



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Agenda

Meeting: METRO COUNCIL
Date: May 24, 1990
Day: Thursday
Time: 5:30 p.m.
Place: Council Chamber

Approx.
Time*

Presented
By

5:30 p.m. **CALL TO ORDER/ROLL CALL**

1. **INTRODUCTIONS**
2. **CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS**
3. **EXECUTIVE OFFICER COMMUNICATIONS**

5:35
(5 min) **4. CONSENT AGENDA**

REFERRED FROM FINANCE COMMITTEE

4.1 Resolution No. 90-1255, For the Purpose of Authorizing the Executive Officer and Other Designated Staff to Withdraw Deposits Upon the Check or Other Written Order of the District (Action Requested: Motion to Adopt the Resolution)

REFERRED FROM INTERGOVERNMENTAL RELATIONS COMMITTEE

4.2 Resolution No. 90-1254, Amending the Transportation Improvement Program for Tri-Met's Section 9, Interstate Transfer and Federal-Aid Urban Programs (Action Requested: Motion to Adopt the Resolution)

REFERRED FROM SOLID WASTE COMMITTEE

4.3 Resolution No. 90-1260, For the Purpose of Authorizing Issuance of a Request for Proposal Document and the Contract to Design, Build and Install a Waste Reduction Exhibit at the Metro Washington Park Zoo (Action Requested: Motion to Adopt the Resolution)

5:40
(5 min.) **5. ORDINANCES, FIRST READINGS**

5.1 Ordinance No. 90-349, An Ordinance Amending Ordinance No. 989-294A Revising the FY 1989-90 Budget and Appropriations Schedule For Additional Increases in Zoo Operations (Referred to Finance Committee)

* All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

5. ORDINANCES, FIRST READING

- 5.2 Ordinance No. 90-350, For the Purpose of Amending Metro Code Section 5.02.060 to Update the Credit Policy (Referred to Finance Committee)
- 5.3 Ordinance No. 90-351, For the Purpose of Amending Metro Code Chapter 5.02, Section 5.02.045, Regarding User Fees for Self-Haulers (Referred to Solid Waste Committee)
- 5.4 Ordinance No. 90-352, For the Purpose of Repealing Metro Ordinance No. 85-194 Restricting the Use of the St. Johns Landfill; Authorizing Limited Use of Metro Facilities for Disposal of Non-District Solid Waste; and Repeal of Section 5.02.055 of the Metro Code Relating to "Out of State Surcharges" (Referred to the Solid Waste Committee)
- 5.5 Ordinance No. 90-353, An Ordinance Authorizing the Issuance of Additional Bonds in Connection with the 1989 Compost Project Bonds (Referred to the Solid Waste Committee and Finance Committee)

6. RESOLUTIONS

REFERRED FROM CONVENTION & VISITOR FACILITIES COMMITTEE

- 5:45
(10 min.) 6.1 Resolution No. 90-1208, For the Purpose of Confirming the Appointment of Richard Waker to the Metropolitan Exposition-Recreation Commission (Action Requested: Motion to Adopt the Resolution) Knowles
- 5:55
(15 min.) 6.2 Resolution No. 90-1243, For the Purpose of Authorizing a Study of Permanent Operations Funding for Metro ERC Facilities and the Feasibility of Constructing New Sports Facilities and Defining Study Objectives (Action Requested: Motion to Adopt the Resolution) Knowles

REFERRED FROM FINANCE COMMITTEE

- 6:10
(15 min.) 6.3 Resolution No. 90-1242A, For the Purpose of Including Metro Employees in the Public Employees Retirement System (PERS) (Action Requested: Motion to Adopt the Resolution) Gardner
(continued)

* All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

6. RESOLUTIONS

REFERRED FROM SOLID WASTE COMMITTEE

6:25 (15 min.)	6.4 Resolution No. 90-1266, For the Purpose of Approving a Contract with Parametrix, Inc. for Engineering Services Related to the Closure of the St. Johns Landfill (Action Requested: Motion to Adopt the Resolution)	Hansen
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**BEFORE THE CONTRACT REVIEW BOARD OF THE METROPOLITAN
SERVICE DISTRICT**

REFERRED FROM SOLID WASTE COMMITTEE

6:40 (15 min.)	6.5 Resolution No. 90-1225A, For the Purpose of Authorizing an Exemption to the Requirement of Competitive Bidding, Authorizing Issuance of a Request for Proposals and Execution of a Contract for the Second Compaction System at Metro South Station (Action Requested: Motion for Contract Review Board to Adopt the Resolution)	Hansen
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6:55 (5 min.)	6.6 Resolution No. 90-1259, For the Purpose of Authorizing an Exemption to the Requirements of Competitive Bidding, Authorizing the Use of a Request for Proposal to Design, Build and Install a Waste Reduction Exhibit at the Zoo (Action Requested: Motion for Contract Review Board to Adopt the Resolution)	Hansen
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REFERRED FROM CONVENTION & VISITOR FACILITIES COMMITTEE

7:00 (10 min.)	6.7 Resolution No. 90-1264, For the Purpose of Authorizing an Exemption from Requirements of Metro Code Section 2.04.054(a)(3) for Amendment No. 6 to the contract with Dames & Moore for Research and Assistance with Litigation (Action Requested: Motion for Contract Review Board to Adopt the Resolution)	Knowles
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(continued)

* All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

6. RESOLUTIONS

**BEFORE THE CONTRACT REVIEW BOARD OF THE METROPOLITAN
SERVICE DISTRICT**

REFERRED FROM ZOO COMMITTEE

7:10 (5 min.)	6.8 Resolution No. 90-1252, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.060 Competitive Bidding Procedures and Authorizing a Sole Source Agreement with CPF Money Processing Systems for the Purchase of a Coin Sorter/Counter for the Zoo (Action Requested: Motion for Contract Review Board to Adopt the Resolution)	Gardner
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7:15 **7. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS**

7:30 **ADJOURN**

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Agenda Item No. 4.1
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1255



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: May 18, 1990

TO: Metro Council

FROM: ^{XB}Ann Brunson, Committee Clerk

RE: Agenda Item No. 4.1 - Resolution No. 90-1255, For the Purpose of Authorizing the Executive Officer and Other Designated Staff to Withdraw Deposits Upon the Check or Other Written Order of the District

The Finance Committee considered this item at their regularly scheduled meeting May 17, 1990. The Committee report will be distributed prior to the Council meeting May 24, 1990.

Anyone wishing copies of the Committee report prior to the Council meeting should contact the Clerk of the Council at extension 206.

A:\RES1255.MEM

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING	)	RESOLUTION NO. 90-1255
THE EXECUTIVE OFFICER AND OTHER)	
DESIGNATED STAFF TO WITHDRAW	)	Introduced by Rena Cusma,
DEPOSITS UPON THE CHECK OR OTHER	)	Executive Officer
WRITTEN ORDER OF THE DISTRICT)	

WHEREAS, financial institutions with which the District places and invests cash balances require the signature of authorized officials to withdraw deposits; and

WHEREAS, Metro Code Section 2.06.020 (a) names the Executive Officer as the Investment Officer of the District; and

WHEREAS, a resolution of the Council dated December 18, 1986 authorizes the bank to honor checks, drafts or other orders for the payment of money drawn in the District's name when bearing the facsimile signature of the Executive Officer; and

WHEREAS, the efficient conduct of the District's business requires the ability of other designated staff to be a signatory for specific transactions; and

WHEREAS, internal accounting control procedures exist to prevent unauthorized withdrawals from occurring without coming to the attention of management; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District designates the Executive Officer[, ~~Deputy Executive Officer, Chief Accountant~~] and individual staff members designated by the Executive Officer in writing, to authorize deposits to be withdrawn by check, draft or other written order of the District and to complete signature authorization cards required by financial institutions with which Metro conducts business.

ADOPTED by the Council of the Metropolitan Service District the ____ day of _____, 1990.

Tanya Collier, Presiding Officer

drc:sig

Council
5/24/90
Item #4.1

FINANCE COMMITTEE REPORT

RESOLUTION NO. 90-1255, AUTHORIZING THE EXECUTIVE
OFFICER AND OTHER DESIGNATED STAFF TO WITHDRAW DEPOSITS
UPON THE CHECK OR OTHER WRITTEN ORDER OF THE DISTRICT

Date: May 18, 1990

Presented by: Councilor Van Bergen

COMMITTEE RECOMMENDATION: The Committee considered this Resolution at its May 3 and May 17, 1990 meetings. At its May 17 meeting, the Committee voted unanimously to recommend that the Council adopt Resolution No. 90-1255 as amended. Voting in favor were Councilors Collier, Devlin, Gardner, Van Bergen and Wyers.

COMMITTEE DISCUSSION/ISSUES: Neil Saling, Acting Finance and Administration Director, presented the staff report. He indicated that the reason for the Resolution was to comply with requirements of financial institutions that the governing body adopt a resolution authorizing the appropriate persons to sign signature cards. The Committee at its May 3, 1990 meeting requested staff to provide additional information regarding statutory legal requirements. That information was provided at the May 17, 1990 meeting in the form of a memo prepared by Larry Shaw, Legal Counsel (see Exhibit A attached).

The Committee amended Resolution No. 90-1255 to delete the specific reference to the "Deputy Executive Officer and Chief Accountant". Such amendment would not adversely affect the intent and effect of the Resolution, but would avoid future Council action should these two positions be changed, altered or eliminated.

DEC:aeb
Attachment

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METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memo

EXHIBIT A
(Fin. Comm. Report/Res. 90-
1255)

Date: May 15, 1990
To: Donald B. Cox, Jr., Chief Accountant
From: *LSH*
Larry Shaw, Legal Counsel
Regarding: FINANCIAL INSTITUTION SIGNATURE CARDS

Introduction

Signature cards with authorized signatures are maintained with financial institutions for conducting financial transactions, including investment fund transfers. These institutions, evidently, prefer a local government Resolution as assurance of authorization. Executive Officer signature and delegation of financial transactions to authorized employees is consistent with statutes and the Metro Code.

Investment Decisions

The Executive Officer is identified as the "custodial officer" authorized to make investments of unused funds under ORS 294.035, in Metro Code 2.06.020. This Code provision authorizes the investment of funds by the Executive Officer. Therefore, Executive Officer authority to designate a signator to act on her behalf implementing investment decisions is consistent with public finance laws and the Metro Code provision.

Check Writing

The custodial officer for purposes of ORS ch 294, also, has authority to issue check-like warrants (ORS 294.028). Persons authorized to sign warrants or "other instruments" may do so by use of a facsimile signature (ORS 294.120). Evidently, a Resolution is already in place authorizing the Executive Officer's signature for some purposes under this statute.

Executive Officer Authority to Delegate

ORS 268.180(5) authorizes the Executive Officer to employ personnel to assist in carrying out duties and powers of the Executive. Executive Officer financial authorities above, can be delegated to authorized employees.

Memorandum
May 17, 1990
Page 2

Conclusion

It is consistent with public finance statutes and Metro Code 2.06.020 for the Executive Officer to sign personally or by facsimile (once authorized by Council Resolution) any financial institution signature cards or to delegate financial transaction duties to employees by authorized signature on such signature cards.

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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1255 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER AND OTHER DESIGNATED STAFF TO WITHDRAW DEPOSITS UPON THE CHECK OR OTHER WRITTEN ORDER OF THE DISTRICT

Date: April 20, 1990

Presented by: Neil Saling

FACTUAL BACKGROUND AND ANALYSIS

Metro conducts business with a variety of financial institutions. This business ranges from maintenance of checking account services for Metro's operating and payroll accounts to investments in securities with these institutions. In conducting this business, completion of signature cards is required. These financial institutions and sound business practice require a resolution be adopted that identifies authorized individuals. In order to avoid costly delays in establishing accounts, a resolution is being presented at this time that will permit staff to open such accounts without the necessity of Council involvement in each case.

Examples of business transactions where such signatures are used are stop payment orders on checks, wire transfers between banks and investments, withdrawals from one bank account with a deposit made to another bank account for retainage withheld on contracts and placed in interest bearing accounts in accordance with contractual and legal requirements. Historically, the Executive Officer, Deputy Executive Officer and Chief Accountant have been named as authorized individuals. In practice, the facsimile signature of the Executive Officer is used for checks drawn on the checking accounts of the District, while the Chief Accountant signs stop payment orders and other daily transactions. The investment function is now performed in the Financial Services Division by the Associate Management Analyst whose signature is required for wire transfers and certain investments.

The resolution provides for specific authorization for the Executive Officer, Deputy Executive Officer and Chief Accountant. The resolution also permits the Executive Officer to delegate such signature authority as deemed appropriate and consistent with sound internal controls in specified financial transactions.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution 90-1255 which authorizes the Executive Officer, Deputy Executive Officer, Chief Accountant or other staff person designated by the Executive Officer in writing to withdraw deposits by check or other written order.

Agenda Item No. 4.2
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1254

**INTERGOVERNMENTAL RELATIONS
COMMITTEE REPORT**

**RESOLUTION NO. 90-1254, AMENDING THE TRANSPORTATION
IMPROVEMENT PROGRAM FOR TRI-MET'S SECTION 9, INTERSTATE
TRANSFER AND FEDERAL-AID URBAN PROGRAMS**

Date: May 9, 1990

Presented by: Councilor Devlin

COMMITTEE RECOMMENDATION: At the May 8, 1990, Intergovernmental Relations Committee meeting, Councilors Bauer, McFarland and myself voted unanimously to recommend Council adopt Resolution No. 90-1254. Councilors Gardner and Ragsdale were excused.

COMMITTEE DISCUSSION/ISSUES: Transportation Department Director Andy Cotugno presented the resolution which amends the Transportation Improvement Program (TIP) to update the overall funding level anticipated for the Section 9 Program and to reflect 3 major actions: 1) providing funding for Tri-Met to buy 8 to 10 more light rail vehicles; 2) setting aside \$800,000 for the Hillsboro light rail corridor preliminary engineering work; and 3) allocating \$150,000 per year for Metro planning studies for FY90-91 through FY92-93.

Mr. Cotugno explained one of the recommended revisions to shift funding for the light rail vehicle purchases was delaying funding for current vehicles to have air conditioning installed. Responding to Committee questions, Mr. Cotugno said he did not know if the new vehicles would have air conditioning. The additional vehicles are required to meet peak hour ridership demand and ensure adequate spare vehicles are available.

The \$800,000 for the Hillsboro alternatives analysis and preliminary engineering studies is now being set aside because the funding required has been unknown up to this point.

The Committee did not raise any additional issues or questions about the resolution or the funding revisions.

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BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE)	RESOLUTION NO. 90-1254
TRANSPORTATION IMPROVEMENT PROGRAM	)	Introduced by
FOR TRI-MET'S SECTION 9, INTERSTATE	)	Mike Ragsdale, Chair,
TRANSFER AND FEDERAL-AID URBAN	)	JPACT
PROGRAMS)	

WHEREAS, JPACT has previously approved an overall funding program proposed for transit improvements; and

WHEREAS, Tri-Met has prepared a revised program of projects for FY 1991 focusing on light rail vehicle procurement; and

WHEREAS, By combining Section 9, Interstate Transfer and Federal-Aid Urban funds Tri-Met can submit grant applications for FY 1991 for operating, planning and capital purposes; now, therefore,

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District adopts the Section 9 Program of projects for FY 1991:

FY 91 Operating Assistance	\$ 4,841,744
Light rail vehicles (5-6), spare parts, cost allocation, consultant services	11,131,374
Westside P.E./FEIS	610,400
Hillsboro Extension A.A./P.E..	800,000
Metro Planning Studies	<u>150,000</u>
TOTAL	\$17,533,518

2. That \$6,050,990 of Interstate Transfer funds currently assigned to Tri-Met projects be reassigned to light rail vehicle procurement for FY 1991.

3. That \$850,000 of FAU funds allocated to the City of Portland be transferred to Tri-Met in exchange for local funds

provided by Tri-Met, as agreed upon by the two agencies.

4. That the Transportation Improvement Program be amended to incorporate these allocations and project changes.

5. That these actions are consistent with the Regional Transportation Plan and affirmative Intergovernmental Project Review is hereby given.

ADOPTED by the Council of the Metropolitan Service District this 24th day of May, 1990.

Tanya Collier, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1254 FOR THE PURPOSE OF AMENDING THE TRANSPORTATION IMPROVEMENT PROGRAM FOR TRI-MET'S SECTION 9, INTERSTATE TRANSFER AND FEDERAL- AID URBAN PROGRAMS

Date: April 19, 1990

Presented By: Andrew Cotugno

PROPOSED ACTION

Adoption of this Resolution would amend the Transportation Improvement Program (TIP) to include a series of revisions to Tri-Met's Section 9, Interstate Transfer and Federal-Aid Urban programs. Major elements of the revised programs for FY 1991 include:

1. Reprogramming \$6,050,090 of e(4) funds for light rail vehicles (LRV's) in FY 91 which had been allocated to other purposes.
2. Programming of \$850,000 of FAU funds for LRV's which were previously allocated to the City of Portland. In exchange, Tri-Met will provide a like amount of local funds for the City's street construction work near the Oregon Convention Center.
3. Revisions to the Section 9 Program to:
 - a. Allocate more funding (\$11.1 million) toward the purchase of LRV's;
 - b. Delay funding for LRV air conditioning retrofit, Ruby Junction storage track and double tracking of LS-1 to allow the LRV procurement to be funded in FY 91 (\$9.9 million);
 - c. Allocate \$800,000 in FY 91 for Hillsboro Extension AA/PE;
 - d. Allocate \$150,000 per year for Metro planning studies for FY 91 to FY 93; and
 - e. Reflect higher estimate of Section 9 funding available each year based on the actual FY 90 apportionment.

TPAC and JPACT have reviewed this proposed TIP amendment and recommend approval of Resolution No. 90-1254.

Agenda Item No. 4.3
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1260

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 90-1260, FOR THE PURPOSE OF AUTHORIZING
ISSUANCE OF THE REQUEST FOR PROPOSAL DOCUMENT AND THE
CONTRACT TO DESIGN, BUILD AND INSTALL A WASTE REDUCTION
EXHIBIT AT THE METRO WASHINGTON PARK ZOO

Date: May 15, 1990

Presented by: Councilor
Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 3 to 0 to recommend Council adoption of Resolution No. 90-1260. Voting: Councilors Hansen, Buchanan and DeJardin. Absent: Councilors Bauer and Wyers. This action was taken May 14, 1990.

Committee Discussion/Issues: The staff report was presented by Vickie Rocker, Public Affairs Director. Adoption of Resolution No. 90-1260 would authorize the issuance of a Request for Proposals (RFP) for solicitation to design, build and install a waste reduction exhibit at the Metro Washington Park Zoo, and execution of the resulting contract.

This is a two-part project, with both parts focussing on curbside recycling. Part one will show how recycling (or non-recycling) affects global ecosystems and wildlife. The second part of the project is a display that deals with how much trash individuals create and how that translates into the volume of trash a community generates.

The estimated cost of the project is \$20,000 and is provided for in the FY 1990-91 Budget. Evaluation criteria has been developed and includes 15 points for past experience; 20 points for technical and artistic ability; 10 points for approach to the project; 5 points for ability to supply all major disciplines to perform work; and 10 points for proposed cost.

The Committee indicated that this resolution is a companion to Resolution No. 90-1259 which authorizes an exemption to the competitive bidding requirements. Resolution No. 90-1260 authorizes the issuance of an RFP.

There were no further questions, comments, or issues and the Committee voted unanimously to recommend Council adoption of Resolution No. 90-1260.

GH:RRB:pa

RRB.184

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING	)	RESOLUTION NO. 90-1260
ISSUANCE OF A REQUEST FOR PROPOSAL)	
DOCUMENT AND THE CONTRACT TO DESIGN,	)	Introduced by Rena Cusma
BUILD AND INSTALL A WASTE REDUCTION	)	Executive Officer
EXHIBIT AT THE METRO WASHINGTON)	
PARK ZOO.)	

WHEREAS, The Council of the Metropolitan Service approved funding to design, build and install a waste reduction exhibit at the Metro Washington Park Zoo; and

WHEREAS, An exemption to the requirement of competitive bidding, authorizing the use of Request for Proposals was granted by the adoption of Resolution No. 90-1259; and

WHEREAS, The RFP solicitation process described in the staff report is in accordance with Metro Code 2.04.041 (c) such that the contractor will be selected on the basis of the most competitive offer considering quality and cost where the term "cost" refers to costs related to quality as well as the price of labor and materials; and

WHEREAS, It is in the best interest of Metro to execute the project as soon as possible due to previous delays and the anticipated heavy workload of public affairs and zoo education staff; and

WHEREAS, Pursuant to Section 2.04.033 (b) of the Metro Code, the Metro Council may, at the time it approves the Request for Proposals, waive the requirement of Council approval of a contract prior to execution of the contract by the Executive Officer; and

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

BE IT RESOLVED,

That the Council of the Metropolitan Service District, pursuant to Section 2.04.033 (b) of the Metro Code, waives the requirement of Council approval of the contract resulting from the bid process, and authorizes the Executive Officer to execute a contract for the design, production and installation of a waste reduction at the Metro

Washington Park Zoo with the highest ranked proposer as determined by the evaluation criteria set out in the RFP which is attached as Exhibit A.

