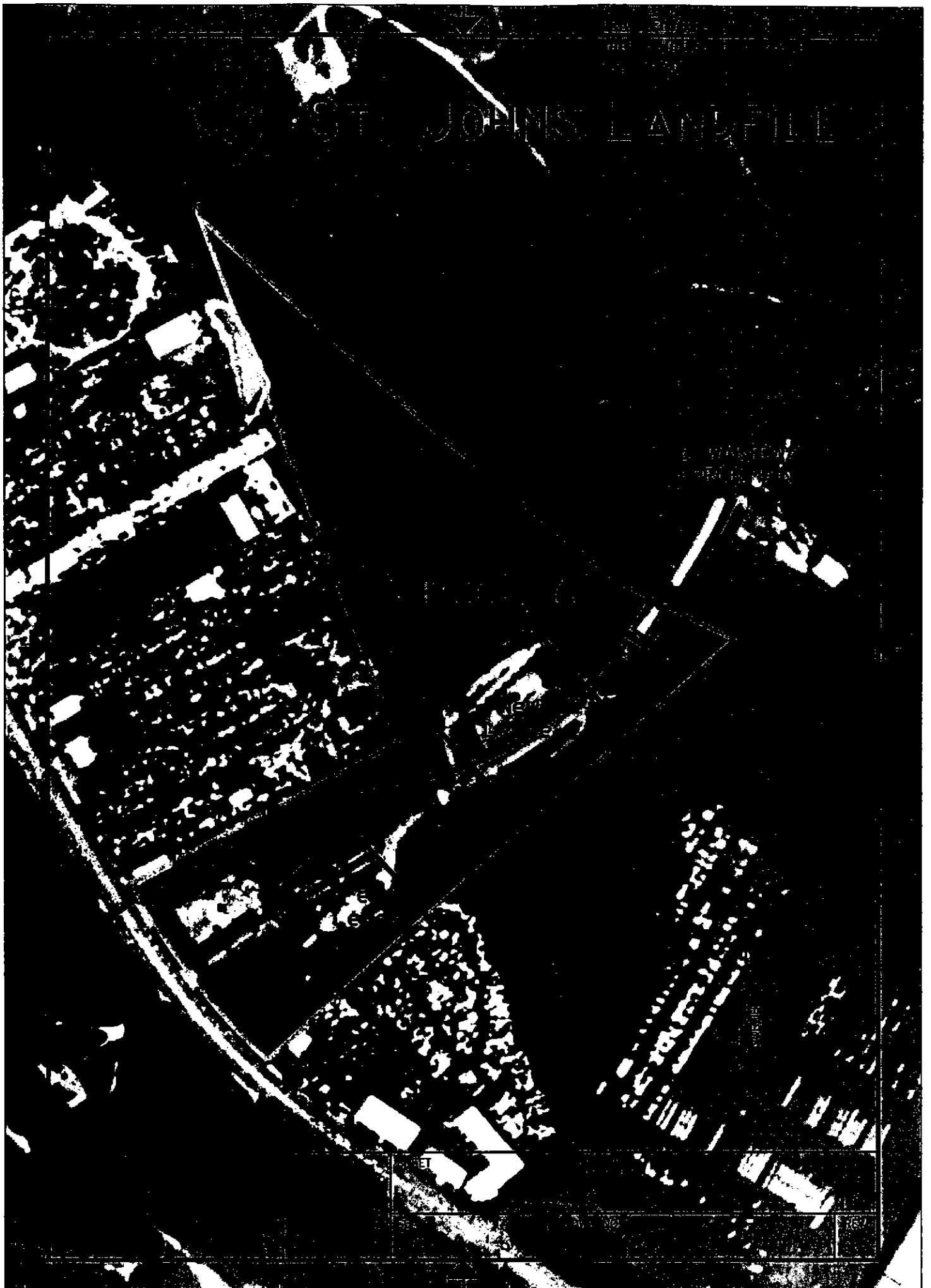
 Deputy City Attorney

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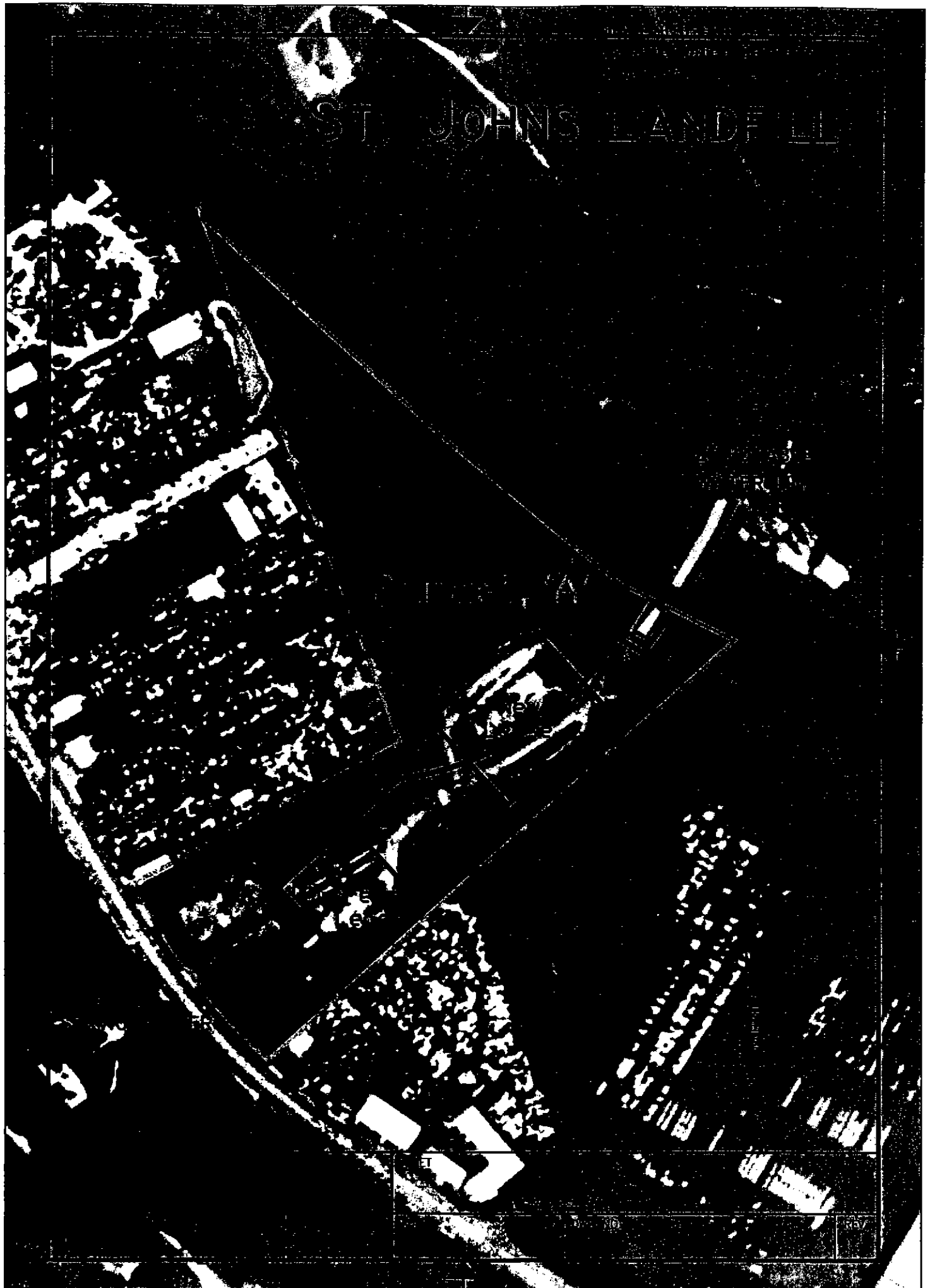
ST. JOHN'S LANDFILL



ST. JOHNS LANDFILL



ST. JOHNS LANDFILL



ST. JOHNS LANDFILL



RECEIVING AREA

LANDFILL

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ST. JOHNS LANDFILL

**EXECUTIVE SUMMARY
RESOLUTION 01-3139**

**INTER-GOVERNMENTAL AGREEMENT FOR THE LEASE OF PARCEL A
AND POST CLOSURE CARE OF KFD LANDFILL**

PROPOSED ACTION

Adopt Resolution No. 01-3139, which authorizes the Executive Officer to enter into an inter-governmental agreement (IGA) with the City of Portland. Under this IGA the City would lease to Metro for 20 years a 75,000 square foot portion of City property, called Parcel A, adjacent to St. Johns Landfill. On this portion Metro would construct a facility needed to efficiently carry out operation, maintenance, and monitoring of St. Johns Landfill. In exchange for this lease, Metro would perform operation maintenance, and monitoring tasks at the former KFD Landfill for the City of Portland.