ADOPTED by the Council of the Metropolitan Service District this ____ day
of _____, 1990.

Tanya Collier, Presiding Officer

Request for Proposals for design, production and installation of a recycling exhibit at the Metro Washington Park Zoo.

I. Introduction

The public affairs department of the Metropolitan Service District (Metro) is requesting proposals for the design, production and installation of an interpretive, interactive display about recycling for the Metro Washington Park Zoo. Proposals will be due on June 15, 1990 by 5 p.m. (PDT) in Metro's business offices at 2000 SW First Avenue. Details concerning the project and proposal are contained in this document.

II. Background/History of Project

The recycling exhibit for the Metro Washington Park Zoo is a combined effort of Metro's solid waste department, public affairs department, zoo marketing division and the zoo education division. The project has been developed to increase awareness of recycling opportunities in the metropolitan area. The exhibit will provide individuals with a personal solution to the solid waste problem in our region, the solution being the use of the curbside recycling program. The project will also make the connections between the use of natural resources in the materials individuals throw away daily and how the use of those natural resources affect wildlife habitat around the world.

III. Proposed Scope of Work/Schedule

A. Project Description

This is a two (2) part project, with both parts focusing on curbside recycling. Part one will show how recycling (or non-recycling) affects global ecosystems and wildlife. The approach will be to aim at different audiences, with the important link between children and adults, encouraging interaction between them. The exhibit will incorporate an interactive display attractive to children, that will allow them to experience the concepts of sorting materials and recycling. This in turn is tied to a larger interpretive exhibit (for older audiences) stressing the important links between recycling and conservation of wildlife habitat.

We will show (slice of) a curb and street edge. This will be complete with asphalt gutter, concrete curb, grassy strip between the street and sidewalk, a white picket fence, mailbox and other appropriate props. There will be a series of containers on the grassy strip which will be labeled glass, tin, aluminum, scrap metal, paper and motor oil. In the gutter there will be a number of items for the visitor to choose and place in the appropriate container. The items will have a magnetic strip which corresponds to a strip in the container. When the object is placed in the containers, an electric circuit will be completed which in turn will light appropriate sections of a backlit display. The backlit display will be a large representation of the earth. (This will be on the wall behind the picket fence.) When the appropriate circuits are completed, sections of continents will light up representing certain habitats. At the same time, a picture of an particular animal from that habitat, which would be affected, will light up. A problem that should be addressed in your proposal is how the materials will be returned to the outside of the recycling container so the next person will be able to use the exhibit.

Due to possible problems with breakage, items to be recycled will be made of wood. This will also make it easier to place the magnetic strip, and tether the items to reduce vandalism and theft. The items will be brightly colored and labeled (glass bottle, tin can, etc.) To facilitate the success of the experience, each piece will fit into a specially shaped hole in the recycling container. The magnetic strip for the circuit will also be located here.

The display will be approximately 10-12 feet long, and 5 feet deep. The space from floor to ceiling will be utilized. The Earth on the backlit panel will be as large as the space will allow, so that it will be a predominate image. The effect will be the earth rising over the curbside recycling display. Next to the earth, there will be a series of animal pictures that will remain dark until the appropriate recycling container is chosen. Accompanying the pictures and to the side will be the area for copy to further discuss recycling.

The display will be located in the Africa Exhibit Treetops building in an enclosed, heated room.

The second part of this project is a display that deals with how much trash individuals create and how that translates into the volume of trash a community generates.

Along the east wall (see Attachment A), will be a reconstruction of a cedar fence. The fence should look weathered. (It's a section of a perimeter fences around a solid waste facility.) It should be about 7 feet high and 9 to 11 feet long. Behind the fence will be two displays, which people will view through "knot holes". The first will show a large garbage can as if sliced down the middle. There will be 4-5 distinct layers of trash in the can. Each layer will be labeled indicating the level (layer) of garbage that can be reduced if certain items are recycled. Each layer will represent an item (i.e. glass, paper, tin, etc.).

The second display (knot hole) will be a representation of the amount of trash at a solid waste facility. We will compare the size of the "mountains" of trash - before and after recycling.

The two scenes, trash can and mountains of garbage, need to be presented in a diorama-type fashion. When the viewer looks through the hole, all they see is the trash can or mountain of trash. There should be 4-5 "knot holes". Some holes should be from 32" to 36" from ground level, others at 48" and 60" and with enough linear distance between them for visitor standing space.

B. General Specifications

Artwork and Photographs

1. Illustrations in the first part of the exhibit will consist of the Earth, clearly denoting its continents.

a. The Earth illustration shall be an accurate representation. Metro shall supply information to depict habitat areas. The areas shall be very clear.

2. If illustrations are chosen to depict the trash can (with layers) and the "mountains of trash" in the second part of the exhibit, they should be in four color and realistic.

3. Photographs

a. All photographs must be properly prepared, laminated, etc. for use in a backlit display. No warping, discoloration, bleeding or bubbles will be accepted.

b. Metro shall furnish slides of the appropriate animals from which the transparencies may be made.

c. If photographs are used in part two (trash can and mountain of trash), they should be in four color. The photographs need to be large enough so the edges will not be seen.

3. General Typographics

a. Serifed face for all headings, except for some small subheadings when design deems otherwise.

b. Helvetica shall be used for all other copy. This can extend to the entire Helvetica family, again depending upon design and use.

c. Use the sizes that can be easily read at a distance of 5-10 feet on a backlit display.

d. All lettering shall be executed so that all edges and corners of letterforms are true, clean, photographically precise and must accurately reproduce the letterform.

e. There shall be an exception for copy used on the title on the cedar fence. The title will be in graffiti form, but legible. There may be simple directions such as "look here", these may also be in graffiti form.

4. Color

- a. Color value shall have enough contrast to aid in ease of visibility for people with a color blindness impairment.

Three dimensional Display Curbside display (part 1)

1. The major portion of this interactive interpretive display is the recreation (slice) of a curb and a street edge. Due to the limited space, some features may have to be exaggerated. The overall look shall be very appealing and friendly. It should be attractive to children while being successful in attracting most adults.

2. The display shall include but not be limited to:

- a. Asphalt-like street section with typical gutter.
- b. Typical concrete (or concrete looking) curb.
- c. Grassy section between curb and sidewalk. This can be a synthetic (fake grass).
- d. Recycling containers which will be sitting on the "grassy" area.
- e. White picket type fence behind the "grassy" area and containers. This will act as the break between the 3-D display and the backlit graphic.
- f. Typical mailbox (rural type) to be used as a brochure dispenser mounted on a post.
- g. Items to be recycled include a glass bottle, tin can, aluminum pie plate, scrap metal (a large bolt), newspaper and a jug of motor oil. These are to be replicated out of wood and labeled appropriately. The wood should be hard enough to withstand pounding, scraping, etc. Any paint, ink, etc. should also be able to withstand the same type of abuse. Items could be oversized.
- h. Other items that would add to the ambience and lend itself to the setting would be rocks (which would need to be fastened down), small shrubs, tufts of grass, etc. (artificial).

3. Accessibility

- a. A design solution needs to be met so that interactive parts of the display are accessible to children (age 4) through adults and viewable from a stroller.
- b. Children four years of age are approximately 40.9 inches in height, with a reach of approximately 16.7 inches.
- c. Excessive stooping by adults should be avoided.

Cedar Fence Display (Part 2)

1. This is a recreation of a "cedar fence" that is perimeter fencing for a landfill (mountain of trash). As with the curbside display there is limited space, some features may have to be exaggerated. The overall look shall be very appealing and friendly. It should be attractive to children, while being a successful display for adults.

2. The fence should be divided into 2 sections.

- a. The first section will house the display with the divided trash can.
- b. The second section will house the display with the mountain of garbage representation.

3. The fence will interface and join with the curbside display along the east wall.

4. The fence will have 4-5 knot holes positioned in at least two heights, 32" to 36" and 48" to 60". The holes should be large enough to easily look through.

5. An illusion needs to be created for the displays behind the fence. It should appear as though (when looking through the holes) one is looking on the "real" scenes. It will be up to the contractor to develop the best method to create the illusion, on approval of Metro. Some approaches may be: photographic; illustration; or a combination of the two; 3-dimensional diorama; 2 dimensional diorama using flats; or any combination of the above. Suggest the method of your approach in your proposal.

6. There will be some signage inside the display to explain what the visitor is viewing.

7. There will be a back screened sign on the side of the fence upon entering the room (see Attachment A). This sign will be an introduction to the area.
8. Some lighting will most likely be necessary for the displays behind the fence.

Exhibit details - curbside recycling (part 1)

This information is being presented in general terms to aid in your proposal preparation. Final Copy will vary slightly, but should retain similar length.

1. Sizes - The display, including the backlit portion, will be 10 - 12 feet long, by 5 feet deep and 8 feet tall. Some of the dimensions may vary depending upon final design.
2. Number of Props - There will be six recycling containers and six items to recycle.
 - Glass bottle
 - Tin Can
 - Large piece of scrap metal (bolt)
 - Aluminum pie plate
 - A stack or rolled up newspaper / or cardboard
 - A jug for motor oil
3. Signage
 - a. Different components make up the signage:
 1. Title
 2. Earth with continents, animal ranges and habitats.
 3. Photographs of animals
 5. Text copy
 6. Instructions for using the display
 - b. Title: ca. 50 characters
 - c. Earth with continents, animal ranges and habitats.
 1. Label major land masses (i.e., North America, South America, Africa, etc.)
 2. Label habitat (i.e., tropical forests, Cascade forests, tundra, etc.)
 3. There will be approximately 10 habitats.
 - d. Photographs
 1. There will be approximately 10 animals
 2. Label for each animal
 - e. Text copy
 1. Heading: ca. 50 characters
 2. Blocks of copy: one at 30 words
 - f. Instructions
 1. Heading: ca. 25 characters.
 2. Blocks of copy: one at 30 words.

Exhibit details - cedar fence display (part 2)

This information is being presented in general term to aid in your proposal preparation. Final copy will vary slightly, but should retain similar length.

1. Sizes and placement
 - a. The fence will run along the east wall of the programming room. It will intergrate with the curbside display.
 - b. The fence will be 9'-11' long by 7' -8' high.
2. Signage
 - a. Graffiti titale should be very legible
 - b. Letters should be no smaller than eight inches (for the title)
 - c. "Look here" should be no smaller than four inches (graffiti form)
 - d. Back screened introduction panel
 - Heading: ca. 50 characters
 - Copy blocks: 2 blocks as 30 words each

- e. Signage inside the fence display - one for each graphic
 - Heading: ca. 50 characters
 - Copy blocks: 1 at 40 words
3. Include a lockable access panel to allow zoo staff inside to change light bulbs, make exhibits changes, etc.

Electrical

1. For any electrical work, the wiring and related electrical work shall be performed by an electrician licensed by the City of Portland.
2. Any permits required shall be obtained by the Contractor.
3. Any switches, push buttons, and/or other visitor activated devices shall be safe and durable.

Materials and Durability

1. All signage must be scratch and wear resistant.
2. Backlit signage must be properly prepared, laminated to avoid bubbling, light leaks, hot spots.
3. All paints, inks, resins, finishes and other materials used shall be compatible and guaranteed not to cause discoloration, deterioration, or delamination of any materials used in fabrication.
4. Photographs, illustrations, silk-screens and any other visual elements shall be free from fading, bleeding or other imperfections, for at least one year after installation.
5. Materials and techniques used in construction must be warp free and wear resistant.
6. All portions of the display should be capable of withstanding any abuse likely to occur in a controlled but heavily trafficked, park-like setting; for example children and even young adults are likely to climb and hang on them.
7. Tamper-proof and stainless steel fasteners and fastening systems are to be used throughout.
8. Neither materials nor other components should represent a hazard to zoo visitors or employees.
9. Wood fence should be splinter free, especially in places visitors will likely touch.

Serviceability

1. All materials and hardware should be readily available and easily replaced in the event of damage. They should be accessible to zoo staff for cleaning, repair, replacement, etc.
2. Custom-designed components may be specified, but they must be easily fabricated in a standard machine or carpenter shop.
3. Materials should be easily cleaned with the use of soap, detergents or generally available cleaning fluid, etc.

Warranty

1. Contractor shall replace materials found to be defective and/or correct any workmanship found to be substandard within a period of one year following completion of all work. The same warranty period of one year shall apply to materials replaced during the original warranty period.

Metro Ownership

1. All materials produced for the interpretive display, i.e. illustrations and transparencies used in the display shall be considered property of Metro and shall be turned over to Metro at the project end.

2. Metro shall retain all copyrights for drawings and other materials produced for this exhibit.

C. Schedule

All work must be completed by September 30, 1990

Preliminary Stage

Metro will provide copy, reference materials and photos.

Contractor will obtain Metro approval on preliminary design and signage.

Contractor will obtain Metro approval on colors, photo and typefaces.

Design Phase

Contractor will obtain Metro approval on final design, galley proofs, final illustrations and photos and sample materials

Production Stage

Contractor will obtain Metro approval on final signs before installation.

Installation

Contractor will obtain Metro approval on installation methods, placement and installation.

IV. Qualifications and Experience

The successful proposer must possess the following qualifications and experience.

At least two years of experience in design, production and installation of exhibits. Special attention will be paid to experience with interactive exhibits in a public setting.

V. Project Administration

Provide a list of the company's principals, indicating the project manager; a list staff members, who will be involved in the project, and their resumes; a list of any other consultants with which your company will coordinate.

VI. Evaluation Criteria

See Attachment B.

VII. Proposal Instructions

A. Submission of Proposals

Please submit five copies of the proposals to:

Vickie Rocker

Metro

2000 SW First Avenue

Portland, OR 97201-5398

B. Deadline

Please submit the proposal no later than 5 p.m. (PDT) on June 15, 1990. Postmarks are not acceptable. The proposal must be at the Metro Center office by 5 p.m.

C. RFP as a basis for proposals

This Request for Proposals represents the most definitive statement Metro will make concerning information upon which proposals are to be based. Any verbal information which is not contained in this RFP will not be considered by Metro in

evaluating the proposals. All questions relating to the RFP, or the project must be submitted in writing to Vickie Rocker, Metro, 2000 SW First Avenue, Portland, OR 97201. Any questions which in the opinion of Metro warrant a written reply or RFP amendment will be furnished to all parties receiving a copy of this RFP. Metro will not respond to questions received after June 6, 1990.

D. Subconsultants; Disadvantaged Business Program

A subconsultant is any person or firm proposed to work for the prime consultant on this project. Metro does not wish any subconsultant selection to be finalized prior to contract award. For any task or portion of a task to be undertaken by a subconsultant, the prime consultant shall not sign up a subconsultant on an exclusive basis.

In the event that any subconsultants are to be used in the performance of this agreement, the consultant agrees to make a good faith effort, as that term is defined in Metro's Disadvantaged Business Program (Section 2.04.160 of the Metro Code) to reach the goals of subcontracting 5 percent of the contract amount to Disadvantaged Business Enterprises and 5 percent to Women Owned Business Enterprises. Consultant shall contact Metro prior to negotiating any subcontracts. Metro reserves the right, at all times during the period of this agreement, to monitor compliance with the terms of this paragraph and Metro's Disadvantaged Business Program.

VII. Proposal Contents.

1. A transmittal letter indicating who will be assigned to the project, who will be the project manager, and that the proposal will be valid for 90 days.

2. Submit the names and qualifications of members of your staff who will have primary involvement in the project as requested in the Project Administration section of this proposal document and respond to the qualifications and experience section.

3. Submit any information regarding the Disadvantaged/Women Business requirements listed in the subconsultant section of this proposal document.

4. Submit a general portfolio of past work to indicate experience and ability in signage production similar to the type of work indicated in this Request for Proposal.

5. Submit at least 5 examples (preferably photographs) of exhibits you have successfully completed.

6. Submit a list of no less than five relevant and successfully completed projects as evidenced by the portfolio and a reference list.

7. Submit your approach to the project and a concept sketch based on the project description. Please include a total cost and a schedule for the design, production and installation of this project.

Attachments

- A. Room plan view
- B. Evaluation Criteria
- C. DBE/WBE Metro Code
- D. Sample Personal Services contract
- E. Insurance Requirements

Request for Proposals Evaluation Form
Recycling exhibit

Name of Firm _____

Instruction: Each firm can receive a possible 60 points. Please rate the proposal and list total points.

Criteria	Points available	Points awarded
1. Past experience in the design fabrication and installation of similar projects.	15	
2. Overall technical and artistic ability as evidenced in the submitted portfolio	20	
3. Approach to the project and concept sketch in relation to project description.	10	
4. Ability of firm to supply all the major disciplines necessary to perform the work.	5	
5. Proposed cost for exhibit design, production and installation.	10	

DISADVANTAGED BUSINESS PROGRAM COMPLIANCE FORM

(To be submitted with Bid or Proposal)

Name of Metro Project: _____

Name of Contractor: _____

Address: _____

Phone: _____

In accordance with Metro's Disadvantaged Business Program, the above-named contractor has accomplished the following:

- _____ 1. Has fully met the contract goals and will subcontract _____ percent of the contract amount to DBEs and _____ percent to WBEs.
- _____ 2. Has partially met the contract goals and will subcontract _____ percent of the contract amount to DBEs and _____ percent to WBEs. Contractor has made good faith efforts prior to bid opening (or proposal submission date, as applicable) to meet the full goals and will submit documentation of the same to Metro within two working days of bid opening (or proposal submission date).
- _____ 3. Will not subcontract any of the contract amount to DBEs or WBEs but has made good faith efforts prior to bid opening (or proposal submission date, as applicable) to meet the contract goals and will submit documentation of such good faith efforts to Metro within two working days of bid opening (or proposal submission date).

Authorized Signature

Date

WOMEN BUSINESS ENTERPRISES UTILIZATION FORM

1. Name of Metro Project _____
2. Name of Contractor _____
Address of Contractor _____
3. The above-named contractor intends to subcontract _____ percent
of the contract amount to the following Women Business
Enterprises (WBEs):

Names, Contact Persons,
Addresses and Phone Numbers
of WBE Firms Contractor
Anticipates Utilizing

Nature of
Participation

Dollar
Value of
Participation

Total

Amount of Total Contract

WBE Percent of Total Contract

Authorized Signature

Date: _____

THIS FORM IS TO BE COMPLETED, SIGNED AND SUBMITTED
BY THE CLOSE OF THE NEXT WORKING DAY FOLLOWING
BID OPENING/PROPOSAL SUBMISSION

DISADVANTAGED BUSINESS ENTERPRISES UTILIZATION FORM

1. Name of Metro Project _____
2. Name of Contractor _____
Address of Contractor _____
3. The above-named contractor intends to subcontract _____ percent of the contract amount to the following Disadvantaged Business Enterprises (DBEs):

Names, Contact Persons,
Addresses and Phone Numbers
of DBE Firms Contractor
Anticipates Utilizing

Nature of
Participation

Dollar
Value of
Participation

Total

Amount of Total Contract

DBE Percent of Total Contract

Authorized Signature

Date: _____

THIS FORM IS TO BE COMPLETED, SIGNED AND SUBMITTED
BY THE CLOSE OF THE NEXT WORKING DAY FOLLOWING
BID OPENING/PROPOSAL SUBMISSION

Scope of Work

A. Project Description

This is a two (2) part project, with both parts focusing on curbside recycling. Part one will show how recycling (or non-recycling) effects global ecosystems and wildlife. The approach will be to aim at different audiences, with the important link between children and adults, encouraging interaction between them. The exhibit will incorporate an interactive display attractive to child, having them experience the concepts of sorting materials and recycling. This in turn is tied to a larger interpretive (for older audiences) stressing the important links with habitat.

We will show (slice of) a curb and street edge. This will be complete with asphalt gutter, concrete curb, grassy strip between the street and sidewalk, a white picket fence, mailbox and other appropriate props. There will be a series of containers on the grassy strip which will be labeled "glass", "tin", "aluminum", "scrap metal", "paper" and "motor oil". In the gutter there will be a number of items for the visitor to choose and place in the appropriate container. The items will have a magnetic strip which corresponds to a strip in the container. When the object is placed in the containers, an electric circuit will be completed which in turn will light appropriate sections of a backlit display. The backlit display will be a large representation of the earth. (This will be on the wall behind the picket fence.) When the appropriate circuits are completed, sections of continents will light up representing certain habitats. At the same time, a picture of an particular animal from that habitat, which would be affected, will light up. Contractor will determine how the recyclable materials will be returned outside the container so the next user will be able to use the exhibit.