WHY NECESSARY

- A long-term lease from the City of Portland of its property would allow Metro to construct a facility needed to efficiently carry out long term operation, maintenance, and monitoring of the environmental protection improvements at St. Johns Landfill.
- Metro has not been able to secure a long-term lease for a reasonable price after several years of negotiations with the City.
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ISSUES/CONCERNS

- Unknown expenses for replacement and repair of equipment at the KFD Landfill. The IGA addresses this concern by providing for reimbursement to Metro for defined, non-routine, potentially expensive replacement and repair expenses. It provides that the City will contribute \$25,000 per year for at least 5 years to an interest accruing trust fund to pay for these expenses. After 5 years the City will continue to contribute \$25,000 per year if the City and Metro cannot agree on a different amount.
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BUDGET/FINANCIAL IMPACTS

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 01-3139 FOR THE PURPOSE OF AUTHORIZING AN INTER-GOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR THE LEASE OF CITY PROPERTY AND FOR POST CLOSURE CARE OF THE FORMER KFD LANDFILL.

Date: November 15, 2001

Presented by: Terry Petersen

BRIEF DESCRIPTION OF RESOLUTION

Resolution 01-3139 authorizes the Executive Officer to sign an inter-governmental agreement under which the City of Portland would lease to Metro a portion of Parcel A, adjacent to St. Johns Landfill, for 20 years. On this portion Metro could construct one or more structures to facilitate operation, maintenance, and monitoring at St. Johns Landfill. In exchange for the lease, Metro would operate, maintain, and monitor environmental protection improvements at the former KFD Landfill for the City of Portland.

EXISTING LAW

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Metro had been trying to obtain a long-term lease from the city for a 75,000 square foot portion (less than 2 acres) of Parcel A, on which to construct this facility. City staff first proposed either that Metro pay fair market value, approximately \$1.5 million, for all 18 acres of Parcel A if the City accepted environmental liability risk or that Metro pay \$1.00 if it accepted environmental liability risk. Metro staff found these options unacceptable.

Metro again offered to lease only the 75,000 square foot area that it needed. City staff proposed to lease all of Parcel A for \$146,500 per year. Because the sides could not agree, negotiations have been stalled for more than two years. Meanwhile, the City allows Metro to continue to use temporarily a different 56,000 square foot portion of Parcel A for \$7,620 per year based on a lease that can be terminated with 30 days notice.

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BUDGET IMPACT

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OUTSTANDING QUESTIONS

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EXECUTIVE OFFICER RECOMMENDATION

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ADOPTED by the Metro Council this _____ day of _____, 2001.

David Bragdon, Presiding Officer

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RECITALS:

1. The City, through its Portland Parks and Recreation Department ("Parks"), has taken title through tax foreclosure to the certain real property in Northeast Portland, as described in Exhibit A attached hereto.
2. The City has entered into an agreement with the Oregon Department of Environmental Quality ("DEQ") to operate a landfill gas and a leachate collection system on the property, and to maintain the groundwater monitoring wells and geo-membrane cap at the Property, both pursuant to a Solid Waste Landfill Closure Permit.
3. The City desires to have Metro operate the landfill gas and the leachate collection system and maintain the groundwater monitoring wells and geo-membrane cap pursuant to the terms of this Agreement, and Metro has the special skills necessary to provide such services to the City.
4. Metro desires to enter into a long-term lease for certain other unrelated real property owned by the City near the St. John's landfill to allow for construction by Metro of an operations and maintenance facility that will allow Metro to perform more efficiently its duties in operating, maintaining and monitoring the St. John's landfill.
5. The City and Metro desire to enter into an agreement pursuant to ORS 190.010 and ORS 268.300 for the exchange of Metro's services in operating and maintaining landfill gas and leachate collection systems and in maintaining the groundwater monitoring wells and geo-membrane cap on the property described in Exhibit A in return for a long-term lease to Metro of other real property owned by the City near the St. John's landfill.
6. Parks, in consultation with Metro, which will act as the operator of the On-Site Systems, will develop a plan for limited park use of the Property, taking into consideration the Property's condition. After the Property is stabilized and the On-Site Systems are no longer needed, Parks will develop the Property as a Community Park.

NOW THEREFORE, pursuant to authority granted in to the City in ORS 190.110 and to Metro in ORS 268.300 and in recognition of the mutual interests of the parties and based upon the terms and conditions herein, it is mutually agreed (1) that the City shall lease certain property as described herein to Metro on the terms and for the consideration set forth in this Agreement and that (2) in exchange for such lease, Metro shall provide services to the City by operating and monitoring certain gas collection and related facilities as set forth in Section II herein.

AGREEMENT

I. Agreement Regarding Long Term Lease of Property

A. The City agrees to lease to Metro, and Metro agrees to lease from the City, for a term of 20-years, a 75,000-square-foot portion of the real property known as "Parcel A" adjacent to the St. Johns Landfill in North Portland, which property is more fully described in Exhibit B attached hereto, for the purpose of constructing and operating a landfill maintenance facility and public parking. The provisions of such long-term lease shall be substantially similar to those set forth on Exhibit C attached hereto. The term of such lease shall commence on the date this Agreement is executed by both parties and shall terminate 20 years thereafter. The City and Metro agree that Metro's obligations under this Agreement shall constitute the full consideration for the long-term lease described herein.

B. Within six months after the date of this Agreement, the City shall grant to Metro, and Metro shall accept from the City, permanent easements for road access and utilities across Parcel A, as outlined in Exhibit D attached hereto.

C. Within six months after the completion of the construction of facilities on the real property described in Exhibit B, and upon receipt of a written request from the City, Metro shall remove within a reasonable time any existing office trailers and scales and demolish the existing scale houses from the locations depicted on Exhibit E, attached hereto. The City and Metro agree to extend any existing lease for such property until the date of completion of the construction of facilities on the real property described in Exhibit B.

II. Agreement Regarding Metro's Provision of Landfill Services

A. Duties of Metro.

1. Metro shall perform and bear the cost of routine operation, monitoring and maintenance of the landfill gas and the leachate collection systems, and perform routine maintenance of the groundwater monitoring wells and geo-membrane cap (referred collectively herein as "the On-Site Systems") at the Property in accordance with regulatory permits and the Site Management Plan, Killingsworth Fast Disposal, Portland Oregon, by Ecology and Environment Inc., August 2000, and Killingsworth Fast Disposal, Landfill Gas Extraction Manual Volume 1 and 2, by Wilder Construction Co., July 2000 or as modified by Metro after written approval by DEQ ("Approved Plans and Permits"). As used in this section "routine operation, monitoring and maintenance" does not include replacement of equipment or parts; excavation, repair and re-sloping of underground pipes; abandonment, repair, or construction of monitoring wells; unplugging or construction of underground dry-wells for storm water disposal; filling of ponds on the cover system; performing tests of flare emissions; repair of damage to the cover system due to leakage, underground fire, subsidence, slides, or erosion; or monitoring beyond the boundaries of the landfill.