Due to possible problems with breakage, items to be recycled will be made of wood. This will also make it easier to place the magnetic strip, and tether the items to reduce vandalism and theft. The items will be brightly colored and labeled (glass bottle, tin can, etc.) To facilitate the success of the experience, each piece will fit into a specially shaped hole in the recycling container. The magnetic strip for the circuit will also be located here.

The display will be approximately 10-12 feet long, and 5 feet deep. The space from floor to ceiling will be utilized. The Earth on the backlit panel will be as large as the space will allow, so that it will be a predominate image. The effect will be the earth rising over the curbside recycling display. Next to the earth, there will be a series of animal pictures that will remain dark until the appropriate recycling container is chosen. Accompanying the pictures and to the side will be the area for copy to further discuss recycling.

The display will be located in the Africa Exhibit Treetops building in an enclosed, heated room.

The second part of this project is a display that deals with how much trash individuals create and how that translates into the volume of trash a community generates.

Along the east wall (see Attachment A), will be a reconstruction of a cedar fence. The fence should look weathered. (It's a section of a perimeter fences around a solid waste facility.) It should be about 7 feet high and 9 to 11 feet long. Behind the fence will be two displays, which people will view through "knot holes". The first will show a large garbage can as if sliced down the middle. There will be 4-5 distinct layers of trash in the can. Each layer will be labeled indicating the level (layer) of garbage that can be reduced if certain items are recycled. Each layer will represent an item (i.e. glass, paper, tin, etc.).

The second display (knot hole) will be a representation of the amount of trash at a solid waste facility. We will compare the size of the "mountains" of trash - before and after recycling.

The two scenes, trash can and mountains of garbage, need to be presented in a diorama-type fashion. When the viewer looks through the hole, all they see is the trash can or mountain of trash. There should be 4-5 "knot holes". Some holes should be from 32"

to 36" from ground level, others at 48" and 60" and with enough linear distance between them for visitor standing space.

B. General Specifications

Artwork and Photographs

1. Illustrations in the first part of the exhibit will consist of the Earth, clearly denoting its continents.

a. The Earth illustration shall be an accurate representation. Metro shall supply information to depict habitat areas. The areas shall be very clear.

2. If illustrations are chosen to depict the trash can(with layers) and the "mountains of trash" in the second part of the exhibit, they should be in four color and realistic.

3. Photographs

a. All photographs must be properly prepared, laminated, etc. for use in a backlit display. No warping, discoloration, bleeding or bubbles will be accepted.

b. Metro shall furnish slides of the appropriate animals from which the transparencies may be made.

c. If photographs are used in part two (trash can and mountain of trash), they should be in four color. The photographs need to be large enough so the edges will not be seen.

3. General Typographics

a. Serifed face for all headings, except for some small subheadings when design deems otherwise.

b. Helvetica shall be used for all other copy. This can extend to the entire Helvetica family, again depending upon design and use.

c. Use the sizes that can be easily read at a distance of 5-10 feet on a backlit display.

d. All lettering shall be executed so that all edges and corners of letterforms are true, clean, photographically precise and must accurately reproduce the letterform.

e. There shall be an exception for copy used on the title on the cedar fence. The title will be in graffiti form, but legible. There may be simple directions such as "look here", these may also be in graffiti form.

4. Color

a. Color value shall have enough contrast to aid in ease of visibility for people with a color blindness impairment.

Three dimensional Display

Curbside display (part 1)

1. The major portion of this interactive interpretive display is the recreation (slice) of a curb and a street edge. Due to the limited space, some features may have to be exaggerated. The overall look shall be very appealing and friendly. It should be attractive to children while being successful in attracting most adults.

2. The display shall include but not be limited to:

a. Asphalt-like street section with typical gutter.

b. Typical concrete (or concrete looking) curb.

c. Grassy section between curb and sidewalk. This can be a synthetic (fake grass).

d. Recycling containers which will be sitting on the "grassy" area.

e. White picket type fence behind the "grassy" area and containers. This will act as the break between the 3-D display and the backlit graphic.

f. Typical mailbox (rural type) to be used as a brochure dispenser mounted on a post.

g. Items to be recycled include a glass bottle, tin can, aluminum pie plate, scrap metal (a large bolt), newspaper and a jug of motor oil. These are to be replicated out of wood and labeled appropriately. The wood should be hard enough to withstand pounding.

scraping, etc. Any paint, ink, etc. should also be able to withstand the same type of abuse. Items could be oversized.

h. Other items that would add to the ambience and lend itself to the setting would be rocks (which would need to be fastened down), small shrubs, tufts of grass, etc. (artificial).

3. Accessibility

a. A design solution needs to be met so that interactive parts of the display are accessible to children (age 4) through adults and viewable from a stroller.

b. Children four years of age are approximately 40.9 inches in height, with a reach of approximately 16.7 inches.

c. Excessive stooping by adults should be avoided.

Cedar Fence Display (Part 2)

1. This is a recreation of a "cedar fence" that is perimeter fencing for a landfill (mountain of trash). As with the curbside display there is limited space, some features may have to be exaggerated. The overall look shall be very appealing and friendly. It should be attractive to children, while being a successful display for adults.

2. The fence should be divided into 2 sections.

a. The first section will house the display with the divided trash can.

b. The second section will house the display with the mountain of garbage representation.

3. The fence will interfact and join with the curbside display along the east wall.

4. The fence will have 4-5 knot holes positioned in at least two heights, 32" to 36" and 48" to 60". The holes should be large enough to easily look through.

5. An illusion needs to be created for the displays behind the fence. It should appear as though (when looking through the holes) one is looking on the the "real" scenes. It will be up to the contractor to develop the best method to create the illusion, on approval of Metro. Some approaches may be: photographic; illustration; or a combination of the two; 3-dimensional diorama; 2 dimensional diorama using flats; or any combination of the above. Suggest the method of your approach in your proposal.

6. There will be some signage inside the display to explain what the visitor is viewing.

7. There will be a back screened sign on the side of the fence upon entering the room (see Attachment A) This sign will be an introduction to the area.

8. Some lighting will most likely be necessary for the displays behind the fence.

Exhibit details - curbside recycling (part 1)

1. Sizes - The display, including the backlit portion, will be 10 - 12 feet long, by 5 feet deep and 8 feet tall. Some of the dimensions may vary depending upon final design.

2. Number of Props - There will be six recycling containers and six items to recycle.

Glass bottle

Tin Can

Large piece of scrap metal (bolt)

Aluminum pie plate

A stack or rolled up newspaper / or cardboard

A jug for motor oil

3. Signage

a. Different components make up the signage:

1. Title

2. Earth with continents, animal ranges and habitats.

3. Photographs of animals

5. Text copy

6. Instructions for using the display

- b. Title: ca. 50 characters
- c. Earth with continents, animal ranges and habitats.
 - 1. Label major land masses (i.e., North America, South America, Africa, etc.)
 - 2. Label habitat (i.e., tropical forests, Cascade forests, tundra, etc.)
 - 3. There will be approximately 10 habitats.
- d. Photographs
 - 1. There will be approximately 10 animals
 - 2. Label for each animal
- e. Text copy
 - 1. Heading: ca. 50 characters
 - 2. Blocks of copy: one at 30 words
- f. Instructions
 - 1. Heading: ca. 25 characters.
 - 2. Blocks of copy: one at 30 words.

Exhibit details - cedar fence display (part 2)

- 1. Sizes and placement
 - a. The fence will run along the east wall of the programming room. It will intergrate with the curbside display.
 - b. The fence will be 9'-11' long by 7' -8' high.
- 2. Signage
 - a. Graffiti titale should be very legible
 - b. Letters should be no smaller than eight inches (for the title)
 - c. "Look here" should be no smaller than four inches (graffiti form)
 - d. Back screened introduction panel
 - Heading: ca. 50 characters
 - Copy blocks: 2 blocks as 30 words each
 - e. Signage inside the fence display - one for each graphic
 - Heading: ca. 50 characters
 - Copy blocks: 1 at 40 words
- 3. Include a lockable access panel to allow zoo staff inside to to change light bulbs, make exhibits changes, etc.

Electrical

- 1. For any electrical work, the wiring and related electrical work shall be performed by an electrician licensed by the City of Portland.
- 2. Any permits required shall be obtained by the Contractor.
- 3. Any switches, push buttons, and/or other visitor activated devices shall be safe and durable.

Materials and Durability

- 1. All signage must be scratch and wear resistant.
- 2. Backlit signage must be properly prepared, laminated to avoid bubbling, light leaks, hot spots.
- 3. All paints, inks, resins, finishes and other materials used shall be compatible and guaranteed not to cause discoloration, deterioration, or delamination of any materials used in fabrication.
- 4. Photographs, illustrations, silk-screens and any other visual elements shall be free from fading, bleeding or other imperfections, for at least one year after installation.
- 5. Materials and techniques used in construction must be warp free and wear resistant.

6. All portions of the display should be capable of withstanding any abuse likely to occur in a controlled but heavily trafficked, park-like setting; for example children and even young adults are likely to climb and hang on them.

7. Tamper-proof and stainless steel fasteners and fastening systems are to be used throughout.

8. Neither materials nor other components should represent a hazard to zoo visitors or employees.

9. Wood fence should be splinter free, especially in places visitors will likely touch.

Serviceability

1. All materials and hardware should be readily available and easily replaced in the event of damage. They should be accessible to zoo staff for cleaning, repair, replacement, etc.

2. Custom-designed components may be specified, but they must be easily fabricated in a standard machine or carpenter shop.

3. Materials should be easily cleaned with the use of soap, detergents or generally available cleaning fluid, etc.

Warranty

1. Contractor shall replace materials found to be defective and/or correct any workmanship found to be substandard within a period of one year following completion of all work. The same warranty period of one year shall apply to materials replaced during the original warranty period.

Metro Ownership

1. All materials produced for the interpretive display, i.e. illustrations and transparencies used in the display shall be considered property of Metro and shall be turned over to Metro at the project end.

2. Metro shall retain all copyrights for drawings and other materials produced for this exhibit.

Schedule

All work must be completed by September 30, 1990

Preliminary Stage

Metro will provide copy, reference materials and photos.

Contractor will obtain Metro approval on preliminary design and signage.

Contractor will obtain Metro approval on colors, photo and typefaces.

Design Phase

Contractor will obtain Metro approval on final design, galley proofs, final illustrations and photos and sample materials

Production Stage

Contractor will obtain Metro approval on final signs before installation.

Installation

Contractor will obtain Metro approval on installation methods, placement and installation.

INSURANCE REQUIREMENTS:

The successful contractor shall provide (from insurance companies acceptable to Metro) the insurance coverage designated hereinafter and pay for all costs therefore.

Before commencing work under this contract the successful contractor shall furnish Metro with certificates of insurance evidencing coverage as specified and where indicated naming Metro as an additional insured.

a. Comprehensive General and Auto Liability

Contractor shall maintain Comprehensive General and Auto Liability insurance on an "occurrence" basis, covering all operations including contractual liability, against bodily injury or death including personal injury and property damage with limits of not less than \$1,000,000 combined single limit. Insurance coverage shall also be carried with limits of not less than \$1,000,000 combined single limit against bodily injury liability and property damage liability arising out of the use by or on behalf of the contractor, his agents and employees in pursuit of services provided for in this agreement, of any owned, non-owned or hired automobile equipment. Such policy or policies shall name Metro, their directors, officer, agents and employees as an additional insured. Such insurance shall provide for thirty days prior written notice to Metro in the event of cancellation.

b. Workers' Compensation Coverage

Contractor will maintain in force Workers' Compensation coverage as required by the State of Oregon. Contractor shall also maintain Employers' Liability insurance including bodily injury caused by disease with a limit of not less than \$1,000,000. Consultant shall require his sub-consultants (if any) to maintain such insurance also. Contractor shall provide Metro a certificate of insurance evidencing such coverage is in force.

Staff Report

CONSIDERATION OF RESOLUTION NO. 90-1260 FOR THE PURPOSE OF AUTHORIZING ISSUANCE OF THE REQUEST FOR PROPOSAL DOCUMENT AND THE CONTRACT TO DESIGN, BUILD AND INSTALL A WASTE REDUCTION EXHIBIT AT THE METRO WASHINGTON PARK ZOO.

Date: April 24, 1990

Presented by: Vickie Rocker
Joan Saroka

FACTUAL BACKGROUND AND ANALYSIS

For the reasons summarized below, the Public Affairs Department wishes to use a request for proposals (RFP) solicitation process to design, build and install the waste reduction exhibit at the Metro Washington Park Zoo.

The waste reduction exhibit at the zoo is a combined effort of the solid waste department, public affairs department and the zoo education division. The exhibit is a combination of design, production and installation. Although many of the required features of the exhibit have been outlined in the proposal document it is desirable to use a proposal process because of the design component of the project.

The design component is a qualitative issue that is essential to the success of the overall project. The contractor would be expected to complete the design detail and develop solutions to problems that exist in the overall exhibit design.

The quality of the final design and the interpretive goals of the design play a major factor in the project. It is essential for public affairs and zoo education staff to work closely with the contractor on the display design in order to have a quality project and have it meet the goals set out by the staff.

The final design is important for this exhibit to be successful. A review of a firm's design capability is important in selecting the best contractor and the ability of the contractor to develop creative solutions to some of the design problems is important.

The RFP process will allow the public affairs and zoo education division staff to work evaluate and select a contractor based on design capabilities, creativity and quality of proposed design. This RFP represents the needs of Metro and will produce competitive and creative proposals. The document is ready for release and the scope of work for the contract is attached for review.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 90-1260 which authorizes the issuance of a Request for Proposal for solicitation to design, build and install a waste reduction exhibit at the zoo, and execution of the resulting contract.



GRANT/CONTRACT SUMMARY

METROPOLITAN SERVICE DISTRICT

GRANT/CONTRACT NO. _____ BUDGET CODE NO. 530- 313200-524190-75819
FUND: Oper. DEPARTMENT: SW (IF MORE THAN ONE) _____
SOURCE CODE (IF REVENUE) _____

INSTRUCTIONS

- OBTAIN GRANT/CONTRACT NUMBER FROM CONTRACTS MANAGER. CONTRACT NUMBER SHOULD APPEAR ON THE SUMMARY FORM AND ALL COPIES OF THE CONTRACT.
- COMPLETE SUMMARY FORM.
- IF CONTRACT IS —
 - SOLE SOURCE, ATTACH MEMO DETAILING JUSTIFICATION.
 - UNDER \$2,500, ATTACH MEMO DETAILING NEED FOR CONTRACT AND CONTRACTOR'S CAPABILITIES, BIDS, ETC.
 - OVER \$2,500, ATTACH QUOTES, EVAL. FORM, NOTIFICATION OF REJECTION, ETC.
 - OVER \$50,000, ATTACH AGENDA MANAGEMENT SUMMARY FROM COUNCIL PACKET, BIDS, RFP, ETC.
- PROVIDE PACKET TO CONTRACTS MANAGER FOR PROCESSING

1. PURPOSE OF GRANT/CONTRACT To design, build and install a waste reduction exhibit at the Metro Washington Park Zoo

2. TYPE OF EXPENSE ☒ PERSONAL SERVICES ☐ LABOR AND MATERIALS ☐ PROCUREMENT
☐ PASS THROUGH AGREEMENT ☐ INTER-GOVERNMENTAL AGREEMENT ☐ CONSTRUCTION
☐ OTHER

OR

TYPE OF REVENUE ☐ GRANT ☐ CONTRACT ☐ OTHER

3. TYPE OF ACTION ☐ CHANGE IN COST ☐ CHANGE IN WORK SCOPE
☐ CHANGE IN TIMING ☐ NEW CONTRACT

4. PARTIES Metro and

5. EFFECTIVE DATE July 15, 1990 TERMINATION DATE September 30, 1990
(THIS IS A CHANGE FROM _____)

6. EXTENT OF TOTAL COMMITMENT: ORIGINAL/NEW \$ 20,000.00
PREV. AMEND _____
THIS AMEND _____

TOTAL

\$ 20,000.00

7. BUDGET INFORMATION

A. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR 198 1990/91 -8 \$ 20,000.00

B. BUDGET LINE ITEM NAME Misc. Prof. Services AMOUNT APPROPRIATED FOR CONTRACT \$ _____

C. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF _____, 19____ \$ _____

8. SUMMARY OF BIDS OR QUOTES (PLEASE INDICATE IF A MINORITY BUSINESS ENTERPRISE)

SUBMITTED BY _____	\$ _____	<input type="checkbox"/> MBE
	AMOUNT	
SUBMITTED BY _____	\$ _____	<input type="checkbox"/> MBE
	AMOUNT	
SUBMITTED BY _____	\$ _____	<input type="checkbox"/> MBE
	AMOUNT	

9. NUMBER AND LOCATION OF ORIGINALS _____

1. A. APPROVED BY STATE/FEDERAL AGENCIES? ☐ YES ☐ NO ☒ NOT APPLICABLE
B. IS THIS A DOT/UMTA/FHWA ASSISTED CONTRACT ☐ YES ☒ NO
11. IS CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? ☐ YES ☐ NO
IF YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION _____
12. WILL INSURANCE CERTIFICATE BE REQUIRED? ☐ YES ☐ NO
13. WERE BID AND PERFORMANCE BONDS SUBMITTED? ☐ YES ☒ NOT APPLICABLE
TYPE OF BOND _____ AMOUNT \$ _____
TYPE OF BOND _____ AMOUNT \$ _____
14. LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)
NAME _____ SERVICE _____ ☐ MBE
NAME _____ SERVICE _____ ☐ MBE
NAME _____ SERVICE _____ ☐ MBE
NAME _____ SERVICE _____ ☐ MBE
15. IF THE CONTRACT IS OVER \$10,000
A. IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?
☐ YES ☐ NO
B. IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?
☐ YES DATE _____ INITIAL _____
16. COMMENTS:

GRANT/CONTRACT APPROVAL

INTERNAL REVIEW

DEPARTMENT HEAD _____

FISCAL REVIEW _____

BUDGET REVIEW _____

CONTRACT REVIEW BOARD

(IF REQUIRED) DATE _____

1. _____
COUNCILOR
2. _____
COUNCILOR
3. _____
COUNCILOR

COUNCIL REVIEW

(IF REQUIRED)

DATE _____

LEGAL COUNSEL REVIEW AS NEEDED:

A. DEVIATION TO CONTRACT FORM _____

B. CONTRACTS OVER \$10,000 _____

C. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____

Agenda Item No. 5.1
Meeting Date: May 24, 1990

ORDINANCE NO. 90-349

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 90-349 AMENDING ORDINANCE NO. 89-294A REVISING THE FY 1989-90 BUDGET AND APPROPRIATIONS SCHEDULE FOR ADDITIONAL INCREASES IN ZOO OPERATIONS

Date: May 11, 1990

Presented by: McKay Rich

FACTUAL BACKGROUND AND ANALYSIS

Several situations have occurred within the Zoo Operating Fund that require budget changes.

Animal Management Division

The Animal Management Division is experiencing higher than projected expenses for veterinary supplies. This is due primarily to continuing elephant foot care problems. This cost will be offset by savings in Capital Outlay, Equipment and Vehicles.

Facilities Management Division

The Facilities Management Division is experiencing increased service costs in the areas of fringe benefits, supplies, electricity, landscaping needs, and maintenance and repairs of buildings and equipment. This is due primarily to unanticipated increases in Workers' Compensation and Unemployment Compensation, as well as an increase in the number of work orders processed. These additional costs will be offset by a savings in Capital Outlay from projects which have been deferred until next fiscal year.

Marketing Division

The Marketing Division is experiencing increased Personal Services costs because of salary adjustments in response to the revised salary and wage plan adopted by the Council last fall. In addition, the Division is requesting to increase the Education Service Aide position from .35 FTE to .50 FTE and to delete the .11 FTE Program Assistant position that has not been utilized. This action is consistent with the staffing approved for fiscal year 1990-91.

Visitor Services Division

Retail business sales are exceeding even the mid-year projections anticipated in the latest budget amendment. To assure the Zoo's ability to stock the gift outlets adequately, the Visitor Services's Division is requesting an increase of \$40,600 in the Merchandise for Resale line item.

Staff Report
Ordinance No. 90-349
Page 2

In addition to the cost savings realized in the various Capital Outlay items listed above, this amendment requests the transfer of \$44,892 from Contingency to the Marketing and Visitor Services Divisions. This transfer from Contingency will be more than offset by increases in revenues. Zoo Enterprise Revenues are running approximately 18 percent over the budgeted projections. The added revenue will be part of the next fiscal year's fund balance.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 90-349.

kr:ord89-90:zoofin:sr
5/11/90

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE NO.)
89-294A REVISING THE FY 1989-90)
BUDGET AND APPROPRIATIONS SCHEDULE)
FOR ADDITIONAL INCREASES IN ZOO)
OPERATIONS)

ORDINANCE NO. 90-349

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has
reviewed and considered the need to modify the FY 1989-90 Budget; and

WHEREAS, The need for a modified budget plan has been justified;
and

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

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

That Ordinance No. 89-294A, Exhibit B, FY 1989-90 Budget, and
Exhibit C, Schedule of Appropriations, are hereby amended as shown in
Exhibits A and B to this Ordinance for the purposes of additional
increases in Zoo Operations.

ADOPTED by the Council of the Metropolitan Service District this
_____ day of _____, 1990.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

kr:ord89-90:zoofin:ord
5/11/90

EXHIBIT A
ORDINANCE NO. 90-349

FISCAL YEAR 1989-90		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCOUNT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
ZOO OPERATING FUND:Animal Management							
	Total Personal Services	40.20	1,549,569	0.00	0	40.20	1,549,569
	<u>Materials & Services</u>						
521100	Office Supplies		624				624
521110	Computer Supplies		1,400				1,400
521230	Vet & Medical Supplies		28,600		6,500		35,100
521270	Animal Food		114,620				114,620
521290	Other Supplies		42,200				42,200
521310	Subscriptions & Publications		2,020				2,020
521320	Dues		580				580
521590	Maintenance & Repairs Supplies-Other		6,000				6,000
524210	Data Processing Services		10,502				10,502
525640	M&R-Equipment(Contract/Agreement)		2,000				2,000
526500	Travel		12,660				12,660
526800	Training, Tuition, Conferences		2,945				2,945
526910	Uniform Supply & Cleaning		13,000				13,000
528100	License, Permits, Payments to Other Agencies		1,500				1,500
529700	Animal Purchases		50,000				50,000
	Total Materials & Services		288,651		6,500		295,151
	<u>Capital Outlay</u>						
571400	Purchases-Equipment & Vehicles		18,150		(6,500)		11,650
571500	Purchases-Office Furniture & Equipment		6,925				6,925
	Total Capital Outlay		25,075		(6,500)		18,575
	TOTAL EXPENDITURES	40.20	1,863,295	0.00	0	40.20	1,863,295

EXHIBIT A
ORDINANCE NO. 90-349

FISCAL YEAR 1989-90		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCOUNT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
ZOO OPERATING FUND:Facilities Management							
	<u>Personal Services</u>						
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Managers (B&G, Const, VS, Ed, PR)	1.00	44,192			1.00	44,192
	Maintenance Supervisor	1.00	32,299			1.00	32,299
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Administrative Secretary	1.00	19,822			1.00	19,822
511225	WAGES-REGULAR EMPLOYEES (part time)						
	Secretary (Temporary)	0.60	10,274			0.60	10,274
511321	REPRESENTED 483-REGULAR EMPLOYEES (full time)						
	Maintenance Worker 3	2.00	54,393			2.00	54,393
	Maintenance Technician	1.00	26,151			1.00	26,151
	Maintenance Worker 2	7.00	180,391			7.00	180,391
	Maintenance Worker 1	7.00	164,394			7.00	164,394
	Senior Gardener	1.00	29,170			1.00	29,170
	Gardener 2	1.00	24,016			1.00	24,016
	Gardener 1	5.00	115,673			5.00	115,673
	Maintenance Mechanic	1.00	28,359			1.00	28,359
	Master Mechanic	1.00	28,293			1.00	28,293
	Maintenance Electrician	1.00	34,719			1.00	34,719
511325	REPRESENTED 483-REGULAR EMPLOYEES (part time)						
	Maintenance Worker 3-PT	0.42	10,225			0.42	10,225
	Maintenance Worker 2-PT	0.50	12,008			0.50	12,008
	Maintenance Worker 1-PT	0.50	10,516			0.50	10,516
511331	REPRESENTED 483-TEMPORARY EMPLOYEES(Full Time)						
	Laborer	1.21	22,441			1.21	22,441
	Maintenance Worker 3-PT	1.22	29,700			1.22	29,700
	Maintenance Worker 2-PT	0.70	16,029			0.70	16,029
	Maintenance Worker 1-PT	1.05	22,086			1.05	22,086
511400	OVERTIME		27,036				27,036
512000	FRINGE		347,279		19,000		366,279
	Total Personal Services	36.20	1,289,466	0.00	19,000	36.20	1,308,466
	<u>Materials & Services</u>						
521100	Office Supplies		1,650		3,000		4,650
521210	Landscape Supplies		27,800		30,000		57,800
521220	Custodial Supplies		39,872				39,872
521260	Printing Supplies		775				775
521290	Other Supplies		19,765				19,765
521300	Small Tools		9,820				9,820
521310	Subscriptions & Publications		160				160
521320	Dues		770				770
521400	Fuels & Lubricants		23,920				23,920
521510	Maintenance & Repairs Supplies-Building		98,760		35,000		133,760
521520	Maintenance & Repairs Supplies-Grounds		12,670				12,670
521530	Maintenance & Repairs Supplies-Vehicles		18,824				18,824
521540	Maintenance & Repairs Supplies-Equipment		9,040				9,040
521550	Maintenance & Repairs Supplies-Railroad		25,500		25,000		50,500
524190	Misc. Professional Services		24,746				24,746
524210	Data Processing Services		150				150
525110	Utilities-Electricity		211,000		10,000		221,000
525120	Utilities-Water & Sewer		336,440				336,440
525130	Utilities-Natural Gas		120,000				120,000
525190	Utilities-Other		24,000				24,000
525200	Cleaning Services		16,300				16,300
525610	M&R-Bldg(Contract/Agreement)		67,400				67,400
525620	M&R-Grnds(Contract/Agreement)		31,200				31,200
525630	M&R-Vehicles(Contract/Agreement)		2,000				2,000

EXHIBIT A
ORDINANCE NO. 90-349

FISCAL YEAR 1989-90		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCOUNT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
ZOO OPERATING FUND:Facilities Management (continued)							
525640	M&R-Equipment(Contract/Agreement)		1,670				1,670
525690	M&R-Other(Contracts/Agreements)		900				900
525710	Equipment Rental		3,000				3,000
525731	Operating Lease Payments-Buildings		1,000				1,000
525732	Operating Lease Payments-Vehicles		2,040				2,040
526310	Printing Services		350				350
526410	Telephone		43,372				43,372
526500	Travel		3,230				3,230
526800	Training, Tuition, Conferences		4,485				4,485
526900	Miscellaneous Other Purchased Services		24,285				24,285
526910	Uniform Supply/Cleaning Services		13,800				13,800
528100	License, Permits, Payments to Other Agencies		1,425				1,425
529500	Meetings		250				250
529800	Miscellaneous		500				500
	Total..Materials & Services		1,222,869		103,000		1,325,869
	Capital Outlay						
571200	Purchases-Improvements Other than Buildings		2,198				2,198
571400	Purchases-Equipment & Vehicles		86,630				86,630
571500	Purchases-Office Furniture & Equipment		4,000				4,000
571600	Purchases-Railroad Equipment & Facilities		10,000				10,000
574120	Architectural Services		7,800				7,800
574130	Engineering Services		4,700				4,700
574510	CnstrnWrk/Mtrl-Improvement Other Than Building		104,400		(22,000)		82,400
574520	CnstrnWrk/Mtrl-Building, Exhibit, Related		191,100		(100,000)		91,100
574560	CnstrnWrk/Mtrl-Railroad Equipment/Facilities		15,000				15,000
	Total Capital Outlay		425,828		(122,000)		303,828
TOTAL EXPENDITURES		36.20	2,938,163	0.00	0	36.20	2,938,163

EXHIBIT A
ORDINANCE NO. 90-349

FISCAL YEAR 1989-90		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCOUNT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
ZOO OPERATING FUND:Marketing							
	<u>Personal Services</u>						
511121	SALARIES-REGULAR EMPLOYEES (full time)						
	Managers (B&G, Const, VS, Ed, PR)	1.00	38,715		1,187	1.00	39,902
	Assoc. Pub. Affairs Specialist	1.00	29,188		733	1.00	29,921
	Asst. Pub. Affairs Specialist	1.00	26,555		589	1.00	27,144
511225	WAGES-REGULAR EMPLOYEES (part time)						
	Program Assistant I/Photographer	0.50	10,902		269	0.50	11,171
	Educational Service Aide	0.35	4,827	0.15	2,023	0.50	6,850
511235	WAGES-TEMPORARY EMPLOYEES (part time)						
	Program Assistant I	0.11	1,499	(0.11)	(1,499)	0.00	0
512000	FRINGE		33,506		990		34,496
	Total Personal Services	3.96	145,192	0.04	4,292	4.00	149,484
	Total Materials & Services		205,967		0		205,967
	Total Capital Outlay		3,615		0		3,615
	TOTAL EXPENDITURES	3.96	354,774	0.04	4,292	4.00	359,066

EXHIBIT A
ORDINANCE NO. 90-349

FISCAL YEAR 1989-90		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCOUNT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
ZOO OPERATING FUND:Visitor Services							
	Total Personal Services	63.40	1,169,984	0.00	0	63.40	1,169,984
	<u>Materials & Services</u>						
521100	Office Supplies		2,800				2,800
521110	Computer Supplies		1,100				1,100
521250	Tableware Supplies		91,660				91,660
521290	Other Supplies		64,000				64,000
521310	Subscriptions/Publications		250				250
521320	Dues		555				555
523100	Merchandise for Resale-Food		510,000				510,000
523200	Merchandise for Resale-Retail		280,000		40,600		320,600
524190	Misc. Professional Services		10,700				10,700
524300	Management Consultant Services		2,200				2,200
525640	M&R-Equipment(Contract/Agreement)		28,000				28,000
525710	Equipment Rental		3,800				3,800
526310	Printing Services		28,000				28,000
526500	Travel		4,200				4,200
526800	Training, Tuition, Conferences		2,800				2,800
526910	Uniform Supply & Cleaning		8,000				8,000
528100	License, Permits, Payments to Other Agencies		12,000				12,000
529500	Meetings		200				200
	Total Materials & Services		1,050,265		40,600		1,090,865
	Total Capital Outlay		50,995		0		50,995
	TOTAL EXPENDITURES	63.40	2,271,244	0.00	40,600	63.40	2,311,844

EXHIBIT A
ORDINANCE NO. 90-349

FISCAL YEAR 1989-90		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCOUNT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
ZOO OPERATING FUND:General Expenses							
	<u>Interfund Transfers</u>						
581010	Trans. Indirect Costs to Gen'l Fund		699,927				699,927
581615	Trans. Indirect Cost to Insur. Fund		174,748				174,748
582325	Trans. Resources to Zoo Cap. Fund		1,809,794				1,809,794
			-----		-----		-----
	Total Interfund Transfers		2,684,469		0		2,684,469
	<u>Contingency and Unappropriated Balance</u>						
599999	Contingency		124,038		(44,892)		79,146
999999	Unappropriated Balance		957,268				957,268
			-----		-----		-----
	Total Contingency and Unappropriated Balance		1,081,306		(44,892)		1,036,414
			-----		-----		-----
	TOTAL EXPENDITURES	172.30	12,598,051	0.04	0	172.34	12,598,051

EXHIBIT B
ORDINANCE NO. 90-349
SCHEDULE OF APPROPRIATIONS FY 1989-90

	CURRENT APPROPRIATION	REVISION	REVISED APPROPRIATION
<u>ZOO OPERATING FUND</u>			
Administration			
Personal Services	414,989	0	414,989
Materials & Services:	207,654	0	207,654
Capital Outlay:	3,737	0	3,737
Subtotal	626,380	0	626,380
Animal Management			
Personal Services	1,549,569	0	1,549,569
Materials & Services:	288,651	6,500	295,151
Capital Outlay:	25,075	(6,500)	18,575
Subtotal	1,863,295	0	1,863,295
Facilities Management			
Personal Services	1,289,466	19,000	1,308,466
Materials & Services:	1,222,869	103,000	1,325,869
Capital Outlay:	425,828	(122,000)	303,828
Subtotal	2,938,163	0	2,938,163
Education Services			
Personal Services	543,113	0	543,113
Materials & Services:	221,403	0	221,403
Capital Outlay:	13,904	0	13,904
Subtotal	778,420	0	778,420
Marketing			
Personal Services	145,192	4,292	149,484
Materials & Services:	205,967	0	205,967
Capital Outlay:	3,615	0	3,615
Subtotal	354,774	4,292	359,066
Visitor Services			
Personal Services	1,169,984	0	1,169,984
Materials & Services:	1,050,265	40,600	1,090,865
Capital Outlay:	50,995	0	50,995
Subtotal	2,271,244	40,600	2,311,844
General Expenses			
Contingency	124,038	(44,892)	79,146
Transfers	2,684,469	0	2,684,469
Subtotal	2,808,507	(44,892)	2,763,615
Unappropriated Balance	957,268	0	957,268
Total Zoo Operating Fund Requirements	12,598,051	0	12,598,051

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Agenda Item No. 5.2
Meeting Date: May 24, 1990

ORDINANCE NO. 90-350

STAFF REPORT

CONSIDERATION OF AMENDING METRO CODE SECTION 5.02.060 TO UPDATE THE CREDIT POLICY.

Date: May 15, 1990

Presented by: Bob Ricks

FACTUAL BACKGROUND AND ANALYSIS

The original credit policy was established by Ordinance No. 82-146 on November 4, 1982. Since that time, the dollar volume of activity has increased by over thirty times and the Financial Services Division is providing staff to manage the credit function for the Solid Waste Department. We manage over 800 active accounts currently with many accounts being added or closed each month. As with any organization managing credit, it is necessary to have flexibility in dealing with individual accounts in a timely manner in order to minimize credit losses while still allowing small businesses to participate.

This ordinance provides authorization for the Executive Officer and by delegation of the Executive Officer for subordinates to:

1. Open Lines of Credit with Metro for Solid Waste Services

Persons wishing to dispose of solid waste at Metro disposal facilities on a credit basis are required to first submit and have approved an application for credit on a form provided by Metro. The current ordinance specifies the Director of Solid Waste as responsible for the approval. In point of fact, Finance personnel perform the credit check and it is proposed to allow the Executive Officer to delegate the responsibility to the appropriate department.

2. Reverse Finance Charges

The ability to negotiate a reversal of a portion of the finance charge is a standard tool in credit management. Examples of its use include: inducing payment of bills when there is a disagreement about timing of receipt of payment and other forms of resolution are apt to cost more than warranted; inducing companies which have developed cash flow problems to pay their bill to us in a more timely manner which reduces our risk of bad debt; and as an alternative to small claims court when it is more cost effective.

3. Negotiate Repayment Schedules

The present code stipulates that an account 45 days past due may be placed on a "cash only" basis. At times companies have short-term cash flow problems where insistence of complete prompt payment could push them into bankruptcy. In

some of those cases an extended repayment schedule, with payment exceeding the current month's new charges, provides the probability of higher recovery than demanding all payment at one time.

4. Ending Pursuit of an Account Receivable

Some companies go out of business, enter bankruptcy with negligible assets, leave the state, etc. When the chance of achieving a collectable judgement of adequate size to economically compensate for the cost of collection efforts is low, it is proposed that the Executive Officer have the authority to end pursuit of the receivable.

5. Adjusting Accounts Receivable for Administrative Convenience

Discrepancies \$10 or less are routinely forgiven by the City of Portland and other governmental agencies when their credit managers do not see a pattern of abuse. This costs less than the necessary special account reconciliation and discussion with the customer to determine and demonstrate that the error is not the agency's.

6. Discontinuing Credit when a Customer Sells, Discontinues, or Substantially Changes their Business

Credit is granted based upon the facts at a given time. When the customer sells, discontinues, or substantially changes their business, this ordinance would provide the authority to discontinue credit. The customer would be able to apply for credit again using the new information in a new application.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 90-350, updating the credit policy.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 90-350
CODE SECTION 5.02.060 TO UPDATE THE)	
CREDIT POLICY.	)	Introduced by Rena Cusma,
	)	Executive Officer

WHEREAS, The Metropolitan Service District's credit policy has been established by ordinance in Metro Code 5.02.060 providing the terms of credit for commercial haulers using Metro solid waste disposal facilities; and

WHEREAS, To efficiently conduct solid waste services it is necessary to delegate customary and prudent credit management authority for timely decision making; now therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Metro Code Section 5.02.060 is amended to read as follows:

5.02.060 Payment of Disposal Charges and Surcharges;
Credit Policy:

(a) Disposal charges and out-of-state surcharges established pursuant to Sections 5.02.020, 5.02.025 and 5.02.055 of this chapter may be paid in cash or check at the time of disposal, or may be paid pursuant to the credit policy established in this section.

(b) For purposes of this section, the following definitions shall apply:

(1) Account charges are "due" on or before the last day of the Month billed and are "past due" thereafter.

(2) Account charges are "30 days past due" on the first day of the month following billing.

(3) Account charges are "45" days past due" on the fifteenth day of the month following billing.

(4) Account charges are "60 days past due" on the first day of the second month following billing.

(c) Persons wishing to dispose of solid waste at Metro disposal facilities on a credit basis shall be required to first submit and have approved an application for credit on a form provided by Metro. That application shall include such provisions as the Metro ~~[Director of Solid Waste]~~ Executive Officer deems necessary to secure prompt payment. Approval shall be ~~[by the Director, and approval shall be granted unless good cause is shown for denial of credit]~~ consistent with prudent credit practices.

(d) A finance charge of one and one-half (1-1/2) percent per month (18 percent per annum), computed from the date an account becomes thirty (30) days past due, will be assessed on all accounts which become sixty (60) days past due and will be added to the oldest months charges past due.

(e) Accounts 45 days past due may be placed on a "cash only" basis until the account is paid in full or brought to within 30 days past due. If an account is allowed to become 60 days past due, permission to dispose of waste at the facility may be denied until the account and finance charges are paid in full.

(f) If, pursuant to subsection (e) of this section, an account is placed on a "cash only" basis more than once during any consecutive 12-month period, or if service is denied because the account is allowed to become 60 days past due, the account may be required to submit a new application for credit. Such new application must be accompanied by a satisfactory payment guarantee bond, or other payment guarantee acceptable to the ~~[Director of Solid Waste]~~ Executive Officer, which is:

(1) Effective for one year; and

(2) Collectable if the account again becomes 60 days overdue during the period of the bond; and

(3) In an amount equal to 150 percent of the amount due when credit was last suspended or service was denied, whichever is greater.

(g) If a credit customer sells, terminates, or makes substantial changes in the scope of their business after their application for credit was approved, they must notify Metro of this sale, termination, or substantial change immediately. Credit may be discontinued until and unless an application containing the new information is approved.

(h) The Executive Officer shall have the authority to reverse portions of the finance charge, negotiate repayment schedules, end pursuit of accounts receivable when the likelihood of collecting does not justify further collection efforts, and make minor adjustments to accounts receivable for administrative convenience, all consistent with prudent credit practices. Adjustments over \$10,000 will require Council approval.

ADOPTED by the Council of the Metropolitan Service

District this _____ day of _____, 1990.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

Agenda Item No. 5.3
Meeting Date: May 24, 1990

ORDINANCE NO. 90-351

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 90-351 FOR THE
PURPOSE OF AMENDING CHAPTER 5, SECTION 5.02.045,
REGARDING USER FEES FOR SELF-HAULERS

May 11, 1990

Presented by Bob Martin
Phil North

PROPOSED ACTION

Pass Ordinance No. 90-351 which clarifies and confirms the application of Metro User Fees to Self-Haul loads of solid waste delivered to facilities franchised by Metro or accepting Metro waste under agreements with Metro.

FACTUAL BACKGROUND AND ANALYSIS

Section 5.02.045 of the Metro Code was amended by action of the Council on March 22, 1990. This was done in conjunction with the general consideration of the solid waste rate ordinance for FY 1990-91. Self-Haul users of the St. Johns Landfill, Metro South Station, and the Metro East Station pay a flat fee for disposal. The User Fee is built into the flat fee.

For Self-Haul users of franchised facilities or facilities accepting Metro waste under a contractual relationship with Metro, it is necessary to specifically provide for the User Fee as a discrete component of their rate. The general language of Section 5.02.045 establishes the User Fee obligations for the operators of solid waste disposal facilities. The proposed ordinance amendment clarifies and confirms the application of the User Fee to Self-Haul users. The effective date of this clarifying ordinance is July 1, 1990.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 90-351.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING METRO) ORDINANCE NO. 90-351
CODE CHAPTER 5.02, SECTION 5.02.045,)
REGARDING USER FEES FOR SELF-HAULERS) Introduced by Rena Cusma,
) Executive Officer

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

SECTION 1.

Chapter 5, Section 5.02.045 (a) is hereby amended as follows:

(a) Tier One User Fee

- (1) For noncompacted commercial solid waste, \$0.75 per cubic yard delivered, or \$7.00 per ton delivered.
- (2) For compacted commercial solid waste \$2.25 per cubic yard delivered; or \$7.00 per ton delivered.
- (3) For Self-Haul solid waste, \$0.75 per cubic yard delivered at franchised or contracted facilities that are not otherwise exempt from such charge, excluding waste delivered to St. John's Landfill, Metro South Station, Metro East Station and the Metro-Riedel Compost facility.
- (4) The User Fee provided for in (3), Section 1 of this ordinance shall be effective from and after July 1, 1990.