2. Subject to reimbursement from the City as provided in Section II.B.2., Metro shall perform equipment repair and replacement for the On-Site Systems at the Property including, but not limited to, replacement of equipment or parts; excavation, repair and re-sloping of underground pipes; abandonment, repair, or construction of monitoring wells; unplugging or construction of underground dry-wells for storm water disposal; filling of ponds on the cover system; performing tests of flare emissions; repair of damage to the cover system due to leakage, underground fire, subsidence, slides, or erosion; or monitoring beyond the boundaries of the landfill.
3. Additionally, Metro shall consult with Parks staff to ensure that public use of the Property is protective of the On-Site Systems.

B. Obligations of the City. The City shall:

1. Deposit in a separate interest-bearing sub-fund of the Portland Parks Trust Funds designated for equipment repair and replacement ("Trust Fund"), \$25,000 each year for the first five years of this Agreement. These funds shall be used for repair and replacement of the On-Site Systems. Any funds not spent shall remain in the Trust Fund for future repairs and equipment replacement and, if necessary, for the purchase and installation of any additional equipment necessary to protect human health and the environment. Funds shall be released after review and approval by the representative for Parks designated in this Agreement. The City and Metro shall review the status of the Trust Fund after five years and mutually agree to change the amount of the annual deposit by the City, if appropriate. If no such agreement is reached, the City shall continue to deposit \$25,000 into the Trust Fund for the term of this Agreement. Any funds remaining in the Trust Fund after the expiration of this Agreement shall be released for other park purposes. If the balance in the Trust Fund at any time is not sufficient to cover approved or anticipated expenditures, Metro shall notify the City as early as reasonably possible and Parks shall consult with Metro and, if necessary, seek additional funding from the City Council. Metro shall not be responsible in any respect to bear any cost other than as set forth in this Agreement in the event that the Trust Fund is not sufficient to cover approved or anticipated expenditures.
2. Bear all costs associated with equipment repair and replacement for the On-Site Systems at the Property including, but not limited to, replacement of equipment or parts; excavation, repair and re-sloping of underground pipes; abandonment, repair, or construction of monitoring wells; unplugging or construction of underground dry-wells for storm water disposal; filling of ponds on the cover system; performing tests of flare emissions; repair of damage to the cover system due to leakage, underground fire, subsidence, slides, or erosion; or monitoring beyond the boundaries of the landfill. The City shall reimburse Metro for such costs from the Trust Fund within 30 days of receipt of an invoice from Metro. After prior notice by Metro to the City of any additional equipment or expenses, including any additional labor costs, required by any regulatory agency, the City shall reimburse Metro for all reasonable costs of purchase, installation, replacement and repair of such additional on-site systems or equipment or for all associated labor costs, required by regulatory agencies or mutually agreed upon by the City and Metro.

The City shall not be required to reimburse Metro for expenditures required for routine operation, monitoring and maintenance costs.

3. Allow Metro access to the Property to conduct the activities outlined in this Agreement and obtain permission as needed for Metro to enter adjacent properties to collect samples.
4. Provide Metro with all required sampling equipment.
5. Perform laboratory tests on all samples of groundwater, wastewater, and stormwater required by regulatory agencies; carry out record keeping and reporting of test results.
6. Prepare reports required by all regulatory agencies and submit one copy to Metro at the time these reports are submitted to the regulatory agencies.
7. Maintain all permits in the City's name and prepare applications for any other related permits, permit modifications, or permit renewals related to discharge of leachate to the sanitary sewer system.
8. Pay all electricity charges and all City charges related to wastewater and stormwater disposal.
9. Develop a plan for limited park use of the Property, in consultation with Metro to ensure that use of the Property is protective of the On-Site Systems.

III. GENERAL TERMS

- A. Non-admission; No Other Beneficiaries. The City and Metro acknowledge they are performing activities under the terms of this Agreement for their mutual benefit and that this Agreement and the performance of such activities do not constitute any admission of responsibility for any condition or contamination at the Property. This Agreement is intended for the benefit only of the City and Metro and shall be enforceable only by either of them.
- B. Modification. This Agreement may be modified only in writing executed by both parties.
- C. Term. This Agreement shall be in effect for twenty years from the date of its execution by all parties.
- D. Dispute Resolution. If any dispute should arise between the City and Metro concerning the provisions of this Agreement or the parties' obligations under this Agreement and the parties are unable to resolve the dispute informally, the dispute shall be submitted to mediation before a mediator agreed to and compensated equally by both parties prior to commencement of arbitration or litigation. If the parties fail to agree on a mediator, a mediator shall be appointed by the presiding judge of the Multnomah County Circuit Court.

- E. Indemnification. To the extent allowed under Oregon law, the City agrees to indemnify, hold harmless and defend Metro, its commissioners, directors, officers and employees from and against all claims and damages arising in connection with Metro's performance under this Agreement except for claims arising out of the sole negligence, gross negligence or willful misconduct of Metro, its agents, contractors or employees. To the extent allowed under Oregon law, Metro agrees to indemnify, hold harmless and defend the City, its commissioners, officers and employees from and against all claims and damages arising out of the sole negligence, gross negligence or willful misconduct of Metro, its agents, contractors or employees in the performance of this Agreement
- F. Separate Governments. The City and Metro hereby agree and acknowledge that each is a separate and independent governmental body and that the actions of the City, its officers, agents and employees shall not constitute actions of Metro for any purpose whatsoever.
- G. Project Managers; Notices. Any notices under this Agreement shall be in writing and may be given by personal delivery, facsimile, or U.S. mail to the project managers designated herein (or successor designated his or her agency) at the following addresses:

<u>For the City:</u>	<u>For Parks:</u>	<u>For Metro:</u>
John O'Donovan	Zari Santner	Dennis O'Neil
Bureau of Environmental Services	Portland Parks	Metro
1120 SW 5th Ave., #1000	1120 SW 5 th Ave., #1302	600 N.E. Grand Ave.
Portland, OR 97204	Portland, OR 97204	Portland, OR.97232
Fax: (503) 823-5228	Fax: (503) 823-5570	Fax: (503) 797-1795
Tel: (503) 823-7881	Tel: (503) 823-5119	Tel: (503) 797-1697

FOR THE CITY:

FOR METRO:

 Jim Francesconi
 Commissioner of Public Utilities

 Mike Burton
 Metro Executive Officer

 Date

 Date

APPROVED AS TO FORM:

 Deputy City Attorney

PROPERTY DESCRIPTION

KFD Property

LEGAL DESCRIPTION

PARCEL 1: A tract of land in the Thomas Cully Donation Land Claim in Section 17, Township 1 North, Range 2 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at the Northwest corner of Lot 7, PORTVIEW TRACTS; thence North, $0^{\circ} 07'$ East along the West line, extended North of Portview Tracts to an intersection with the Southerly line of the right-of-way and tract of land conveyed by Ulrich Michel et ux to The Oregon Railroad & Navigation Company, by Deed recorded April 23, 1912 in Book 500, Page 53, Deed Records; thence South $76^{\circ} 05'$ East along said Southerly line of said right-of-way, 742.34 feet; thence South $0^{\circ} 07'$ West, 858.88 feet to the North line of that tract of land designated as Tract "B" in Deed to Arthur C. Iverson, recorded January 20, 1948 in Book 1237, Page 118, Deed Records; thence West along said Iverson Tract to the Northwest corner thereof; thence West 50 feet to the Northeast corner of that tract of land designated as Tract "A", in Deed to Charles A. Hellingson, recorded January 14, 1947 in Book 1136, Page 387, Deed Records; thence West along the North line of said Hellingson Tract to the Northeast corner of Lot 14, PORTVIEW TRACTS; thence North along the East line of Lots 13, 12, 11, 10, 9 and 8, PORTVIEW TRACTS, a distance of 600 feet to the Northeast corner of said Lot 8; thence West along the North line, and extension West, of said Lot 8, 227.5 feet to the East line of Lot 7, PORTVIEW TRACTS; thence North along the East line of said Lot 7, 17.66 feet to the Northeast corner of said Lot 7; thence West along the North line of said Lot 7 to the place of beginning.