Adopted by the Council of the Metropolitan Service District this _____ day of _____, 1990.

Tanya Collier,
Presiding Officer

Agenda Item No. 5.4
Meeting Date: May 24, 1990

ORDINANCE NO. 90-352

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 90-352 FOR THE PURPOSE OF REPEALING ORDINANCE NO. 85-194 RESTRICTING THE USE OF THE ST. JOHNS LANDFILL; AUTHORIZING LIMITED USE OF METRO FACILITIES FOR DISPOSAL OF NON-DISTRICT SOLID WASTE; AND REPEAL OF SECTION 5.02.055 OF THE METRO CODE RELATING TO "OUT OF STATE SURCHARGES"

May 11, 1990

Presented by Bob Martin
Phil North

PROPOSED ACTION

Passage of the Ordinance No. 90-352 which will repeal Ordinance No. 85-194 which restricted the use of St. Johns Landfill to solid waste generated within the District. Also, Ordinance No. 90-352 will authorize limited use of Metro facilities for disposal of Non-District solid waste and will repeal Metro Code Section 5.02.055 with respect to "Out of State Surcharges".

FACTUAL BACKGROUND AND ANALYSIS

The proposed repeal of Ordinance NO. 85-194 is due to substantial change in circumstances. The primary purpose behind Ordinance NO. 85-194 was that the St. Johns Landfill was expected to reach its capacity before a new landfill would become available. To preserve the landfill capacity for the District's needs was seen to be of critical importance.

Metro now has a contract with Oregon Waste Systems for disposal of the district's solid waste at the Gilliam County Landfill. Also, the Metro East Station will open to coincide with the closure of the St. Johns's Landfill by February 1991. The availability of the Gilliam County Landfill and the Metro East Station were unknown factors when Ordinance NO. 85-194 was passed. Also, the precision of measuring remaining landfill capacity at the St. Johns Landfill has become greater as the actual closure date approaches.

The result of the change in circumstances since the passage of Ordinance NO. 85-194 is that there is no longer a need to impose a complete ban on out-of-District waste coming into Metro facilities. If a determination can be made that there is available capacity, there are other appropriate conditions and requirements that should also be met. Among them are; 1) no adverse impact on Metro ratepayers; 2) no reduced standards of acceptability for disposal and; 3) such other conditions unique to the situation as may be justified.

One last feature of the proposed ordinance is the repeal of Section 5.02.055 of the Metro solid waste rate ordinance relating to "Out-of State Surcharges". Logically, this section should have been repealed when Ordinance NO. 85-194 was passed because it no longer served any purpose. Nonetheless, this section should now be deleted in order to allow for application of uniform rates at Metro facilities for all users.

One further note with respect to the proposed ordinance is that the City of Washougal, Washington has made a request of Metro for use of the St. Johns Landfill and Metro facilities for a period of "9 to 12 months". This is intended to take place during an interim period while construction of a new transfer station and recycling center is underway.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 90-352.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF REPEALING METRO	)	ORDINANCE NO. 90-352
ORDINANCE NO. 85-194 RESTRICTING THE)	
USE OF THE ST. JOHNS LANDFILL;	)	Introduced by Rena Cusma,
AUTHORIZING LIMITED USE OF METRO	)	Executive Officer
FACILITIES FOR DISPOSAL OF NON-)	
DISTRICT SOLID WASTE; AND REPEAL OF)	
SECTION 5.02.055 OF THE METRO CODE)	
RELATING TO "OUT OF STATE SURCHARGES")	

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

SECTION 1.

1. Ordinance NO. 85-194 is hereby repealed.

SECTION 2.

1. Solid Waste generated outside of the District shall not be accepted at the St. John's Landfill, Metro South Station, Metro East Station or Metro-Riedel Compost Facility for disposal unless a special permit to do so is issued by the Metro Executive Officer. Any permit issued shall specify the circumstances justifying such exception . Any permit issued shall be subject to:
 - (a) Available landfill or facility capacity considering the capacity needs for disposal of Solid Waste generated within the District;
 - (b) No adverse impact upon District rate payers;
 - (c) Any Solid Waste authorized to be disposed under this ordinance shall be subject to the same standards and conditions pertaining to "Acceptable Waste" deliveries to the abovenamed facilities.

(d) Any additional conditions as specified by the Executive Officer which may be necessary for the safe, efficient, or cost effective operation of Metro facilities.

2. Any special permit issued under paragraph 1 shall expire in a period of time not to exceed 12 months from date of issuance unless a longer period of time is authorized by the Metro Council. Any renewals or extensions of a permit resulting in a cumulative permit period exceeding 12 months shall require the approval of the Metro Council.
3. Any special permit issued by the Executive Officer may be revoked upon thirty (30) days notice to the permit holder.

SECTION 3.

1. Section 5.02.055 of Chapter 5 of the Metro Code is hereby repealed.

Adopted by the Council of the Metropolitan Service District this ____
____ day of _____, 1990.

Tanya Collier, Presiding Officer

Agenda Item No. 5.5
Meeting Date: May 24, 1990

ORDINANCE NO. 90-353

Council
5/24/90
Item #5.5

Ordinance No. 90-353

The Council of the Metropolitan Service District

An ordinance enacted as a Supplemental Ordinance to Ordinance Nos. 89-319 and 89-320; establishing a plan for financing the 1989 Compost Project to serve as a part of the Metropolitan Service District's solid waste disposal system; authorizing the issuance of Additional Bonds in connection with its issuance of the 1989 Compost Project Bonds for such purpose; and establishing and determining other matters in connection therewith.

Enacted on June 14, 1990

Prepared by:

*Stoel Rives Boley Jones & Grey,
Bond Counsel*

Table of Contents

[Note: This Table of Contents is provided solely for the convenience of the reader and does not constitute a part of this Ordinance.]

Section A. Findings.	1
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ARTICLE I

DEFINITIONS AND GRANTING CLAUSES

Section 101. Terms Defined in Master Ordinance; Conflicting Definitions.	3
Section 102. Definitions.	3
Section 103. Granting Clauses.	16
(a) The Series One Trust Estate.	16
(i) The Series One Issuer Granted Trust Estate.	16
(ii) The Series One Borrower Granted Trust Estate.	16
(b) The Series One Bonds.	17
(c) Additional Assets of the Series A Trust Estate.	17
(i) The Issuer Granted Trust Estate.	18
(ii) The Borrower Granted Trust Estate.	18
(iii) The Series A Bonds.	18
(d) Pledge of the Series B Refunding Account.	19

ARTICLE II

AUTHORIZATION, ISSUANCE AND PROVISIONS OF SERIES ONE BONDS

Section 201. Authorization of Series One Bonds; Limited Obligations.	21
(a) Principal Amount.	21
(b) Series One Bonds to Constitute Project Bonds of a Single Series Under Master Ordinance.	21
(c) Limited Obligations.	21
(d) Tax-Exempt Obligations.	21
Section 202. Maturity Date for the Series One Bonds.	21
Section 203. Denominations; Dating; Interest Accrual; Computation of Interest; Payments Due on Holidays.	21
(a) Denominations and Dating.	21
(b) Interest Accrual.	21
(c) Payments Due on Holidays.	22
(d) Computation of Interest.	22
(e) Method of Payment.	22
(f) Provisions for Book-Entry System.	22
(g) Form of Series One Bonds.	23

Section 204. Interest Rate Provisions.	23
Section 205. Initial Interest Rate Period.	23
Section 206. Variable Rates and Commercial Paper Rates.	24
(a) Determination by Series One Remarketing Agent; Notice of Rates Determined.	24
(b) Weekly Rate Periods.	25
(c) Monthly Rate Periods.	25
(d) Semiannual Rate Periods.	25
(e) Extended Rate Periods.	26
(f) Commercial Paper Rate Periods.	26
Section 207. Conversion between Variable Rate Periods and Commercial Paper Rate Periods.	27
(a) Conversion at Series One Remarketing Agent's Option.	27
(b) Conversion Dates.	27
(c) Notice From Series One Remarketing Agent of Conversion.	27
(d) Notice to Owners.	28
(e) Other Determinations by Series One Remarketing Agent.	28
(f) When Conversion Not Effective.	28
Section 208. Conversion to Fixed Rate.	29
(a) Conversion Upon Borrower's Request; Conversion Date.	29
(b) Duties of Series One Remarketing Agent Upon Conversion to Fixed Rate.	29
(c) Notice of Conversion to Owners.	29
(d) Determination of Fixed Rates.	30
(e) [RESERVED]	30
(f) When Fixed Rate Conversion Not Effective.	30
Section 209. Conditions Precedent to Issuance of Series One Bonds.	30

ARTICLE III

REDEMPTION AND PURCHASE OF SERIES ONE BONDS

Section 301. Optional Redemption.	32
(a) Optional Redemption During Weekly, Monthly or Commercial Paper Rate Periods.	32
(b) Optional Redemption During Semiannual Rate Period.	32
(c) Optional Redemption on Last Interest Payment Date of Extended Rate Period.	32
(d) Optional Redemption During Fixed Rate Period.	32
Section 302. Tenders During Variable Rate Periods.	33
(a) Purchase Dates.	33
(b) Notice of Tender.	33
(c) Series One Bonds to be Remarketed	34
(d) Remarketing of Tendered Bonds.	34
Section 303. Tenders During Commercial Paper Rate Periods.	34
(a) Purchase Dates.	34
(b) Remarketing of Tendered Commercial Paper Bonds.	35
(c) Election to Retain.	35
Section 304. Tenders Upon Variable, Commercial Paper or Fixed Rate Conversion.	35

(a) Purchase Dates and Election to Retain.	35
(b) Notice of Election to Retain.	36
(c) Notice to Owners.	36
(d) Remarketing.	36
Section 305. Tenders Upon Expiration, Substitution or Termination of Series One Credit Facility; Mandatory Purchase Upon Event of Default Under Series One Credit Agreement.	37
(a) Purchase Dates Upon Expiration, Substitution or Termination of Series One Credit Facility.	37
(b) Election to Retain In Connection With Purchase Upon Expiration, Substitution or Termination of Series One Credit Facility.	37
(c) Notice to Owners of Purchase Upon Expiration, Substitution or Termination of Series One Credit Facility.	37
(d) Remarketing.	38
(e) Mandatory Purchase Upon Occurrence of Event of Default under Series One Credit Agreement.	38
Section 306. Purchase of Tendered Bonds.	38
(a) Notices.	38
(b) Sources of Payment.	39
(c) Payments by the Series One Tender Agent; Payments Due on Saturdays, Sundays and Holidays.	39
(d) Registration and Delivery of Tendered or Purchased Bonds.	39
(e) Delivery of Bonds; Effect of Failure to Surrender Bonds.	39
(f) No Physical Delivery Required While Book-Entry System in Place.	40
Section 307. Credit Purchased Bonds.	40
Section 308. No Purchase or Sales After Certain Defaults.	40
Section 309. Insufficient Funds for Purchases.	41
Section 310. Restriction on Remarketing of Bonds to Issuer or Borrower.	41

ARTICLE IV

DEPOSIT AND APPLICATION OF BOND PROCEEDS; ESTABLISHMENT AND OPERATION OF ACCOUNTS

Section 401. Establishment of Accounts.	42
Section 402. Use of Series One Bond Proceeds.	42
Section 403. The Series One Subaccount of the 1989 Construction Account.	43
Section 404. The Series B Refunding Account.	43
Section 405. The Series One Subaccount of the 1989 Debt Service Account.	43
Section 406. The Series One Subaccount of the 1989 Rebate Account.	44
(a) Calculation of Rebate Amount; Deposits to and Withdrawals from the Series One Subaccount of the 1989 Rebate Account.	44
(b) Payment of Rebate Amount to United States.	44
(c) Conformance to the Code Requirements; "Issue" Defined.	45
Section 407. Investment of Moneys in Accounts.	45

ARTICLE V

THE 1989 TRUSTEE THE SERIES ONE REMARKETING AGENT AND THE SERIES ONE TENDER AGENT

Section 501. Acceptance by 1989 Trustee.	46
Section 502. Responsibilities of 1989 Trustee.	46
Section 503. Evidence on Which 1989 Trustee May Act.	46
Section 504. Compensation.	47
Section 505. [RESERVED]	47
Section 506. Resignation of 1989 Trustee.	47
Section 507. [RESERVED]	47
Section 508. [RESERVED]	47
Section 509. [RESERVED]	47
Section 510. [RESERVED]	47
Section 511. Series One Tender Agent; Duties of Series One Tender Agent.	47
Section 512. Series One Remarketing Agent.	49
Section 513. 1989 Trustee's Liability for Series One Tender Agent and Series One Remarketing Agent.	50

ARTICLE VI

THE SERIES ONE CREDIT FACILITY

Section 601. The Series One Credit Facility.	50
(a) Series One Credit Facility to be Held as Security for the Series One Bonds.	50
(b) No Surrender or Transfer of Series One Credit Facility.	50
(c) Rights and Duties under Series One Credit Facility.	50
Section 602. Draws Under the Series One Credit Facility.	51
(a) Draws to Pay Principal, Premium and Interest on the Series One Bonds.	51
(b) Draws to Pay Purchase Price.	51
(c) Deposit of Moneys Received Under Series One Credit Facility.	51
Section 603. Subrogation Rights of the Series One Credit Provider.	51
Section 604. Alternate Credit Facility.	51
(a) Surrender of Series One Credit Facility In Connection With Alternate Credit Facility.	51
(b) Requirements for Alternate Credit Facility	51
(c) Notice of Substitution of Alternate Credit Facility.	52

ARTICLE VII

SERIES ONE EVENTS OF DEFAULT AND REMEDIES

Section 701. Series One Events of Default.	53
(a) Series One Events of Default.	53
(b) Limitations on Actions and Remedies Following Series One Event of Default.	53

(c) Limitations on the Commencement of Suits.	54
(d) Acceleration.	54
(e) Transfer of Moneys to the Series One Subaccount of the 1989 Debt Service Account Upon Occurrence of Series One Event of Default.	55
Section 702. Accounting and Examination of Records After Default and Assignment of Contracts.	55
Section 703. Application of Revenues and Other Moneys After Default.	55
Section 704. [RESERVED]	56
Section 705. Proceedings Brought by 1989 Trustee.	56
Section 706. Restriction on Owner's Action.	57
Section 707. Not Exclusive.	57
Section 708. Effect of Waiver and Other Circumstances.	57
Section 709. Termination of Proceedings.	58
Section 710. Notice of Default.	58
Section 711. Series One Credit Provider's Rights Upon Series One Events of Default.	58

ARTICLE VIII

AMENDMENTS TO SERIES ONE SUPPLEMENTAL ORDINANCE AND SERIES ONE LOAN AGREEMENT

Section 801. Amendments Effective Without Consent of Owners.	59
Section 802. Supplemental Ordinances Effective With Consent of Owners.	60
Section 803. General Provisions.	60
Section 804. Amendments of Series One Loan Agreement.	61

ARTICLE IX

NOTICES AND CONSENTS

Section 901. Mailing of Notice.	61
(a) Notice to Owners.	61
(b) Notice to Other Parties.	61
Section 902. Powers of Amendment.	63
Section 903. Consent of Owners.	63
Section 904. Modifications by Unanimous Consent.	64
Section 905. Exclusion of Series One Bonds.	64
Section 906. Notation on Series One Bonds.	64
Section 907. Consent of Series One Credit Provider Required in Certain Cases.	65
Section 908. Consent of Borrower Required in Certain Cases.	65
Section 909. Consent of 1989 Credit Provider Required in Certain Cases.	65

ARTICLE X

MISCELLANEOUS

Section 1001. Defeasance.	66
(a) Complete Defeasance of Series One Supplemental Ordinance.	66
(b) Partial Defeasance of Series One Supplemental Ordinance.	66

(c) When Series One Bonds Deemed Paid.	66
(d) Unclaimed Moneys Deposited for Defeasance Purposes.	67
(e) No Interest of 1989 Credit Provider.	68
Section 1002. Evidence of Signatures of Owners and Ownership of Series One Bonds.	68
Section 1003. Moneys Held for Particular Series One Bonds.	68
Section 1004. Preservation and Inspection of Documents.	68
Section 1005. Parties Interested Herein.	68
Section 1006. No Recourse.	68
Section 1007. Severability of Invalid Provisions.	68
Section 1008. Limitation of Issuer's Liability.	69
Section 1009. Governing Law.	69
Section 1010. Headings Not Binding.	69
Section 1011. Sale of Series One Bonds; Authorization of Other Acts.	69
Section 1012. Execution of Bonds.	70
Section 1013. Covenant to Maintain Federal Tax-Exempt Status of Interest.	70
Section 1014. Notice to Rating Agencies.	70
Section 1015. References to Series One Credit Facility Ineffective Upon Termination or Expiration.	70
Section 1016. Conflict with Master Ordinance.	71
Section 1017. [RESERVED]	71
Section 1018. Effectiveness of This Ordinance.	71
Section 1019. Relationship to 1989 Supplemental Ordinance.	71

Metropolitan Service District
Counties of Multnomah, Clackamas and Washington
State of Oregon

Ordinance No. 90-353

An ordinance enacted as a Supplemental Ordinance to Ordinance Nos. 89-319 and 89-320; establishing a plan for financing the 1989 Compost Project to serve as a part of the Metropolitan Service District's solid waste disposal system; authorizing the issuance of Additional Bonds in connection with its issuance of the 1989 Compost Project Bonds for such purpose; and establishing and determining other matters in connection therewith.

Be it enacted by the Council of the Metropolitan Service District:

Section A. Findings. The Council (the "Council") of the Metropolitan Service District, a political subdivision organized and existing under the laws of the State of Oregon (the "Issuer"), hereby finds and determines as follows:

(a) Pursuant to and in accordance with the provisions of Oregon Revised Statutes Chapter 268 (the "Act") and related provisions of the Oregon Revised Statutes, the Issuer is responsible for and now operates a waste disposal system (as more particularly described in Ordinance No. 89-319 (the "Master Ordinance"), the "System") for the purpose of managing and disposing of waste generated within and without the Service Area (as defined in the Master Ordinance).

(b) Pursuant to the provisions of the Act (as defined in the Master Ordinance) and other applicable provisions of law, the Issuer is authorized to issue revenue bonds to finance landfills, transfer facilities, resource recovery facilities and other improvements, facilities and equipment necessary or desirable for the System regardless of whether such improvements, facilities and equipment are to be owned by the Issuer or any other person and regardless of whether such improvements, facilities or equipment are to be located within or without the jurisdictional boundaries of the Issuer.

(c) The Issuer has enacted the Master Ordinance in order to establish a plan for the financing from time to time various components and other fiscal needs of the System and authorizing the issuance of one or more series of revenue bonds for such purpose under the provisions of supplemental ordinances adopted pursuant to the Master Ordinance.

(d) In order to finance the acquisition, construction and installation of the 1989 Compost Project (as more particularly described in the 1989 Supplemental Ordinance (as defined herein)), which 1989 Compost Project is to be constructed, owned and operated by Riedel Oregon Compost Company, Inc., an Oregon corporation (the "Borrower") and used in the operation of the System, the Issuer has issued pursuant to and as authorized by the Act \$26,605,000 in aggregate principal amount of its Waste Disposal Project Revenue Bonds (Riedel Oregon Compost Company, Inc. Project), 1989 Series A and B (as herein defined, the "1989 Compost Project Bonds"), as a Series of Project Bonds under and as defined in the Master Ordinance, and enacted Ordinance No. 89-320 (the "1989 Supplemental Ordinance") to establish and determine the terms and conditions of the 1989 Compost Project Bonds, to secure the repayment of the 1989 Compost Project Bonds and to set forth, establish and determine other matters relevant to the 1989 Compost Project Bonds.

(e) In order to finance certain costs necessary for completion of the 1989 Compost Project, which costs were unanticipated at the time of issuance of the 1989 Compost Project Bonds, the refunding of the Series B Bonds and certain Costs of Issuance and other reasonably related costs, the Issuer has determined to issue pursuant to and as authorized by the Act not to exceed \$5,000,000 in aggregate principal amount of its Waste Disposal Project Revenue Bonds (Riedel Oregon Compost Company, Inc. Project) 1990 Series One (the "Series One Bonds"), which are expressly designated as comprising a part of the Series B Bonds and which, together with the Series A Bonds, constitute the 1989 Compost Project Bonds, a single Series of Project Bonds under and as defined in the Master Ordinance, and is enacting pursuant to, in accordance with and as a supplement of the 1989 Supplemental Ordinance this Ordinance No. 90-353 (the "Series One Supplemental Ordinance") to establish and determine the terms and conditions of the Series One Bonds, to secure the repayment of the Series One Bonds and to set forth, establish and determine other matters relevant to the Series One Bonds.