PARCEL 2: A tract of land in the Thomas Cully Donation Land Claim, in Section 17, Township 1 North, Range 2 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at the Southeast corner of that tract of land conveyed by John Y. Richardson and Estes Snedecor, Executors of the Estate of William Cornfoot, deceased, et al, to Columbia Contract Company, an Oregon corporation, and Harold Blake, by Deed dated June 1, 1937, recorded June 14, 1937 in Book 402, Page 491, Deed Records, which said Southeast corner is on the South line of the Thomas Cully Donation Land Claim in Section 17, Township 1 North, Range 2 East of the Willamette Meridian, 500.47 feet North $89^{\circ} 54'$ East of the one-quarter section corner on the South side of said Section 17; thence North $0^{\circ} 07'$ West along the West line of said tract conveyed by said Deed recorded in Book 402, Page 491, Deed Records, 1158.88 feet to the Southerly line of the right-of-way and tract of land conveyed to Ulrich Michel and Maggie Michel, husband and wife, to the Oregon Railroad and Navigation Company, by Deed dated April 12, 1912, recorded April 23, 1912 in Book 500, Page 53, Deed Records, said point being the true point of beginning of the tract of land herein described; thence South $76^{\circ} 05'$ East along said Southerly line of right-of-way, 573.74 feet, more or less, to the most Westerly corner of that tract of land conveyed to Oregon-Washington Railroad & Navigation Company, an Oregon corporation, by Deed recorded February 7, 1950 in Book 1384, Page 387, Deed Records; thence Southeasterly along the Westerly line of said Oregon-Washington Railroad & Navigation Company tract to the most Southerly point of said railroad tract; thence South along the West line of that certain tract of land set apart to Amelia Hannah Egger in partition suit, Reed vs Egger, et al, Judgment Roll No. 23198, February 9, 1895, to the Northeast corner of that tract of land described in Deed to Kern & Kibbe, an Oregon corporation, recorded June 20, 1946 in Book 1067, Page 374, Deed Records; thence South $89^{\circ} 54'$ West to the East line of Columbia Contract Company, et al, deed recorded in Book 402, Page 491, Deed Records; thence North $0^{\circ} 07'$ East along the East line of said Deed recorded in Book 402, Page 491, Deed Records, to the true place of beginning of the tract of land herein to be described.

PARCEL 3: Lot 8, PORTVIEW TRACTS, in the City of Portland, County of Multnomah and State of Oregon.

PARCEL 4: Lot 9, PORTVIEW TRACTS, in the City of Portland, County of Multnomah and State of Oregon.

Description of Leased Premises for the
Maintenance Building at the
St. Johns Landfill

The property leased is described as:

A tract of land in Section 36, Township 2 North, Range 1 West, Willamette Meridian described by distances, bearings and coordinates of the Oregon Coordinate System North Zone (1927 NAD) and as follows:

Beginning at the Witness Corner to the northwest corner of the Southmayd Donation Land Claim, said Witness Corner being a brass disk (N717527.44 E1422964.32) lying on the East line of the James Loomis Donation Land Claim and S20°43'48"E 73.76' of the true corner. Thence S20°43'48"E 1455.00' along said Donation Land Claim to a point; thence N47°44'32"E 185.00' to the true point of beginning. Thence N47°44'32"E 300.00' to a point; thence N42°15'28"W 250.00' to a point; thence S47°44'32"W 300.00' to a point; thence S42°15'28"E 250.00' back to the true point of beginning. Tract contains 75,000 square feet or 1.72 acres.

LEASE

This lease is made and entered into this ____ day of _____, 2001, by and between the CITY OF PORTLAND, a municipal corporation of the State of Oregon, (Landlord) and METRO, a metropolitan service district and municipal corporation of the State of Oregon, (Tenant).

AGREED:

In consideration of the leasing of the Premises described below and of the mutual agreements contained herein, each party expressly covenants and agrees as follows:

1. Premises

Landlord and Tenant agree to lease the Premises described as on attached Lease Exhibit A, approximately 75,000 square feet of bare land, located at 9363 North Columbia Boulevard, Portland, Oregon. The location of the Premises is highlighted on Lease Exhibit B.

2. Term

The term of this lease shall commence on ____, 2001 (the "Effective Date"), and shall terminate ____, 2021, unless sooner terminated under the provisions hereof.

3. Rent

In lieu of rent, consideration for the leasing of the Premises is Metro's operation of the City's property known as the KFD Landfill in North Portland, as outlined in an intergovernmental agreement between the City and Metro, dated _____, attached hereto as Lease Exhibit C.

4. Property Taxes

- a) Tenant shall be responsible for and pay before delinquent all taxes or fees assessed during the term of this lease against any leasehold or personal property of any kind owned by or placed upon or about the Premises by Tenant.
- b) Landlord acknowledges that Tenant's use of the property provides that the property is tax exempt. However, if the Premises are no longer tax exempt, in addition to any rent required by this lease, Tenant shall pay real property taxes assessed and levied on the Premises. If the Premises comprise only a portion of the property assessed, Tenant shall pay a pro-rated portion of the taxes billed. However, the amount of real property taxes to be paid by Tenant shall be reduced for each month during any real property tax year not within the term of this lease. All real property tax payments shall be paid by Tenant to Landlord annually, in a lump sum, within thirty days (30) days after Landlord bills Tenant. As used herein, the term "real property taxes" shall not include business license fees, excise taxes, sales taxes, corporation taxes, income taxes, or any tax on personal property which may be imposed by any city, county, state, or federal government or any special district or agency, and those taxes shall remain the responsibility of Tenant.

5. Utilities

- a) Tenant shall furnish and shall pay promptly when due all charges for utilities of any kind furnished to the Premises. If Landlord receives and pays bills for any utilities to the Premises, Tenant shall reimburse Landlord upon demand. If any utility services are provided by or through Landlord, charges to Tenant shall be comparable with prevailing rates for comparable services.
- b) Landlord is not by virtue of this section a partner or joint venturer with Tenant in connection with the business carried on under this lease, and shall have no obligation with respect to Tenant's debts or other liabilities.

6. Permitted Use

a) The Premises shall be used, managed and operated by Tenant during the entire term of this lease, for the following exclusive purposes and no others: facilities supporting operation, maintenance and monitoring of the St. Johns Landfill and the Smith and Bybee Lakes Natural area and no other purpose without the Landlord's written consent; Tenant shall do business on the Premises under the name of METRO.

b) Tenant shall not permit any cash, credit card, or coin-operated vending, novelty or gaming machines or equipment on the Premises without the prior written consent of Landlord; and not permit the use of any part of the Premises for a second-hand store, pawnshop, nor for an auction, distress or fire sale, or bankruptcy or going-out-of-business sale or the like.

c) Tenant acknowledges that structures on the leased Premises shall be "no smoking" buildings, within which smoking of cigars, cigarettes, pipes, or other smoking instruments shall not be permitted.

7. Styrofoam

No products containing or composed of polystyrene foam (Styrofoam) shall be sold or used by Tenant, unless such products are exempted from this requirement by Landlord. Exemptions shall be based upon a showing that there are no acceptable alternatives and that enforcement of this condition would cause Tenant undue hardship.

8. Nuisance, Waste, Hazardous Substances

- a) Tenant shall refrain from any use which is improper, immoral, unlawful, objectionable or which is offensive or annoying or interferes or obstructs the rights of Landlord or other tenants or owners, users, or occupants of the Premises, or nearby properties. Tenant shall not create or permit to be created any condition which would constitute a fire hazard or be dangerous to persons or property. Tenant shall not sell or permit to be sold any spirituous, vinous, or malt liquors on the Premises excepting liquors Tenant may be licensed by law to sell and as may be expressly permitted by this lease or by Landlord's prior written consent. Tenant shall not sell or permit to be sold any controlled substance on or about the Premises. Premises Tenant shall not store gasoline or other highly combustible materials on the Premises at any time.
- b) The term "Hazardous Substances," as used in this lease, shall have the meaning set out at ORS 465.200(15)(1999 Ed) or as it may be amended, including asbestos.

- c) Tenant shall, at Tenant's own expense, comply with all laws regulating the use, generation, release, manufacture, refining, production, handling, processing, storage, transportation, or disposal of Hazardous Substances. Tenant shall not cause or permit to occur any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions at, on, under or about the Premises, or arising from Tenant's use or occupancy of the Premises, including, but not limited to, soil and groundwater conditions.
- d) Tenant shall not cause or permit to occur the use, generation, release, manufacture, refining, production, handling, processing, storage, or disposal of any Hazardous Substance on, under or about the Premises, or the transportation to or from the Premises of any Hazardous Substance without Landlord's prior written approval which shall not be unreasonably withheld.
- e) Tenant shall, at Tenant's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities.
- f) Should any governmental authority demand that a cleanup plan be prepared and that a cleanup be undertaken because of any release of Hazardous Substances that occurs as a result of Tenant's use or occupancy of the Premises, then Tenant shall, at Tenant's own expense, prepare and implement the required plans and provide all financial assurances in accordance with applicable requirements.
- g) Tenant shall promptly provide all information regarding the use, generation, storage, transportation, release, manufacture, refining, production, handling, processing, or disposal of Hazardous Substances that is requested by Landlord. If Tenant fails to fulfill any duty imposed under this section within a reasonable time, Landlord may do so; and in such case, Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to determine the compliance therewith; and Tenant shall execute all documents promptly upon Landlord's request. No such action by Landlord and no attempt made by Landlord to mitigate damages under any applicable law shall constitute a waiver of any of Tenant's obligations under this section.
- h) Tenant's obligations and liabilities under this section shall survive the expiration or termination of this lease.

9. Fire Prevention

Tenant shall exercise due and reasonable care and caution to prevent and control fire on the Premises and shall install fire extinguishers throughout the Premises in accordance with rules and regulations as set forth by the Fire Marshal. All paints oils and other flammable materials shall be stored in suitably protected outbuildings or compartments in accordance with rules and regulations as set forth by the Fire Marshal.

10. Acceptance of Premises

- a) Tenant has examined the Premises and accepts them in "as is" condition. No representations or warranties as to the condition of the Premises have been made by Landlord or its officers, agents or employees. Landlord shall have no liability to Tenant for any damage or injury caused by the condition of the Premises. All buildings, structures and other improvements to the Premises shall be provided by Tenant at its own expense.

- b) Tenant accepts the Premises subject to any and all existing permits, easements, railroad facilities, pipelines, telephone, telegraph, communication, power and signal lines or any other similar utility facilities, together with any future installations, provided such future installations do not unreasonably interfere with Tenant's use of the Premises. Tenant shall allow entry as reasonably necessary to facilitate this provision.

11. Square Footage

Tenant's signature to this lease verifies the approximate square footage of the Premises. Any rent and any other charges provided by this lease shall not be adjusted by reason of any claimed variation in square footage by either party.

12. Alterations and Additions

Landlord acknowledges that Tenant plans to make alterations, additions or improvements to the Premises. All alterations, additions or improvements to or of the Premises shall become a part of the realty and belong to Landlord upon Tenant's surrender of the Premises. Upon termination of this lease, Tenant shall upon written demand by Landlord, given at least ninety (90) days prior to the end of the term, at Tenant's sole cost and expense, immediately, and with all due diligence, remove any alterations, additions or improvements made by Tenant, designated by Landlord to be removed. Tenant shall immediately and with all due diligence, at its sole cost and expense, repair any damage to the Premises caused by such removal.

13. Tenant improvements

- a) All work performed by Tenant on the Premises shall be done in strict compliance with all applicable building, fire, sanitary and safety codes, and other applicable laws, statutes, regulations, and ordinances, and Tenant shall secure all necessary permits for the work. To the extent required by law, Tenant shall apply for permits and submit permit plans to the City of Portland, Office of Planning and Development Review, within a reasonable period of time after obtaining Landlord's written consent to Tenant's plans and specifications. All plans for construction, alteration, or changes shall be signed and sealed by an architect or engineer licensed by the State of Oregon.
- b) Landlord's written approval of the plans, specifications, and working drawings for Tenant's alterations, construction or changes shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency, or compliance with all laws, rules and regulations of governmental agencies or authorities.
- c) Prior to the commencement of any work by Tenant, Tenant shall first submit the following to Landlord and obtain Landlord's written consent to all of the following, which consent shall not be unreasonably withheld: Tenant's plans and specifications; Tenant's estimated costs; and the names of Tenant's general contractor and major subcontractors.
- d) Tenant shall keep the Premises free from all liens in connection with any work. All work performed by Tenant shall be carried forward expeditiously, shall not interfere with Landlord's work or the work to be performed by or for other tenants, if any, and shall be completed within a reasonable time. All work shall be completed in a good workmanlike manner. Landlord or Landlord's employees or agents shall have the right at all reasonable times to inspect the quality

and progress of the work. Tenant agrees to provide Landlord with marked plans of the Premises and the improvements at completion of Tenant's construction.

14. Premises Alteration and Repair

In the event Landlord (in its capacity as a landowner), during the term of this lease, shall be required by a separate department of the City of Portland, the order or decree of any court, or any other governmental authority, to repair, alter, remove, reconstruct, or improve any part of the Premises, then the repairing, alteration, removal, reconstruction or improvement may be made by and at the expense of Landlord without any interference or claim for damages by Tenant; provided that any such obligation of Landlord extends only to the land, not to any structures constructed by Tenant. Landlord and Landlord's agents and employees shall have the right from time to time during the term of this lease to enter into and upon the Premises for the purpose of maintaining the Premises and making such alterations and repairs and doing such other things as may become necessary or advisable, without any interference or claim for damages by Tenant.

15. Maintenance and Repair

- a) Tenant shall at all times maintain the Premises and all improvements of any kind, which may be erected, installed or made thereon by Landlord or Tenant in a neat condition, free of trash and debris, in good and substantial condition, order and repair.
- b) Tenant shall be solely responsible for maintenance, including removal of trash and debris, mowing of grasses as needed, tree trimming if applicable, and all other landscape maintenance on the Premises.

16. Ice, Snow, Debris

If the Premises are located at street level, Tenant shall, at all times, keep the sidewalks in front of the Premises free and clear of ice, snow, rubbish, debris, and obstruction. Tenant shall hold harmless, defend and indemnify Landlord, and its officers, agents, and employees, against any injury whether to Landlord or to Landlord's property or to any person or other property caused by Tenant's failure to abide by the terms of this section.