(f) The Series One Bonds are limited obligations of the Issuer, payable solely and only out of the Series One Trust Estate (as defined herein); and no recourse shall be had against any properties, funds or assets of the Issuer (other than the Series One Trust Estate) for the payment of any amounts owing under or with respect to the Series One Bonds or this Series One Supplemental Ordinance. The Series One Trust Estate includes the Series One Loan Repayments (as defined herein) and the right to payments under the Series One Credit Facility (as defined herein), and the Issuer has no responsibility for the performance of the obligations to make Series One Loan Repayments or to reimburse payments made under the Series One Credit Facility.

(g) Pursuant to the Series One Loan Agreement (as defined herein), the Issuer will use the proceeds of the Series One Bonds to make the Series One Loan (as defined herein) to the Borrower in order to: (i) finance certain unanticipated costs of completing the acquisition, construction, installation and equipping of the 1989 Compost Project; (ii) refund the Series B Bonds; (iii) pay certain Costs of Issuance incurred in connection with the Series One Bonds; and (iv) pay a portion of the capitalized interest to become due on the Series One Bonds.

(h) Pursuant to the Amended and Restated Intercreditor Agreement, the Borrower, the Issuer, the 1989 Trustee, the Series One Credit Provider and the 1989 Credit Provider have agreed that the Borrower's obligations to make Series One Loan Repayments under the Series One Loan Agreement in respect of the Series One Bonds shall be subordinate to, among other things, the Borrower's obligations to make Series A Loan Repayments under the 1989 Loan Agreement (which subordination shall in no way render moneys drawn under the Series One Credit Facility subordinate to Series A Loan Repayments), and consequently, sufficient funds may be unavailable for purposes of making Series One Loan Repayments. Notwithstanding any such insufficiency, the Owners of the Series One Bonds and the 1989 Trustee may not, as more particularly set forth in Section 701(c) of this Series One

Supplemental Ordinance, and the Series One Credit Provider agrees in the Amended and Restated Intercreditor Agreement not to, commence, bring, maintain, joined or otherwise participate (except as a named defendant) in any action or proceeding against the Borrower or its properties or revenues by reason of the occurrence of any Series One Event of Default so long as the 1989 Credit Facility remains in effect or any amounts remain outstanding under the 1989 Credit Agreement, and the Borrower agrees to waive and/or extend all statute of limitations applicable to any such claims throughout this period.

(i) The Borrower has arranged for United States National Bank of Oregon, a bank organized and existing under the laws of the United States of America (as more particularly defined herein, the "Series One Credit Provider"), to issue in favor of the 1989 Trustee (as herein defined) the Series One Credit Facility as security for the payment when due of the principal of, premium (if any) and interest on the Series One Bonds and as security for the payment when due of the Purchase Price (as defined herein) of any Series One Bonds required to be purchased as provided in this Series One Supplemental Ordinance. The restrictions on actions against the Borrower described in the preceding paragraph shall in no way preclude the 1989 Trustee from exercising its rights and remedies against the Series One Credit Provider to honor a conforming draw under the Series One Credit Facility.

ARTICLE I

DEFINITIONS AND GRANTING CLAUSES

Section 101. Terms Defined in Master Ordinance; Conflicting Definitions. All terms used herein and not otherwise defined herein shall have the same meanings assigned thereto in the Master Ordinance and the 1989 Supplemental Ordinance; *provided that* in the event of any conflict between the definition of a term as set forth in the Master Ordinance and the definition of the same term as set forth in the 1989 Supplemental Ordinance or in this Series One Supplemental Ordinance, the definition of such term as set forth in this Series One Supplemental Ordinance (if such term is defined herein) or in the 1989 Supplemental Ordinance (if such term is not defined in this Series One Supplemental Ordinance) shall govern and control for all purposes of this Series One Supplemental Ordinance and the Series One Bonds; *and further provided that* in the event of any conflict between the definition of a term as set forth in the 1989 Supplemental Ordinance and this Series One Supplemental Ordinance, the definition of such term as set forth in this Series One Supplemental Ordinance shall govern and control for all purposes of this Series One Supplemental Ordinance and the Series One Bonds.

Section 102. Definitions. As used in this Series One Supplemental Ordinance, the following terms shall have the respective meanings set forth below:

"Account" or "Accounts" shall mean one or more of the special trust accounts created and established pursuant to the 1989 Supplemental Ordinance or this Series One Supplemental Ordinance.

"Act of Bankruptcy" means: (a) the filing of a petition in bankruptcy by or against the Borrower or the Series One Credit Provider under the Federal Bankruptcy Code or under any similar act which may be hereafter enacted or, in the case of the Series One Credit Provider, under any similar laws of any nation having jurisdiction, unless within 90 days (in the case of a petition in bankruptcy against the Borrower or the Series One Credit Provider) such petition shall have been dismissed and such dismissal shall be final and not subject to appeal; or (b) the making by the Borrower or the Series One Credit Provider of an assignment for the benefit of creditors.

"Additional Bonds" means 1989 Compost Project Bonds issued pursuant to and in accordance with Section 210 of the 1989 Supplemental Ordinance.

"Affiliate" when used with respect to the Borrower, shall mean a person:

(i) who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Borrower; or

(ii) who directly or indirectly through one or more intermediaries beneficially owns or holds 5% or more of the voting stock (or in the case of an entity which is not a corporation, 5% or more of the equity interest) of the Borrower; or

(iii) 5% or more of the voting stock (or in the case of an entity which is not a corporation, 5% or more of the equity interest) of which is beneficially owned or held by the Borrower;

it being understood that for purposes of the foregoing provisions:

(A) the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting stock or otherwise; and

(B) the term "voting stock" means securities of any class or classes of a corporation, the holders of which are entitled, in the absence of contingencies, to elect a majority of the corporate directors or persons performing similar functions.

"Alternate Credit Facility" means a standby bond purchase contract, letter of credit, bond insurance policy, surety bond, line of credit, third-party collateral agreement or guarantee or other credit enhancement device or combination thereof given or provided to or in favor of the 1989 Trustee pursuant to Section 604 of this Series One Supplemental Ordinance as security for (a) the payment of all or any portion of the principal of or interest on all or any of the Series One Bonds, or (b) the payment or performance of any other obligations under or with respect to all or any of the Series One Bonds.

"Amended and Restated Intercreditor Agreement" shall mean the Amended and Restated Intercreditor Agreement dated as of June 1, 1990 among the 1989 Credit Provider, the Series One Credit Provider, the 1989 Trustee and the Issuer and consented to by the Borrower.

"Authorized Denominations" means: (i) during any period in which the Series One Bonds bear interest at a Weekly, Monthly or Commercial Paper Rate, \$100,000 or any integral multiple of \$5,000 in excess of \$100,000; and (ii) during any period in which the Series One Bonds bear interest at a Semi-annual, Extended or Fixed Rate, \$5,000 and any integral multiples thereof; *provided that* notwithstanding the foregoing, a single Series One Bond may be issued in a denomination other than as provided in (i) and (ii) above in order to take account of the issuance of the Series One Bonds in an aggregate principal amount which is not an integral multiple of \$5,000 or \$100,000.

"Authorized Issuer Representative" shall mean the Executive Officer of the Issuer or any person designated by the Executive Officer in writing to act on behalf of such Executive Officer for purposes of this Series One Supplemental Ordinance.

"Beneficial Owners" shall mean, whenever used with respect to a Series One Bond, the person or entity in whose name such Series One Bond is recorded as the beneficial owner of such Series One Bond by a

Participant on the records of such Participant pursuant to the arrangements for book-entry determination of ownership applicable to the Securities Depository.

"Bond Counsel" shall mean Steel Rives Boley Jones & Grey, or an attorney or firm of attorneys of recognized national standing in the field of law relating to municipal bonds selected by the Issuer.

"Bond Year" means, with respect to particular Series One Bonds which constitute a single "issue" of Bonds within the meaning of Section 148(f) of the Code, each one year period commencing on: (i) the date of issuance and delivery of the bonds of such issue; or (ii) such other date as the Issuer may elect with respect to such issue of bonds in accordance with the application provisions of Section 148(f) of the Code and the regulations thereunder.

"Book-Entry System" shall mean that system whereby the clearance and settlement of securities transactions is made through electronic book-entry changes, thereby eliminating the need of physical movement of securities.

"Borrower" shall mean Riedel Oregon Compost Company, Inc., an Oregon corporation, and (but only to the extent permitted under the express terms of this Series One Supplemental Ordinance, the 1989 Supplemental Ordinance, the Series One Loan Agreement, the 1989 Loan Agreement, the Service Agreement, and the 1989 Credit Agreement) its lawful successors and assigns.

"Business Day" or "business day" means any day on which (i) banks located in any of the cities in which the principal office of the 1989 Trustee, the Series One Remarketing Agent, the Series One Paying Agent, the Series One Tender Agent or the Series One Credit Provider is located are not required or authorized to remain closed and (ii) the New York Stock Exchange is not closed.

"Calculation Period" means the period elected by the Issuer in accordance with and pursuant to the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto) for calculating the Rebate Amount with respect to the Series One Bonds.

"Capital Costs" shall mean and include all costs of acquisition, construction, reconstruction, improvement, betterment or extension of the 1989 Compost Project or any part thereof, including, without limitation, the costs of:

- (a) any demolitions or relocations necessary in connection with the acquisition, construction, reconstruction, improvement, betterment and extension of the 1989 Compost Project and any renewals, replacements, alterations, improvements, additions, machinery and equipment, facilities, paving, grading, excavation, blasting or removals deemed by the Borrower to be necessary or useful or convenient in connection therewith;

- (b) obligations incurred for labor and materials and payments made to contractors, builders and materialmen in connection with the acquisition, construction, reconstruction, improvement, betterment and extension of the 1989 Compost Project, and for the restoration of property damaged or destroyed in connection therewith;

- (c) fees and expenses of the 1989 Trustee during construction, the cost of surety bonds to secure moneys in the 1989 Construction Account, payments, taxes or other governmental charges lawfully levied or assessed during construction or on any property acquired, and premiums on insurance (if any) during such construction or acquisition or reimbursement to the appropriate person for such premium payments;

(d) fees and expenses for studies, surveys and reports, engineering, borings, testings, estimates of costs and revenues, preparation of plans and specifications and inspecting or supervising construction or acquisition, as well as for the performance of all other duties of engineers or architects in connection with the acquisition, construction, reconstruction, improvement, betterment or extension of the 1989 Compost Project or required by the 1989 Supplemental Ordinance;

(e) expenses of administration properly chargeable to the acquisition, construction, reconstruction, improvement, betterment or extension of the 1989 Compost Project, including legal expenses and fees, financing charges, costs of audits and fiscal advice, the fees and expenses of any Fiduciary for the 1989 Compost Project Bonds or Additional Bonds and other similar administrative costs incurred during the construction period in connection with the 1989 Compost Project Bonds or Additional Bonds but only to the extent such fees, expenses and costs have been capitalized, and all other items of expense not elsewhere in this definition specified, incident to the acquisition, construction, reconstruction, improvement, betterment or extension of the 1989 Compost Project, including the acquisition of real estate, franchises and rights-of-way therefor, and abstracts of title and title insurance;

(f) the cost and expense of acquiring by purchase or condemnation or by leasing such property, lands, rights-of-way, franchises, easements, and other interests in land as may be deemed necessary or convenient for the acquisition, construction, reconstruction, improvement, betterment or extension of any part of the 1989 Compost Project, and options and partial payments thereon, and the amount of any damages incident to or consequent upon the same;

(g) any obligation or expense heretofore or hereafter expended or incurred by the Borrower or any other person and any amounts heretofore or hereafter advanced by the Borrower or any other person for any of the foregoing purposes;

(h) any Costs of Issuance incurred in connection with the 1989 Compost Project Bonds; and

(i) interest on the 1989 Compost Project Bonds during the period of construction, installation, acquisition and testing of a Project.

"Cede & Co." shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the 1989 Compost Project Bonds.

"Closing Date" means the date on which the Series One Bonds are first issued, sold and delivered.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

"Commercial Paper Rate" means, when used with respect to any particular Series One Bond bearing interest in a Commercial Paper Rate Period, the interest rate determined for each Commercial Paper Rate Period applicable thereto pursuant to Section 206(f) hereof.

"Conversion Date" means: (i) when used with respect to a Fixed Rate, the date on which a Fixed Rate becomes effective with respect to the affected Series One Bonds pursuant to Section 208 hereof; and (ii) when used with respect to any particular Variable Rate Period or Commercial Paper Rate Period, the first date on which a Rate Period of that type becomes effective with respect to the affected Series One Bonds pursuant to Section 207 hereof, which first date immediately follows the last day of a Rate Period of a different type for the affected Series One Bonds.

"Costs of Issuance" shall mean all costs necessary or attributable to the issuance of any Series One Bonds which are not Capital Costs described in subparts (a) through (g) and (i) of the definition of "Capital Costs" set forth above, and which include, but are not limited to, legal fees and expenses, fees and expenses of any consulting engineer and financial advisors, cost of audits, advertising and printing expenses, fees and expenses of the Fiduciaries, costs of Series One Bond ratings, the initial fees, expenses and other amounts payable to any indexing agent, depository, remarketing agent, tender agent or any other person whose services are required with respect to the issuance of any Series One Bonds, discounts to the underwriter(s) or other purchasers of the Series One Bonds incurred in the issuance and sale of the Series One Bonds, and (to the extent not treated as interest under the Code) the fees and expenses incurred in connection with the Series One Credit Facility, including the fees and expenses of counsel to the Series One Credit Provider.

"Credit Purchased Bond" means any Series One Bond during any period in which such Series One Bond is owned by or held on behalf of the Series One Credit Provider as a result of such Series One Bond having been purchased pursuant to Article III hereof from the proceeds of a draw under the Series One Credit Facility, regardless of whether such Series One Bond is actually registered in the name of or delivered to the Series One Credit Provider or its agent or its designee.

"Delivery Office" means the office of the Series One Tender Agent which the Series One Tender Agent shall specify in writing to the Issuer, the Borrower, the 1989 Trustee, the Series One Credit Provider and the Series One Remarketing Agent as being the place for delivering Series One Bonds for purchase pursuant to Article III hereof, the initial Delivery Office of the initial Series One Tender Agent being, First Interstate Bank of Oregon, N.A., Corporate Financial Services T-10, 1300 S.W. Fifth Avenue, Portland, Oregon 97201. During any period in which the Series One Bonds are not subject to the Book-Entry System, the Delivery Office shall be in New York, New York.

"DTC" shall mean The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

"Event of Default" shall mean a Series One Event of Default as defined in Section 701 hereof.

"Excess Earnings" means the amount of investment earnings derived from the investment of the "proceeds" of the Series One Bonds or any moneys deemed to be "proceeds" of the Series One Bonds of such issue (all within the meaning of the Code), including but not limited to moneys on deposit from time to time in any Account or subaccount established with respect to such issue of Series One Bonds (whether or not formally established as an Account hereunder and regardless of the person who may hold the moneys therein) containing any moneys which, in accordance with the applicable provisions of the Code, constitute "proceeds" of such issue of Series One Bonds for purposes of Section 148 of the Code, to the extent that such investment earnings exceed the amount that would have been earned on such moneys had such moneys been invested at a yield equal to the yield on such issue of Series One Bonds (with the yield on such issue of Series One Bonds being determined in accordance with the provisions of Section 148(f) of the Code); *provided that* the investment earnings on amounts on deposit from time to time in the Series One Subaccount of the 1989 Debt Service Account shall not be taken into account to the extent that the gross investment earnings on such account for the Bond Year are less than \$100,000, all within the meaning of and as contemplated by Code Section 148(f)(4)(A)(ii); it being the intent of this definition that "Excess Earnings" shall be calculated so that the Rebate Amount is determined in accordance with the requirements of Section 148(f) of the Code.

"Executive Officer" shall mean the duly elected or appointed, qualified and acting Executive Officer of the Issuer, or any officer of the Issuer hereafter succeeding to the powers and duties of such Executive Officer with respect to the System.

"Extended Rate" means the interest rate to be determined for the affected Series One Bonds pursuant to Section 206(e) hereof.

"Facility" shall have the meaning assigned thereto in the Service Agreement.

"Final Computation Date" shall mean "final computation date" as such phrase is used in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).

"Fixed Rate" or "Fixed Rates" means the interest rate to be determined for the affected Series One Bonds pursuant to Section 208(d) hereof.

"Fixed Rate Period" means the period of time during which the affected Series One Bonds bear interest at a Fixed Rate.

"Government Obligations" means direct general obligations of the United States of America or any agency or instrumentality thereof, but not including any shares or interests in a mutual fund or similar fund which invests in direct obligations of the United States of America or any agency or instrumentality thereof.

"Inducement Date" means September 22, 1987, on which date a resolution of intent or inducement to assist in the financing of the 1989 Compost Project was adopted by the Issuer.

"Initial Interest Rate" shall mean the rate to be applicable to the Series One Bonds during the Initial Interest Rate Period (if any) as determined by the Executive Officer pursuant to Section 1011 hereof.

"Initial Interest Rate Period" shall mean the period, if any, determined by the Executive Officer pursuant to Section 1011 hereof.

"Installment Computation Date" shall mean "installment computation date" as such phrase is used in the regulations promulgated pursuant to Section 148(f) of the Code (or any successor thereto).

"Interest Payment Date" shall mean:

(i) for the Series One Bonds bearing interest at the Weekly or Monthly Rate, the first Business Day of each calendar month;

(ii) for the Series One Bonds bearing interest at the Semiannual or Extended Rate, the first Business Day of the sixth month following the Semiannual or Extended Rate Conversion Date and subsequently on the first Business Day of each sixth calendar month thereafter;

(iii) for the Series One Bonds bearing interest at a Commercial Paper Rate, the first Business Day immediately following the last day of each Commercial Paper Rate Period applicable thereto;

(iv) for the Series One Bonds bearing interest at a Fixed Rate or Rates, the first day of each November and May;

(v) for the Series One Bonds which are subject to mandatory tender pursuant to Sections 303, 304 or 305 hereof, the date of the mandatory tender (regardless of whether an Owner elects to retain its Series One Bonds on such date);

(vi) with respect to the payment of interest accruing on the Series One Bonds during the Initial Interest Rate Period, the Business Day following the last day of such Initial Period; and

(vii) the date upon which any payments of principal are due with respect to any Series One Bonds by reason of the maturity thereof or redemption prior to maturity.

"Investment Securities" shall mean and include any of the following securities:

(i) Government Obligations;

(ii) direct obligations and fully guaranteed certificates of beneficial interest of the Export-Import Bank of the United States; senior debt obligations of the Federal Home Loan Banks; debentures of the Federal Housing Administration; guaranteed mortgage-backed bonds and guaranteed pass-through obligations of the Government National Mortgage Association; guaranteed Title XI financing of the U.S. Maritime Administration; mortgage-backed securities and senior debt obligations of the Federal National Mortgage Association; and participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation (collectively, "Agency Obligations");

(iii) direct obligations of any state of the United States of America or any subdivision or agency thereof whose unsecured general obligation debt is rated "A3" or better by Moody's and "A-" or better by S&P, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured general obligation debt is rated "A3" or better by Moody's and "A-" or better by S&P;

(iv) commercial paper rated "Prime-1" by Moody's and "A-1" or better by S&P;

(v) obligations rated "A3" or better by Moody's and "A-" or better by S&P;

(vi) deposits, Federal funds or bankers acceptances of any domestic bank, including a branch office of a foreign bank which branch office is located in the United States, provided legal opinions are obtained by the Borrower and provided to the 1989 Trustee to the effect that full and timely payment of such deposit or similar obligation is enforceable against the principal office or any branch of such bank, which:

(a) has an unsecured, uninsured and unguaranteed obligation rated "Prime-1" or "A3" or better by Moody's and "A-1" or "A-" or better by S&P, or

(b) is the lead bank of a parent bank holding company with an uninsured, unsecured and unguaranteed obligation meeting the rating requirements in (a) above;

(vii) deposits of any bank or savings and loan association which has combined capital, surplus and undivided profits of not less than \$3 million, provided such deposits are fully insured by the Federal Deposit Insurance Corporation;

(viii) investments in a money-market fund rated "Am" or "Am-G" or better by S&P;

(ix) repurchase agreements with a term of one year or less with any institution with debt rated "AA" or commercial paper rated "A-1" (in each case by S&P);

(x) repurchase agreements collateralized by direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America or Agency obligations with any registered broker/dealer subject to the Securities

Investors' Protection Corporation jurisdiction or any commercial bank if such broker/ dealer or bank has an uninsured, unsecured and unguaranteed obligation rated "Prime-1" or "A3" or better by Moody's and "A-1" or "A-" or better by S&P; provided:

(a) a master repurchase agreement or specific written, repurchase agreement governs the transaction; and

(b) the securities are held free and clear of any lien by the 1989 Trustee or an independent third party acting solely as agent for the 1989 Trustee, and such third party is:

(1) a Federal Reserve Bank;

(2) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than \$25 million; or

(3) a bank approved in writing for such purpose by the Series One Credit Provider and the 1989 Credit Provider, and the 1989 Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the 1989 Trustee; and

(c) a perfected first security interest under the Uniform Commercial Code or book entry procedures prescribed at 31 C.F.R. 306.1 *et seq.* or 31 C.F.R. 350.0 *et seq.* in such securities is created for the benefit of the 1989 Trustee; and

(d) the repurchase agreement has a term of thirty days or less, or the 1989 Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two business days of such valuation; and

(e) the repurchase agreement matures at least ten days (or other appropriate liquidation period) prior to an Interest Payment Date, and

(f) the fair market value of the securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least 100%;

(xi) investment agreements with a bank or insurance company which has an unsecured, uninsured and unguaranteed obligation (or claims-paying ability) rated "A3" or better by Moody's and "A" or better by S&P or is the lead bank of a parent bank holding company with an uninsured, unsecured and unguaranteed obligation meeting such rating requirements, provided:

(a) moneys invested thereunder may be withdrawn without any penalty, premium, or charge upon reasonable notice (provided such notice may be amended or canceled at any time prior to the withdrawal date), and

(b) the agreement is not subordinated to any other obligations of such insurance company or bank, and

(c) the 1989 Trustee receives from the Borrower an opinion of counsel that such agreement is an enforceable obligation of such insurance company or bank; and

(xii) any Tax-Exempt Obligations (as defined in the Master Ordinance) which are rated in any of the 3 highest categories by Moody's or S&P.