17. Liens

Tenant shall keep the Premises free from all liens, including mechanics liens, arising from any act or omission of Tenant or those claiming under Tenant. Tenant shall pay as due all claims for work done, for services rendered or material furnished to the Premises at its request. If Tenant fails to pay any claims or to discharge any lien, Landlord may do so and collect all costs of discharge, including its reasonable attorney's fees. Such action by Landlord shall not constitute a waiver of any right or remedy Landlord may have on account of Tenant's default. Tenant may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within ten (10) days after knowledge of filing, and execute a discharge of the lien, or deposit with Landlord cash or a sufficient corporate surety bond or other security satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney's fees or other charges that could accrue as a result of any foreclosure sale or sale under the lien. This lease shall be subject and subordinate to such liens and encumbrances as are on or as Landlord may hereafter impose on the land and building, and Tenant shall upon request of Landlord, execute and deliver agreements of subordination consistent with this section.

18. Light and Air

This lease does not grant any rights of access to light or air over any part of the real property on which the Premises are located. Landlord shall not be liable for interference with light and air.

19. Eminent Domain

- a) Either party receiving any notice of an intended taking affecting the Premises or any portion thereof, any service of legal process relating to condemnation or any other notification in connection with any taking, condemnation or purchase, sale or transfer in lieu of condemnation, shall promptly give the other party notice. For purposes of this lease, taking or condemnation includes a sale to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power.

- b) If all or a portion of the Premises is taken by a corporation or governmental authority having right of eminent domain, by exercise of that right or by purchase, whether the taking be a direct physical taking or an indirect taking compensable by way of severance damages or the like, Landlord shall be entitled to all of the proceeds of the taking and Tenant shall have no claim against Landlord as a result of the taking except for a return of prepaid rent. If the Premises remaining after the taking, if any, are sufficient for practical operation of Tenant's business, Landlord shall proceed as soon as reasonably possible to make necessary repairs to cause the Premises to be comparable to that existing prior to the taking and Landlord and Tenant shall mutually negotiate a reasonable settlement commensurate with the reduction in value of the Premises on account of the taking. If the Premises remaining are not sufficient for practical operation of Tenant's business, this lease shall terminate as of the date possession of the Premises is taken.

20. Indemnification

- a) To the extent permitted by the Oregon Constitution, Article XI, § 9, and the Oregon Tort Claims Act, ORS 30.260, et seq., Tenant agrees to indemnify, defend and hold harmless Landlord, its officers, agents and employees from all claims, losses, damages, and costs arising out of the acts or omissions of Tenant, its agents, officers, directors, employees, or invitees; provided, however, that Tenant shall not be liable for claims caused by the sole negligence of Landlord, its officers, agents or employees.

- b) Landlord, its officers, agents and employees, shall not be liable for any injury to the property of Tenant or to any person in or upon the Premises including but not limited to damage by fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the building or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other place resulting from dampness or any other cause whatsoever, or collapse of the building in which Premises are located or any portion thereof, or any other cause, unless caused by or due to the sole negligence of Landlord, its officers, agents, and employees.

- c) Tenant shall give Landlord prompt written notice in case of casualty or accident on the Premises. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises from any cause other than Landlord's sole negligence, and Tenant waives all claims in respect thereof against Landlord.
- d) Landlord and its officers, agents, and employees shall not be liable for any latent defect in the Premises.
- e) Environmental Indemnity and Release. In addition to the other indemnities provided by this lease or by law:
 - i) Tenant shall be solely responsible to assure that no person releases Hazardous Substances (as defined in by ORS 465.200 (15) (1999 Ed.), as amended, and specifically including asbestos) onto the Premises after the Effective Date of this Lease. Tenant agrees to indemnify, defend, and hold harmless Landlord, and Landlord's officers, agents, and employees, from and against all damages, costs, liabilities, and expenses caused by, arising out of, or in connection with the use, generation, release, manufacture, refining, handling, processing, storage, transportation, or disposal after the Effective Date of this lease of Hazardous Substances. Damages, costs, liabilities, and expenses shall include any amounts claimed to be owed by any regulatory or administrative agency. Tenant's responsibilities under this subsection, however, shall not extend to damages, costs, liabilities, and expenses caused by, arising out of, or in connection with the discovery of Hazardous Substances migrating onto the Premises from a neighboring property after the Effective Date of this Lease.
 - ii) To the extent allowed under Oregon law, Landlord shall be solely responsible for and agrees to defend, indemnify, and hold harmless (including, specifically, an absolute waiver and release of contribution for costs of any environmental investigation, study, and clean-up) Tenant from and against any and all damages, losses, liabilities, expenses, costs, claims, actions that arise, in whole or in part, directly or indirectly, from the acts or omissions of Landlord, its officers, agents, employees or assigns.

21. Liability Insurance

- a) Premises Landlord and Tenant acknowledge that Tenant is self-insured for its general liability exposures in accordance with ORS 30.260 through 30.300. The parties further acknowledge that Tenant maintains property insurance through FM Global covering real and personal property, and maintains workers compensation insurance through SAIF Corporation. In the event that Tenant's self-insured status changes in any material respect, it shall immediately inform Landlord of such changed status.
- b)
- c) Tenant shall maintain on file with the City Auditor and the Bureau of Environmental Services a certificate of insurance certifying the coverage acknowledged above. The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance and to maintain a current certificate of insurance on file, shall be cause for immediate termination of this lease by Landlord.

22. Workers' Compensation Insurance

Tenant shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended. If workers' compensation insurance is required by ORS Chapter 656, Tenant shall maintain

coverage for all subject workers as defined by ORS Chapter 656, and shall maintain a current valid certificate of workers' compensation insurance on file with the City Auditor.

23. Assignment and Subletting

- a) Tenant shall not assign or mortgage this lease or any interest herein and shall not sublet the Premises or any part thereof, or any right or privilege pertinent thereto, and shall not sell or otherwise transfer any ownership interest in any corporate Tenant, or permit any other person (the agents, employees and invitees of Tenant excepted) to occupy or use the Premises or any portion thereof, without first obtaining the written consent of Landlord. Consent by Landlord to one assignment, subletting, transfer, occupation or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, transfer, occupation or use by another person.
- b) Consent to an assignment, sublet, transfer, occupation or use shall not release the original named Tenant from liability for the continued performance of the terms and provisions on the part of Tenant to be kept and performed, unless Landlord specifically and in writing releases the original named Tenant from liability.
- c) If an assignment, subletting, transfer, occupation or use is permitted, Tenant shall pay any costs incurred by Landlord in connection with a request for assignment, subletting, transfer, occupation or use including reasonable attorneys' fees.

24. Assignability

The covenants and conditions herein contained, subject to the sections as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of the parties.

25. Sale by Landlord

In the event of any sale of the Premises by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants, and obligations contained in or derived from this lease arising out of any act, occurrence or omission occurring after the consummation of the sale. The purchaser, at such sale or any subsequent sale of the Premises, shall be deemed, without any further agreement between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of Landlord under this lease.

26. Entry by Landlord

- a) Landlord reserves, and shall at any and all times have, upon notice to Tenant, the right to enter the Premises to inspect the same, to submit the Premises to prospective purchasers or tenants, to post notices of non-responsibility, to repair the Premises and any portion of the building of which the Premises are a part that Landlord may deem necessary or desirable, without abatement of rent and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing that the entrance to the Premises shall not be unreasonably blocked thereby, and further providing that the business of Tenant shall not be interfered with unreasonably.
- b) Tenant agrees to maintain the Premises in a clean and orderly fashion that is consistent with the use and appearance of the building. In the event that Tenant does not conform to this section, Landlord reserves the right, upon written notice, and at Tenant's sole cost and expense, to reenter the Premises for the specific purpose of rectifying the condition and restoring the

Premises to the condition, use and appearance intended by the parties at the time this lease was executed.

- c) Premises Landlord shall have the right to use any and all means which Landlord may deem proper to open the doors of the Premises in an emergency, in order to obtain entry to the Premises, without liability to Tenant.
- d) Any entry to the Premises obtained by Landlord by any means shall not under any circumstances be construed or deemed to be forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof.
- e) Landlord shall not be liable for the consequences of admitting by passkey or refusing to admit to the Premises, Tenant or its agents, employees or other persons claiming the right of admittance.

27. Default by Tenant

The following shall be events of default:

- a) Failure of Tenant to perform its obligations under the terms of the intergovernmental agreement attached hereto as Lease Exhibit C.
- b) Failure of Tenant to comply with any term or condition or to fulfill any obligation of this lease within thirty (30) days after written notice by Landlord specifying the nature of the default with reasonable particularity. However, if the default is of such a nature that it cannot be completely remedied within the ten (10) day period, Tenant shall not be in default if Tenant begins correction of the default within the ten (10) day period and thereafter proceeds with reasonable diligence and in good faith to correct the default as soon as practical and to completion.
- c) The bankruptcy or insolvency of Tenant or if a receiver or trustee is appointed to take charge of any of the assets of Tenant, sub-tenants or assignees in or on the Premises or in the event of judicial sale of the personal property in or on the Premises upon judgement against Tenant or any sub-tenant or assignee thereunder unless otherwise directed by order of a bankruptcy court.

28. Remedies On Default by Tenant

- a) In the event of default, Landlord may elect to terminate Tenant's right to possession of the Premises by notice to Tenant. Following such notice, Landlord may re-enter, take possession of the Premises and remove any persons or property by legal action or self-help, with the use of reasonable force and without liability for damages. Landlord shall have a security interest in Tenant's property on the Premises at the time of re-entry to secure all sums owed or to become owing Landlord under this lease. Perfection of such security interest shall be taking possession of the property or otherwise as provided by law.
- b) Following re-entry by Landlord because of Tenant's default, Landlord may re-let the Premises. Landlord may alter, refurbish or change the character or use of the Premises in connection with any re-letting. Re-letting by Landlord following Tenant's default shall not be construed as an acceptance or a surrender of the Premises. If rent received upon re-letting exceeds the rent received under this lease, Tenant shall have no claim to the excess.
- c) Following re-entry, Landlord shall have the right to recover from Tenant the following charges:
 - i) All unpaid charges for the period prior to re-entry, plus late charges as provided by this lease.

- ii) All costs incurred by Landlord by reason of Tenant's default, including, but not limited to the cost of recovering the Premises, of re-letting or attempting to re-let the Premises, including without limitation, the cost of cleanup and repair and preparation for a new tenant, the cost of correcting any defaults or restoring any unauthorized alterations, the amounts of any real estate commissions or advertising expenses and the unamortized cost of any improvements installed at Landlord's expense to meet Tenant's special requirements.
- iii) Reasonable attorney's fees incurred in connection with the default, whether or not any litigation has commenced.
- d) Landlord may institute actions periodically to recover damages as they accrue throughout the lease and no action for accrued damages shall be a bar to a later action for damages subsequently accruing. Nothing in this lease shall be deemed to require Landlord to wait until the lease terminates to institute action. Landlord may obtain a decree of specific performance requiring Tenant to pay damages as they accrue. Alternately, Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease.
- e) In the event that Tenant remains in possession following default and Landlord does not elect to re-enter, this lease shall remain in effect and Landlord may enforce all of its rights and remedies hereunder and Landlord may recover all unpaid charges, plus late charges, and shall have the right to cure any non-monetary default and recover the cost of such cure from Tenant. In addition, Landlord shall be entitled to recover attorney's fees reasonably incurred in connection with the default, whether or not litigation has commenced. Landlord may institute actions to recover such amounts as they accrue and no one action for accrued damages shall bar a later action for damages subsequently accruing.
- f) The foregoing remedies shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another consistent remedy. Tenant's liability to Landlord for default shall survive termination of this lease.

29. Trade Fixtures, Default, Remedies

Without limiting the remedies elsewhere provided by this lease, Landlord's remedies shall include the removal of Tenant's trade fixtures, (as defined under Oregon law), equipment, furnishings, chattels and furniture from the Premises and storage and retention of same until all damages are paid. In such event, the damages recoverable by Landlord from Tenant shall include the cost of removal of the foregoing items, repair and restoration of the Premises, transportation to storage, and storage charges, with interest on all such expenses from the date of expenditure by Landlord until repaid as provided herein together with the other items of damages set forth in this lease. Upon payment of all damages, Landlord shall release the trade fixtures, equipment furnishings, chattels and furniture to Tenant. Provided, however, and without limiting the default sections of this lease, if payment in full of all damages is not received, Tenant's property on the Premises is subject to the lien foreclosure remedies of ORS 87.162 et seq. Tenant waives all rights or claims against Landlord as to the failure or difficulty of mitigation of damages by reason of removal of the foregoing items from the Premises, and Tenant may not then assert that the Premises cannot be leased to a third party because of the removal of the items.

30. Default by Landlord, Remedies

Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time. However, Landlord shall perform its obligations within thirty (30) days after receiving written notice from Tenant specifying where and how Landlord has failed to perform its obligations. However, if the nature of Landlord's obligations is such that more than thirty (30) days are required for performance then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. In no event shall Tenant have the right to terminate this lease as a result of Landlord's default and Tenant's remedies shall be limited to damages and /or an injunction.

31. Landlord's Inability to Perform

Landlord shall not be deemed in default for the non-performance or for any interruption or delay in performance of any of the terms, covenants and conditions of this lease if due to any labor dispute, strike, lockout, civil commotion or operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain labor, services or materials, or through act of God or other cause beyond the reasonable control of Landlord, providing such cause is not due to the willful act or neglect of Landlord.

32. General Provisions

- a) Cumulative Rights and Remedies. No right or remedy or election provided by this lease shall be deemed exclusive but shall, whenever possible, be cumulative with all other rights and remedies available at law or in equity.
- b) Time is of the Essence. Time is of the essence in this lease.
- c) Non-Waiver. Acceptance by Landlord of any rental or other benefits under this lease shall not constitute a waiver of any default. Any waiver by Landlord of the strict performance of any of the provisions of this lease shall not be deemed to be a waiver of subsequent breaches of a different character, occurring either before or subsequent to such waiver, and shall not prejudice Landlord's right to strict performance of the same provision in the future or of any other provision of this lease.
- d) Amendments. This lease shall not be amended or modified except by agreement in writing signed by the parties.
- e) Grammatical Changes. Wheresoever the word Landlord or Tenant is used herein, it relates also to the Landlord or Tenant jointly and severally, if there may be more than one Tenant or Landlord herein, and to their respective heirs, personal representatives, successors in interests and assigns; and the pronouns used herein shall be construed as the context and the sense and general purport of this lease may require.
- f) For Rent Signs. During the period of ninety (90) days prior to the date for the termination of this lease, or upon default by Tenant, Landlord may post on the Premises a sign notifying the public that the Premises are "for rent" or "for lease".
- g) Lease Exhibits. Exhibits which are referred to in this lease are attached hereto and by this reference incorporated herein.
- h) Authority of Tenant Each individual executing this shall be duly authorized to execute and deliver this lease and warrants and represents that this lease is binding on the entity.