"Master Ordinance" means Ordinance No. 89-319 enacted by the Issuer on November 21, 1989, as the same may be amended and supplemented from time to time in accordance with its terms.

"Master Project Account" shall mean the Account by that name established pursuant to Section 502 of the Master Ordinance.

"Maturity" when used with respect to any Series One Bond means the date on which the principal of such Series One Bond becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration or call for redemption or otherwise.

"Maximum Rate" means: (i) 12% *per annum*; or (ii) such other rate for particular Series One Bonds as may hereafter be specified in writing to the 1989 Trustee by the Authorized Issuer Representative; *provided that* anything expressed or implied herein to the contrary, so long as a Series One Credit Facility is in effect with respect to any Series One Bonds, the "Maximum Rate" for the Series One Bonds secured by such Series One Credit Facility shall not be in excess of the rate of interest used under such Series One Credit Facility for the purpose of calculating the maximum amount that may be drawn thereunder for the purpose of paying interest on such Series One Bonds.

"Minimum Variable Rate" shall mean, as the context requires, the minimum Monthly Rate, minimum Semiannual Rate, or minimum Extended Rate established for any Monthly, Semiannual or Extended Rate Period pursuant to Section 206 hereof.

"Monthly Rate" shall mean the interest rate to be determined for the Series One Bonds on a monthly basis pursuant to Section 206(c) hereof.

"1989 Compost Project Bonds" means, collectively, the Series A Bonds and the Series B Bonds, including the Series One Bonds issued as Additional Bonds pursuant to this Series One Supplemental Ordinance and comprising a part of the Series B Bonds.

"1989 Compost Project" means the Facility and the Facility Site, both as defined and described in the Service Agreement.

"1989 Construction Account" means the subaccount of the Master Project Account established with the 1989 Trustee pursuant to Section 401 of the 1989 Supplemental Ordinance.

"1989 Credit Agreement" means: (i) so long as the 1989 Credit Facility issued in favor of the 1989 Trustee on the date of original issuance of the 1989 Compost Project Bonds remains in full force and effect and the issuer thereof has not failed or refused to honor a proper demand for payment thereunder, the agreement, as may be amended from time to time, pursuant to which Credit Suisse, a bank organized and existing under the laws of Switzerland, acting through its New York Branch, issued its irrevocable letter of credit in favor of the 1989 Trustee, including any extensions, renewals or replacements thereof issued by said bank; and (ii) from and after the acceptance by the 1989 Trustee and the effectiveness of any Alternate Credit Facility meeting the requirements of this 1989 Supplemental Ordinance, the agreement pursuant to which such Alternate Credit Facility, including any extensions, renewals or replacements thereof issued by the issuer thereof.

"1989 Debt Service Account" means the subaccount of the Master Project Account established with the 1989 Trustee pursuant to Section 401 of the 1989 Supplemental Ordinance.

"1989 Equity Account" shall mean the special subaccount of the 1989 Construction Account established with the 1989 Trustee pursuant to Section 401 of the 1989 Supplemental Ordinance.

"1989 Loan Agreement" means the Loan Agreement dated as of November 1, 1989 between the Issuer and the Borrower pursuant to which the Issuer agreed to loan the proceeds of its \$26,605,000 Waste Disposal Project Revenue Bonds (Riedel Oregon Compost Company, Inc. Project)1989 Series A and B to the Borrower, and any amendments thereto.

"1989 Rebate Account" means the account by that name established with the 1989 Trustee pursuant to Section 401 of the 1989 Supplemental Ordinance.

"1989 Supplemental Ordinance" shall mean Ordinance No. 89-320, enacted by the Issuer on November 21, 1989, as the same may be amended, modified or supplemented in accordance with its terms, including this Series One Supplemental Ordinance.

"1989 Trustee" means First Interstate Bank of Oregon, N.A., a national banking association, and any successor thereto appointed as provided in the 1989 Supplemental Ordinance.

"Opinion of Bond Counsel" shall mean an opinion of Bond Counsel acceptable to the Issuer, addressed to the Issuer, the Series One Credit Provider, the 1989 Credit Provider and the 1989 Trustee, to the effect that the action proposed to be taken is authorized or permitted by this Series One Supplemental Ordinance and will not adversely affect the excludability for federal income tax purposes of the interest on any Series One Bonds issued as, and which at the time of rendition of such opinion still are, Tax-Exempt Obligations (as defined in the Master Ordinance).

"Outstanding" or "Outstanding Series One Bonds" or "Series One Bonds Outstanding" or "Series One Bonds at the Time Outstanding" or "Series One Bonds then Outstanding," at the time in question, shall mean with respect to Series One Bonds all Series One Bonds which have been executed and delivered by the Issuer and authenticated by the 1989 Trustee or an agent of the 1989 Trustee under this Ordinance, except:

(i) Series One Bonds theretofore cancelled by the 1989 Trustee or surrendered to the 1989 Trustee for cancellation;

(ii) Series One Bonds paid or deemed to be paid pursuant to Section 1001 hereof; *provided that* if such Series One Bonds are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Section 1001 hereof or irrevocable instructions shall have been given to the 1989 Trustee by the Issuer for the giving of such notice; and

(iii) Series One Bonds in lieu of or in exchange for which other Series One Bonds shall have been executed and delivered by the Issuer and authenticated by the 1989 Trustee or an agent of the 1989 Trustee pursuant to the provisions hereof.

"Owner" shall mean any person who shall be the registered owner of any Series One Bond as shown by the registration books maintained by the Series One Bond Registrar.

"Participant" shall mean a broker-dealer, bank or other financial institution for which DTC holds Series One Bonds as Securities Depository.

"Permitted Investments" shall mean those Investment Securities in which, under the applicable laws of the State of Oregon, the Issuer is permitted to invest its funds, such Investment Securities currently being listed in ORS 294.035.

"Purchase Contract" means that certain Contract of Purchase between the Issuer and the Underwriter with respect to the initial purchase of the Series One Bonds.

"Purchase Date", when used with respect to any Series One Bond, means the date upon which the Series One Tender Agent is obligated to purchase such Series One Bond pursuant to Article III hereof.

"Purchase Price" of any Series One Bond required to be purchased by the Series One Tender Agent pursuant to Article III hereof means an amount equal to the principal amount of such Series One Bond plus accrued interest thereon if the Purchase Date is other than an Interest Payment Date at the rate(s) applicable to Series One Bonds from the most recent Interest Payment Date to the Purchase Date.

"Qualifying Costs" means Capital Costs of the 1989 Compost Project which: (i) are paid and incurred after the Inducement Date; (ii) are properly chargeable to the 1989 Compost Project's capital account or would be so chargeable either with a proper election by the Borrower or but for a proper election by the Borrower to deduct such amounts; and (iii) are for "solid waste disposal facilities"; all within the meaning of and as contemplated by Section 142 of the Code.

"Rate Period" or "Period" means, when used with respect to any particular rate of interest applicable to the Series One Bonds (whether a Weekly, Monthly, Semiannual, Extended, Commercial Paper or Fixed Rate), the period during which such rate of interest for the affected Series One Bonds will remain in effect pursuant to Article II hereof.

"Rating Agencies" shall mean Standard & Poor's Corporation and/or Moody's Investors Service, according to which of such rating agencies then rates the Series One Bonds; and provided that if neither of such rating agencies then rates the Series One Bonds, the term "Rating Agencies" shall refer to any national rating agency (if any) which provides such rating.

"Rebate Amount" means the sum of the Excess Earnings plus all investment earnings on such Excess Earnings; it being the intent of this definition that the Rebate Amount shall be calculated in accordance with the requirements of Section 148 of the Code.

"Rebate Analyst" means the person or firm retained by the Issuer from time to time for the purpose of preparing the Rebate Reports required pursuant to Section 406 hereof.

"Rebate Report" means a report for each Calculation Period prepared by the Rebate Analyst pursuant to Section 406 hereof calculating the Rebate Amount, all for the purpose of enabling the 1989 Trustee to comply with the requirements of Section 406 hereof and Section 148 of the Code.

"Record Date" for the interest payable on any Interest Payment Date on the Series One Bonds means the fifth Business Day immediately preceding the Interest Payment Date in question in the case of the Weekly, Monthly and Commercial Paper Rate Periods and means the 15th day of the immediately preceding calendar month (whether or not a Business Day) in the case of a Semiannual, Extended and Fixed Rate Period.

"Requisition Certificate" means a certificate in the form set forth as Exhibit B to the Series One Loan Agreement.

"Securities Depository" shall mean, initially, The Depository Trust Company, New York, New York, and its successors and replacement securities depository appointed hereunder.

"Semiannual Rate" shall mean the interest rate to be determined for the Series One Bonds pursuant to Section 206(d) hereof.

"Series B Refunding Account" means the special account by that name established pursuant to Section 401 hereof.

"Series One Bond Registrar" means the 1989 Trustee.

"Series One Bonds" means the Issuer's Waste Disposal Project Revenue Bonds (Riedel Oregon Compost Company, Inc. Project) 1990 Series One.

"Series One Borrower Granted Trust Estate" shall have the meaning assigned thereto in Section 103(a)(ii) hereof.

"Series One Credit Agreement" means: (i) so long as the Series One Credit Facility issued in favor of the 1989 Trustee on the date of original issuance of the Series One Bonds remains in full force and effect and the issuer thereof has not failed or refused to honor a proper demand for payment thereunder, the agreement pursuant to which United States National Bank of Oregon, a bank organized and existing under the laws of the United States of America, issues its irrevocable letter of credit in favor of the 1989 Trustee, including any extensions, renewals or replacements thereof issued by said bank; and (ii) from and after the acceptance by the 1989 Trustee and the effectiveness of any Alternate Credit Facility meeting the requirements of this Series One Supplemental Ordinance, the agreement pursuant to which such Alternate Credit Facility, including any extensions, renewals or replacements thereof issued by the issuer thereof.

"Series One Credit Facility" means:

(i) so long as the Series One Facility issued in favor of the 1989 Trustee on the date of original issuance of the Series One Bonds remains in full force and effect and the issuer thereof has not failed or refused to honor a proper demand for payment thereunder, the irrevocable letter of credit issued by United States National Bank of Oregon, a bank organized and existing under the laws of the United States of America, in favor of the 1989 Trustee as security for the Series One Bonds; and

(ii) from and after the acceptance by the 1989 Trustee and the effectiveness of any Alternate Credit Facility in substitution for the Series One Credit Facility, the issuer of such Alternate Credit Facility.

"Series One Credit Provider" means:

(i) so long as the Series One Credit Facility issued in favor of the 1989 Trustee on the date of original issuance of the Series One Bonds remains in full force and effect and the issuer thereof has not failed or refused to honor a proper demand for payment thereunder, United States National Bank of Oregon, a bank organized and existing under the laws of the United States of America; and

(ii) from and after the acceptance by the 1989 Trustee and the effectiveness of any Alternate Credit Facility meeting the requirements of this Series One Supplemental Ordinance and given in substitution for the then existing Series One Credit Facility, the issuer of such Alternate Credit Facility.

"Series One Event of Default" shall mean the occurrence of any one or more of the events described in Section 701 hereof.

"Series One Issuer Granted Trust Estate" shall have the meaning assigned thereto in Section 103(a)(i) hereof.

"Series One Loan" shall mean the loan to be made by the Issuer to the Borrower under the Series One Loan Agreement out of the proceeds of the Series One Bonds.

"Series One Loan Agreement" means the Loan Agreement dated as of June 1, 1990 between the Issuer and the Borrower pursuant to which the Issuer agrees to loan the proceeds of the Series One Bonds to the Borrower, as the same may be amended, modified or supplemented from time to time in accordance with its terms and the terms of this Series One Supplemental Ordinance.

"Series One Loan Repayments" shall mean the Series One Loan Repayments required to be made by the Borrower with respect to the Series One Loan.

"Series One Paying Agent" means any person appointed as such pursuant to this Series One Supplemental Ordinance, initially, First Interstate Bank of Oregon, N.A.

"Series One Remarketing Agent" means any person appointed as such pursuant to this Series One Supplemental Ordinance, initially, Donaldson, Lufkin & Jenrette Securities Corporation.

"Series One Remarketing Agreement" means the agreement pursuant to which the Series One Remarketing Agent assumes its duties hereunder and thereunder.

"Series One Subaccount of the 1989 Construction Account" means the subaccount of the 1989 Construction Account established with the 1989 Trustee pursuant to Section 401 hereof.

"Series One Subaccount of the 1989 Debt Service Account" means the subaccount of the 1989 Debt Service Account established with the 1989 Trustee pursuant to Section 401 hereof.

"Series One Subaccount of the 1989 Rebate Account" means the subaccount of the 1989 Rebate Account established with the 1989 Trustee pursuant to Section 401 hereof.

"Series One Supplemental Ordinance" shall mean this Ordinance No. 90-353, enacted by the Issuer on June 14, 1990, as the same may be amended, modified or supplemented in accordance with its terms.

"Series One Tender Agent" means with respect to the Series One Bonds bearing interest at the Weekly Rate or the Monthly Rate, the 1989 Trustee, and with respect to the Series One Bonds bearing interest at any other Variable Rate or the Commercial Paper Rate, the person acting as such and accepting in writing the appointment by the Issuer to act in such capacity as provided in Section 511 hereof.

"Series One Trust Estate" means: (i) the Series One Loan Repayments; (ii) the moneys drawn under the Series One Credit Facility to the extent such moneys are available for the purpose of paying amounts owing under or with respect to the Series One Bonds; and (iii) all other properties and assets and interests in properties and assets described in Section 103(a) hereof.

"State" shall mean the State of Oregon.

"Stated Maturity" means the date upon which all amounts owing under a Series One Bond are due and payable in full as shown upon the face of such Series One Bond.

"Supplemental Ordinance" shall mean any ordinance supplemental to or amendatory of this Series One Supplemental Ordinance, entered into by the Issuer in accordance with this Series One Supplemental Ordinance, the 1989 Supplemental Ordinance and the Master Ordinance.

"Underwriter" means Donaldson, Lufkin & Jenrette Securities Corporation and any other investment banking firm(s) as the Issuer shall approve as the underwriter(s) of the Series One Bonds in connection with the initial offering and sale thereof.

"Variable Rate" means, as the context requires, the Weekly, Monthly, Semiannual or Extended Rate applicable to the Series One Bonds.

"Weekly Rate" shall mean the interest rate to be determined for the Series One Bonds on a weekly basis pursuant to Section 206(b) hereof.

"Wire Transfer" shall mean any method of transferring or paying moneys now in use or hereafter devised which does not involve the physical delivery of cash, checks or bank drafts.

Section 103. Granting Clauses.

(a) The Series One Trust Estate.

(i) The Series One Issuer Granted Trust Estate. As used herein, the term "Series One Issuer Granted Trust Estate" shall mean and include the following properties and assets and interests in properties and assets:

(A) the Issuer's right, title and interest to and in the Series One Loan Agreement and all Series One Loan Repayments due thereunder, but not including the Issuer's rights under Sections 7.2 and 7.4 of the Series One Loan Agreement and the Issuer's right to receive notices and give approvals under the Series One Loan Agreement;

(B) the Issuer's right, title and interest to and in any and all other funds, moneys and property of any kind held for defeasance of the Series One Bonds or from time to time hereafter specifically pledged as additional security for the Series One Bonds by the Issuer or any other person or delivered to the 1989 Trustee; and

(C) the Issuer's right, title and interest to, in and under the Series One Credit Facility and all moneys drawn thereunder and the account described in Section 602(c) in which such moneys are placed.

(ii) The Series One Borrower Granted Trust Estate. As used herein, the term "Series One Borrower Granted Trust Estate" shall mean the following:

(A) the right, title and interest of the Borrower to and in any and all funds, moneys and property of any kind held for defeasance of the Series One Bonds or from time to time hereafter specifically pledged as additional security for the Series One Bonds by the Issuer or any other person or delivered to the 1989 Trustee; and

(B) the Borrower's right, title and interest to, in and under the Series One Credit Facility and all moneys drawn thereunder and the account described in Section 602(c) in which such moneys are placed.

(b) The Series One Bonds. The Issuer, in consideration of the premises, the acceptance by the 1989 Trustee of the trusts hereby created, the mutual covenants herein contained, the purchase and acceptance of the Series One Bonds by the purchasers thereof and other valuable consideration, receipt of which is hereby acknowledged, and in order to secure the payment when due of:

- (i) the principal of, premium (if any) and interest on the Series One Bonds;
- (ii) the Purchase Price of any Series One Bonds required to be purchased from time to time hereunder; and
- (iii) the Series One Loan Repayments due under the Series One Loan Agreement with respect to the Series One Bonds;

does hereby, without warranty of any kind, grant, bargain, sell, convey, transfer, assign and pledge unto, and grant a security interest in favor of, the 1989 Trustee, and unto its successors in the trusts under this Series One Supplemental Ordinance, and to them and their successors and assigns forever, all right, title and interest of the Issuer, in, to and under the Series One Issuer Granted Trust Estate;

TO HAVE AND TO HOLD all the same to the 1989 Trustee and its successors in said trust and to it and its assigns forever;

IN TRUST NEVERTHELESS, except as in each such case may otherwise be provided in this Series One Supplemental Ordinance upon the terms and trusts in this Series One Supplemental Ordinance set forth for the equal and proportionate benefit, security and protection of all and singular the present and future Owners of the Series One Bonds issued or to be issued under and secured by this Series One Supplemental Ordinance, without preference, priority or distinction as to lien or otherwise;

PROVIDED HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or make due provision for the payment of the principal of, premium (if any) and interest on and Purchase Price of the Series One Bonds issued, secured and Outstanding under this Series One Supplemental Ordinance at the times and in the manner mentioned in the Series One Bonds and this Series One Supplemental Ordinance, according to the true intent and meaning thereof, shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Series One Supplemental Ordinance to be kept, performed and observed by it in connection with the Series One Bonds, and shall pay or cause to be paid to the Series One Trustee all sums of money due or to become due to it in accordance with the terms and provisions of this Series One Supplemental Ordinance in connection with the Series One Bonds, then upon such final payments this Series One Supplemental Ordinance and the rights thereby granted in and to the Series One Issuer Granted Trust Estate shall cease and terminate with respect to all Series One Bonds, otherwise this Series One Supplemental Ordinance to be and remain in full force and effect with respect to the Series One Bonds.

(c) Additional Assets of the Series A Trust Estate. In consideration of the consent of the 1989 Credit Provider to the issuance of the Series One Bonds as Additional Bonds (as that term is defined in the 1989 Supplemental Ordinance) under the 1989 Supplemental Ordinance and pursuant to and in accordance with Section 103(a)(i)(D) and (a)(ii)(C) of the 1989 Supplemental Ordinance, the Series A Trust Estate is augmented by the addition of the following assets in subaccounts of certain accounts established and created under the 1989 Supplemental Ordinance:

(i) The Issuer Granted Trust Estate. The following properties and assets and interests in properties and assets are hereby added to the "Issuer Granted Trust Estate" with respect to the Series A Bonds as defined in the 1989 Supplemental Ordinance:

(A) the Issuer's right, title and interest to and in the Series One Subaccount of the 1989 Construction Account and the Series One Subaccount of the 1989 Debt Service Account and moneys and investments on deposit therein and investment earnings thereon; and

(B) the Issuer's right, title and interest to and in the proceeds of the Series One Bonds, except for those proceeds deposited in the Series B Refunding Account, and all other amounts held under this Series One Supplemental Ordinance, including the investments, if any, thereof.