- i) Consent of Landlord. Whenever consent, approval or direction by Landlord is required under the terms contained herein, all such consent, approval or direction shall be in writing from the Commissioner-in-Charge.
- j) Quiet Possession. Upon Tenant observing and performing all of the covenants, conditions, and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire term hereof, subject to all provisions of this lease.
- k) Recordation. Neither Landlord or Tenant shall record this lease, but a short form memorandum hereof may be recorded at the request of Landlord.
- l) Section Headings and Capitalization. The section headings to the sections of this lease are not part of the lease and shall have no effect upon the construction or interpretation of any part of it. Capitalization of certain words is provided to assist the reader. Capitalization of words or lack thereof shall have no effect upon the construction or interpretation of this lease.
- m) Complete Agreement. There are no oral agreements between Landlord and Tenant affecting this lease, and this lease supersedes and cancels any and all previous negotiations, arrangement, brochures, advertising, agreement and understandings, oral or written, if any between Landlord and Tenant or displayed by Landlord or its agents to Tenant with respect to the subject matter of this lease, the Premises or the building. There are no representations between Landlord and Tenant or between any real estate broker and Tenant, other than those contained in the lease, and all reliance with respect to any representations is solely upon representations contained in this lease.
- n) Joint Obligation. If there be more than one Tenant, the obligations imposed hereunder shall be joint and several.
- o) Third Parties. Landlord and Tenant are the only parties to this lease and as such are the only parties entitled to enforce its terms. Nothing in this lease gives or shall be construed to give or provide any benefit, direct, or indirect, or otherwise to third parties unless third persons are expressly described as intended to be beneficiaries of the lease.
- p) Partial Invalidity. Any provision of this lease which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of the lease and other provisions shall remain in full force and effect.
- q) Observance of Law. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county, and municipal authorities, now in force or which may hereafter be in force during the term of this lease.
- r) Americans With Disabilities Compliance
 - i) Tenant shall comply, at Tenant's sole expense, with all applicable provisions of the Americans With Disabilities Act of 1990 (ADA), as it may be amended, including any duty the ADA may impose on Landlord or Tenant as a result of Tenant's use, occupation, or alteration of the Premises.
 - ii) Within ten (10) days after receipt, Landlord and Tenant shall advise the other party in writing, and provide the other party with copies (as applicable) of any notices alleging violation of the ADA relating to any portion of the building or Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the building or Premises; or any governmental or regulatory actions or investigations instituted or threatened

regarding noncompliance with the ADA and relating to any portion of the building or Premises.

- iii) In the event of any assignment or sublet of the Premises, Tenant and Tenant's assignee or subtenant shall agree to comply with the ADA, at their sole expense, and agree to be jointly liable under this lease for any duty the ADA may impose upon Tenant or Tenant's assignee or subtenant as a result of their use, occupation or alteration of the Premises. Landlord reserves the right to withhold consent to a proposed assignment or sublet if the assignment or sublease fails to contain provisions required by this lease to ensure ADA compliance at Tenant or Tenant's assignee's or subtenant's expense. Landlord further reserves the right to withhold consent to a proposed assignment or sublet if the proposed use, occupation or alteration by the assignee or subtenant shall require alterations to the Premises to comply with the ADA which are inconsistent with Landlord's management interests.
- s) Choice of Law and Forum. This lease shall be governed by the laws of the State of Oregon. Any litigation arising under this lease shall occur in the Multnomah County Circuit Court.

33. Surrender Upon Termination

- a) Upon expiration of the lease term or earlier termination because of default, Tenant shall deliver all keys to Landlord and shall surrender the Premises to Landlord in first class condition and broom clean. Alterations constructed by Tenant pursuant to Landlord's permission shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purposes for which the Premises were let, need not be restored, but all repairs for which Tenant is responsible shall be completed prior to such surrender. Tenant's obligation under this provision shall not apply in case of termination of this lease due to destruction of the Premises.
- b) With the exception of Tenant's movable trade fixtures, all improvements placed upon the Premises during the term shall, at Landlord's option, become the property of Landlord. Landlord may elect to require Tenant to remove all fixtures which would otherwise remain the property of Landlord, and to repair any damage resulting from the removal. Should Tenant fail to effect the removals or make repairs, Landlord may do so and charge the cost to Tenant together with late charges as provided by this lease from the date of the expenditure.
- c) Tenant shall remove all furnishings, furniture, and trade fixtures that remain the property of Tenant. Failure to do so shall be an abandonment of the property and Tenant shall have no further rights therein except as provide below. Landlord may elect to proceed as follows with respect to such abandoned property:
 - i) Retain or dispose of the property as Landlord sees fit.
 - ii) Following twenty (20) days written notice to Tenant, remove the property and place it in public storage for Tenant's account, in which case Tenant shall be liable for the cost of removal, transportation and storage, plus interest as provided herein from the date of all expenditures.
- d) Should Tenant fail to vacate the Premises when required, Landlord may elect to take legal action to eject Tenant from the Premises and to collect any damages caused by Tenant's wrongful holding over.
- e) Tenant's failure to remove property as required by subsection c) of this provision shall constitute a failure to vacate to which subsection d) of this provision shall apply if the property not removed

will substantially interfere with occupancy of the Premises by another Tenant or with occupancy by Landlord for any purpose including preparation for a new tenant.

- f) Tenant shall be responsible for all consequential damages to Landlord as a result of Tenant's failure to surrender the Premises in accordance with the lease, and this clause shall survive the termination of the lease.

34. Holding Over

If Tenant remains in possession of the Premises or any part thereof after the expiration of the term hereof without the express written consent of Landlord, such occupancy shall be a tenancy from month-to-month with rent in the amount to be determined on a square footage basis consistent with the fair market value of similar properties in the area, or in an amount mutually agreed upon by the parties, plus all other charges payable hereunder, and upon all terms hereof, applicable to month-to-month tenancy. The hold over tenancy may be terminated at will at any time by Landlord. Landlord shall have the right to adjust the rent payments, charges, or use fees upon thirty (30) days written notice to Tenant. In the event of hold over beyond June 30th of any year, Tenant shall be responsible for payment of real property taxes for the entire year without proration.

35. Tenant's Statement

Tenant shall, from time to time, upon written request of Landlord, execute, acknowledge and deliver to Landlord or its designate a written statement stating the date this lease was executed, the date the term commenced, the date the lease expires, the date Tenant entered into occupancy of the Premises, and certifying that this lease is in full force and effect and has not been assigned, modified, supplemented or amended in any way (or specifying the date and terms of agreement so affecting this lease), that this lease and the exhibits referenced herein represent the entire agreement between the parties as to this lease, that all conditions under this lease to be performed by the Landlord have been satisfied, that all required contributions by Landlord to Tenant on account of Tenant's improvements have been received, that on this date there are no existing defenses or offsets which Tenant has against the enforcement of this lease by Landlord, and that no security has been deposited with Landlord except as expressly set forth in this lease. It is intended that any such statement delivered pursuant to this provision may be relied upon by a prospective purchaser of Landlord's interest or a mortgagee of Landlord's interest or assignee of any mortgage upon Landlord's interest in the building in which the Premises are located.

36. Notices

Any notices required or permitted by law or this lease to be given to either party shall be effective upon mailing by United States certified mail, addressed as specified below, or to such other address as either party may specify to the other in writing from time to time during the term of this lease.

To Landlord: CITY OF PORTLAND
Bureau of General Services, Property Management
1120 SW Fifth Avenue, Room 1204
Portland, Oregon 97204

To Tenant: METRO
Att:

600 NE Grand Avenue
Portland, Oregon 97232-2736

IN WITNESS WHEREOF, The Landlord and the Tenant have executed this lease in triplicate on the day and year written, a corporate signature of Tenant being by authority of the Board of Directors, of the executing corporation.

METRO, Tenant

Signature

Date

Printed Name and Title

CITY OF PORTLAND, Landlord

Vera Katz, Mayor and Commissioner in Charge

Date

APPROVED AS TO FORM _____
Deputy City Attorney

Leases\BES\Metro St. Johns 2001 5-4-01