(ii) The Borrower Granted Trust Estate. The following properties and assets and interests in properties and assets are hereby added to the "Borrower Granted Trust Estate" with respect to the Series A Bonds as defined in the 1989 Supplemental Ordinance:

(A) the right, title and interest of the Borrower to and in the Series One Subaccount of the 1989 Construction Account and the Series One Subaccount of the 1989 Debt Service Account and moneys and investments on deposit therein and investment earnings thereon; and

(B) the right, title and interest of the Borrower to and in the proceeds of the Series One Bonds, except for those proceeds deposited in the Series B Refunding Account, and all other amounts held under this Series One Supplemental Ordinance, including the investments, if any, thereof.

(iii) The Series A Bonds. The Issuer, in consideration of the premises, the acceptance by the 1989 Trustee of the trusts hereby created, the mutual covenants herein contained, the purchase and acceptance of the Series A Bonds by the purchasers thereof and other valuable consideration, receipt of which is hereby acknowledged, and in order to secure the payment when due of:

(A) the principal of, premium (if any) and interest on the Series A Bonds;

(B) the Purchase Price of any Series A Bonds required to be purchased from time to time under the 1989 Supplemental Ordinance;

(C) the Series A Loan Repayments due under the 1989 Loan Agreement with respect to the Series A Bonds; and

(D) the amounts due under the 1989 Credit Agreement;

does hereby, without warranty of any kind, grant, bargain, sell, convey, transfer, assign and pledge unto, and grant a security interest in favor of, the 1989 Trustee, and unto its successors in the trusts under the 1989 Supplemental Ordinance, and to them and their successors and assigns forever, all right, title and interest of the Issuer, in, to and under the additional assets of the Issuer Granted Trust Estate with respect to the Series A Bonds as described above in Section 103(c)(i) of this Series One Supplemental Ordinance; and also for the benefit of the 1989 Credit Provider as security for the payment and performance by the Borrower of all of its obligations under and pursuant to the 1989 Credit Agreement, including but not limited to all fees, expenses, increased costs and other amounts owing under the 1989 Credit Agreement with the same force and effect as the other assets in the Issuer Granted Trust Estate that have been pledged with respect to the Series A Bonds pursuant to Section 103(b) of the 1989 Supplemental Ordinance; *provided that* in the same manner as relates to the other assets in the Issuer Granted Trust Estate that have been

pledged with respect to the Series A Bonds pursuant to Section 103(b) of the 1989 Supplemental Ordinance, so long as any of the Series A Bonds (other than Series A Bonds which have been fully paid out of moneys drawn by the 1989 Trustee under the 1989 Credit Facility) remain Outstanding, the 1989 Trustee, subject to the terms and provisions of the Amended and Restated Intercreditor Agreement, shall hold the Issuer Granted Trust Estate for the first and prior benefit of the Owners of the Series A Bonds (other than the 1989 Credit Provider) and the interest of the 1989 Credit Provider to and in the Issuer Granted Trust Estate shall be and remain second and subordinate; *and provided further that* the 1989 Credit Facility and all moneys drawn by or paid to the 1989 Trustee thereunder shall be held by the 1989 Trustee for the sole and exclusive benefit of the Owners of the Series A Bonds;

TO HAVE AND TO HOLD all the same to the 1989 Trustee and its successors in said trust and to it and its assigns forever;

IN TRUST NEVERTHELESS, except as in each such case may otherwise be provided in the 1989 Supplemental Ordinance upon the terms and trusts in the 1989 Supplemental Ordinance set forth for the equal and proportionate benefit, security and protection of all and singular the present and future Owners of the Series A Bonds issued or to be issued under and secured by the 1989 Supplemental Ordinance and the 1989 Credit Provider, without preference, priority or distinction as to lien or otherwise;

PROVIDED HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or make due provision for the payment of the principal of, premium (if any) and interest on and Purchase Price of the Series A Bonds issued, secured and Outstanding under the 1989 Supplemental Ordinance at the times and in the manner mentioned in the Series A Bonds and the 1989 Supplemental Ordinance, according to the true intent and meaning thereof, and all amounts due under any 1989 Credit Agreement shall have been paid and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of the 1989 Supplemental Ordinance to be kept, performed and observed by it in connection with the Series A Bonds, and shall pay or cause to be paid to the 1989 Trustee all sums of money due or to become due to it in accordance with the terms and provisions of the 1989 Supplemental Ordinance in connection with the Series A Bonds, then upon such final payments the 1989 Supplemental Ordinance and the rights thereby granted in and to the Issuer Granted Trust Estate, including the additional assets pledged pursuant to Section 103(c)(a) of this Series One Supplemental Ordinance, shall cease and terminate with respect to all Series A Bonds and with respect to the 1989 Credit Agreement obligations, otherwise the 1989 Supplemental Ordinance to be and remain in full force and effect with respect to the Series A Bonds.

(d) Pledge of the Series B Refunding Account. The Issuer, in consideration of the premises, the acceptance by the 1989 Trustee of the trusts created by the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Supplemental Ordinance, the mutual covenants contained in the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Supplemental Ordinance, the purchase and acceptance of the Series B Bonds by the purchasers thereof and other valuable consideration, receipt of which is hereby acknowledged, and in order to secure the payment when due of:

(A) the principal of, premium (if any) and interest on the Series B Bonds;

(B) the Purchase Price of any Series B Bonds required to be purchased from time to time under the 1989 Supplemental Ordinance;

(C) the Series B Loan Repayments due under the 1989 Loan Agreement with respect to the Series B Bonds; and

(D) the amounts due under the 1989 Credit Agreement with respect to the Series B Bonds;

does hereby, without warranty of any kind, grant, bargain, sell, convey, transfer, assign and pledge unto, and grant a security interest in favor of, the 1989 Trustee, and unto its successors in the trusts under the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Supplemental Ordinance and to them and their successors and assigns forever, all right, title and interest of the Issuer, in, to and under the Series B Refunding Account and the proceeds of the Series One Bonds deposited therein as part of the Series B Trust Estate; and also for the benefit of the 1989 Credit Provider as security for the payment and performance by the Borrower of all of its obligations under and pursuant to the 1989 Credit Agreement with respect to the Series B Bonds, including but not limited to all fees, expenses, increased costs and other amounts owing under the 1989 Credit Agreement with respect to the Series B Bonds; *provided that*, so long as any of the Series B Bonds (other than Series B Bonds which have been fully paid out of moneys drawn by the 1989 Trustee under the 1989 Credit Facility) remain Outstanding, the 1989 Trustee, subject to the terms and provisions of the Amended and Restated Intercreditor Agreement, shall hold the Series B Refunding Account for the first and prior benefit of the Owners of the Series B Bonds (other than the 1989 Credit Provider) and the interest of the 1989 Credit Provider to and in the Series B Refunding Account shall be and remain second and subordinate; *and provided further that* the 1989 Credit Facility and all moneys drawn by or paid to the 1989 Trustee thereunder shall be held by the 1989 Trustee for the sole and exclusive benefit of the Owners of the Series B Bonds;

TO HAVE AND TO HOLD all the same to the 1989 Trustee and its successors in said trust and to it and its assigns forever;

IN TRUST NEVERTHELESS, except as in each such case may otherwise be provided in the 1989 Supplemental Ordinance upon the terms and trusts in the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Supplemental Ordinance set forth for the equal and proportionate benefit, security and protection of all and singular the present and future Owners of the Series B Bonds issued or to be issued under and secured by the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Supplemental Ordinance and the 1989 Credit Provider, without preference, priority or distinction as to lien or otherwise;

PROVIDED HOWEVER, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, or make due provision for the payment of the principal of, premium (if any) and interest on and Purchase Price of the Series B Bonds issued, secured and Outstanding under the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Ordinance at the times and in the manner mentioned in the Series B Bonds and the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Supplemental Ordinance, according to the true intent and meaning thereof, and all amounts due under any 1989 Credit Agreement with respect to the Series B Bonds shall have been paid and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Supplemental Ordinance to be kept, performed and observed by it in connection with the Series B Bonds, and shall pay or cause to be paid to the 1989 Trustee all sums of money due or to become due to it in accordance with the terms and provisions of the 1989 Supplemental Ordinance and, to the extent applicable, this Series One Ordinance in connection with the Series B Bonds, then upon such final payments this Series One Ordinance and the rights thereby granted in and to the Series B Refunding Account, shall cease and terminate with respect to all Series B Bonds and with respect to the 1989 Credit Agreement obligations, otherwise this Series One Supplemental Ordinance to be and remain in full force and effect with respect to the Series B Bonds.

ARTICLE II

AUTHORIZATION, ISSUANCE AND PROVISIONS OF SERIES ONE BONDS

Section 201. Authorization of Series One Bonds; Limited Obligations.

(a) **Principal Amount.** The Series One Bonds are hereby authorized to be issued in an aggregate principal amount not to exceed \$5,000,000 for the purposes enumerated in the recitals hereto. The Series One Bonds shall be designated "Metropolitan Service District Waste Disposal Project Revenue Bonds (Riedel Oregon Compost Company, Inc. Project) 1990 Series One." The Series One Bonds shall be issued in the aggregate principal amount determined by the Executive Officer pursuant to Section 1011 hereof.

(b) **Series One Bonds to Constitute Project Bonds of a Single Series Under Master Ordinance.** The Series A Bonds and the Series One Bonds, together with any Additional Bonds issued pursuant to Section 210 of the 1989 Supplemental Ordinance, shall be Project Bonds and shall constitute a single Series, all as defined in and within the meaning of the Master Ordinance.

(c) **Limited Obligations.** The Series One Bonds and all obligations of the Issuer under or with respect to the Series One Bonds and this Series One Supplemental Ordinance shall be and remain limited obligations of the Issuer payable solely and only out of the Series One Trust Estate. No recourse shall be had against any properties, funds or assets of the Issuer (other than the Series One Trust Estate) for the payment of any amounts owing under or with respect to the Series One Bonds or this Series One Supplemental Ordinance. Neither the Series One Bonds nor this Series One Supplemental Ordinance nor the obligations of the Issuer under or with respect thereto constitute or create an indebtedness of the Issuer within the meaning of any constitutional or statutory debt limitation. Notwithstanding anything to the contrary expressed or implied in this Series One Supplemental Ordinance, this Series One Supplemental Ordinance in no way secures or otherwise creates an obligation of the Issuer to provide for the performance of any obligation owed the Series One Credit Provider under the Series One Credit Agreement.

(d) **Tax-Exempt Obligations.** The Series One Bonds are issued as, and are intended to be, Tax-Exempt Obligations (as defined in the Master Ordinance).

Section 202. Maturity Date for the Series One Bonds. The Series One Bonds shall mature on July 1, 2011.

Section 203. Denominations; Dating; Interest Accrual; Computation of Interest; Payments Due on Holidays.

(a) **Denominations and Dating.** The Series One Bonds shall be issued in Authorized Denominations. Each Series One Bond shall be dated as of the Closing Date. Each Series One Bond also shall bear its date of authentication as noted thereon by the 1989 Trustee.

(b) **Interest Accrual.** Each Series One Bond shall bear interest from the Interest Payment Date to which interest has been paid next preceding the date of its authentication, unless the date of its authentication:

(i) is an Interest Payment Date to which interest on such Series One Bond has been paid, in which event such Series One Bond shall bear interest from its date of authentication; or

(ii) is prior to the first Interest Payment Date for the Series One Bond, in which event, such Series One Bond shall bear interest from its date.

(c) Payments Due on Holidays. Interest on the Series One Bonds shall be due and payable on each Interest Payment Date for such bonds; *provided that* whenever a payment of principal of, premium (if any) or interest on a Series One Bond is due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day with the same force and effect as if made on the stated due date.

(d) Computation of Interest. While any Series One Bond bears interest at a Weekly, Monthly or Commercial Paper Rate, interest on such bond shall be computed on the basis of a 365- or 366-day year (as the case may be) and the actual number of days elapsed. While any Series One Bond bears interest at a Semiannual, Extended or Fixed Rate, interest on such bond shall be computed on the basis of a 360-day year and twelve 30-day months.

(e) Method of Payment. Payments of interest on the Series One Bonds (other than any Credit Purchased Bond) shall be made to the registered Owners thereof (as determined at the close of business on the Record Date next preceding the related Interest Payment Date) by Wire Transfer (if requested in writing of the 1989 Trustee by an Owner of not less than \$1,000,000 aggregate principal amount of Series One Bonds not less than five days prior to the applicable Interest Payment Date) or by check or draft mailed to the address of each such Owner as it appears on the registration books of the Issuer maintained by the 1989 Trustee as Series One Bond Registrar, or to such other address as may be furnished in writing to the 1989 Trustee prior to the applicable Record Date by such registered Owner.

Payment of the principal of and redemption premium (if any) on the Series One Bonds shall be made only upon presentation and surrender of such Series One Bonds (other than any Credit Purchased Bond) on or after the maturity or redemption date, as appropriate, at the principal corporate trust office of the 1989 Trustee.

Payment of all amounts owing under any Credit Purchased Bond shall be made when due by Wire Transfer to such account as the Series One Credit Provider may designate in writing to the 1989 Trustee or in such other manner as may be specified in the Series One Credit Agreement; *provided that* final payment of all amounts owing under any Credit Purchased Bond shall only be made upon presentation and surrender of such Credit Purchased Bond at the principal corporate trust office of the 1989 Trustee.

(f) Provisions for Book-Entry System. The Series One Bonds will be subject to a Book-Entry System of ownership and transfer, except as provided in (iii) below. The general provisions for effecting such Book-Entry System are as follows:

(i) The Issuer hereby designates The Depository Trust Company, New York, New York, as the initial Securities Depository hereunder.

(ii) Notwithstanding the provisions regarding exchange and transfer of Series One Bonds under the Master Ordinance, the Series One Bonds shall initially be evidenced by one certificate for each maturity, in an amount equal to the aggregate principal amount thereof. The Series One Bonds so initially delivered shall be registered in the name of "Cede & Co." as nominee for The Depository Trust Company. The Series One Bonds may not thereafter be transferred or exchanged on the registration books of the Issuer held by the 1989 Trustee as Series One Bond Registrar except:

(A) to any successor Securities Depository designated pursuant to (iii) below;

(B) to any successor nominee designated by a Securities Depository; or

(C) if the Issuer shall, by resolution, elect to discontinue the Book-Entry System pursuant to (iii) below, the Issuer will cause the 1989 Trustee to authenticate and deliver replacement Series One Bonds in fully registered form in Authorized Denominations in the names of the Beneficial Owners or their nominees; thereafter the provisions of the Master Ordinance regarding registration, transfer and exchange of 1989 Compost Project Bonds shall apply.

(iii) Upon the resignation of any institution acting as Securities Depository hereunder, or if the Issuer determines that continuation of any institution in the role of Securities Depository is not in the best interests of the Beneficial Owners, the Issuer will attempt to identify another institution qualified to act as Securities Depository hereunder. If the Issuer is unable to identify such successor Securities Depository prior to the effective date of the resignation, the Issuer shall discontinue the Book-Entry System, as provided in (ii)(C) above.

(iv) So long as the Book-Entry System is used for the Series One Bonds, the 1989 Trustee will give any notice of redemption or any other notices required to be given to Owners of Series One Bonds only to the Securities Depository or its nominee registered as the Owner thereof. Any failure of the Securities Depository to advise any of its Participants, or of any Participant to notify the Beneficial Owner, of any such notice and its content or effect will not affect the validity of the redemption of the Series One Bonds called for redemption or of any other action premised on such notice. Neither the Issuer nor the 1989 Trustee is responsible or liable for the failure of the Securities Depository or any Participant thereof to make any payment or give any notice to a Beneficial Owner in respect of the Series One Bonds or any error or delay relating thereto.

During any period in which the Series One Bonds are subject to the Book-Entry System, the Securities Depository may make an appropriate notation on the Series One Bonds indicating the date and amounts of any reduction in principal resulting from a partial redemption, acceleration or any similar transaction necessitating a reduction in principal amount, other than any such reduction occurring on the final maturity date of a Series One Bond (in which case the certificate evidencing such Series One Bond must be surrendered to the 1989 Trustee prior to the payment thereof at maturity).

(g) Form of Series One Bonds. The Series One Bonds shall be issued in substantially the form attached hereto as the Series One Bond Form Appendix but with such variations, changes, additions and deletions as may be necessary or appropriate and not inconsistent with the provisions of this Series One Supplemental Ordinance; *provided that* in the event the Book-Entry System established hereunder with respect to the Series One Bonds is ever discontinued, the Issuer shall cause to be prepared, executed and delivered to the 1989 Trustee for authentication and exchange a form of Series One Bond which contains such additional details concerning the terms thereof as is customary in connection with bonds of similar type which are not subject to a Book-Entry System.

Section 204. Interest Rate Provisions. Each Series One Bond shall bear interest on the unpaid principal balance thereof at the rate or rates of interest determined and adjusted from time to time in the manner provided in this Article II; *provided that* in no event shall the Series One Bonds bear interest at a rate in excess of the Maximum Rate.

Section 205. Initial Interest Rate Period. During the Initial Interest Rate Period (if any), the Series One Bonds shall bear interest at the Initial Interest Rate, with all interest on the Series One Bonds accruing during such Initial Interest Rate Period to be due and payable in full on the Business Day next following the last day of the Initial Interest Rate Period. Commencing on the Business Day next following the last day of the Initial Interest Rate Period and continuing until changed pursuant to Sections 207 and 208 hereof, the Series One Bonds shall bear interest at a Weekly Rate. Notwithstanding the foregoing or anything expressed or implied herein to the contrary, the Executive Officer, pursuant to Section 1011 hereof, shall determine whether or not there shall be an Initial

Interest Rate Period and if the Executive Officer determines that there shall not be an Initial Interest Rate Period, then and in such event the Series One Bonds shall bear interest at a Weekly Rate from the Closing Date until converted to another Rate Period as provided herein.

Section 206. Variable Rates and Commercial Paper Rates.

(a) Determination by Series One Remarketing Agent; Notice of Rates Determined.

Commencing on the Business Day next following the last day of the Initial Interest Rate Period (if there is to be an Initial Interest Rate Period) or on the Closing Date (if there is not to be an Initial Interest Rate Period), the Series One Bonds shall bear interest at a Weekly Rate determined from time to time by the Series One Remarketing Agent as provided herein until converted to another Rate Period as provided herein. Subject to the further provisions of this Article II with respect to particular Variable Rates, Commercial Paper Rates or conversions between Rate Periods, and subject to the provisions of the Series One Bonds, the Variable or Commercial Paper Rate to be applicable to Series One Bonds during any Variable or Commercial Paper Rate Period shall be determined by the Series One Remarketing Agent as provided in this Section 206 and notice thereof shall be given as follows:

(i) Notice of each preliminary Variable Rate, Minimum Variable Rate, Variable Rate and Commercial Paper Rate (other than any Semiannual or Extended Rate) shall be given by the Series One Remarketing Agent to the Series One Credit Provider, the Series One Tender Agent and the 1989 Trustee (unless at the time such Series One Remarketing Agent is the Series One Tender Agent) by telephone (followed by notice in writing by an authorized officer of the Series One Remarketing Agent) not later than 5:00 p.m. (New York City Time) on the date of determination.

(ii) Notice of each preliminary Semiannual and Extended Rate, and of each Semiannual and Extended Rate, shall be given by the Series One Remarketing Agent to the 1989 Trustee and the 1989 Trustee shall give notice thereof in writing to the Owners of the Series One Bonds not later than 5:00 p.m. (New York City Time) on the third Business Day following the date of determination.

(iii) The Series One Remarketing Agent shall inform the 1989 Trustee, and the 1989 Trustee shall inform the Owners of the Series One Bonds, of Weekly and Monthly Rates, and of Minimum Monthly, Semiannual and Extended Rates, upon request.

(iv) Notice of the Commercial Paper Rate for a Series One Bond shall be given to the purchaser of such Series One Bond pursuant to Section 303(b) hereof, but need not be given to the other Owners of the Series One Bonds in a Commercial Paper Rate Period.

(v) The preliminary Variable Rate, the Minimum Variable Rate or the Variable Rate so to be determined shall be the lowest rate of interest which, in the judgment of the Series One Remarketing Agent, would allow the affected Series One Bonds to have a market value equal to the principal amount thereof, plus accrued interest, under prevailing market conditions as of the date of determination; *provided that:*

(A) if the Series One Remarketing Agent fails for any reason to determine or notify the Series One Tender Agent of:

(1) the Minimum Variable Rate for any Variable Rate Period when required hereunder, the Minimum Variable Rate for such period shall be the Variable Rate then in effect; or

(2) the Variable Rate for any Variable Rate Period when required hereunder, the Variable Rate for such period shall be the Variable Rate (or Minimum Variable Rate, if any) then in effect for the Series One Bonds under consideration;

(B) in no event shall the Variable Rate for any Variable Rate Period be lower than the Minimum Variable Rate for such period; and

(C) in no event shall either the Minimum Variable Rate or the Variable Rate for any Variable Rate Period exceed the Maximum Rate.

All determinations of Minimum Variable Rates and Variable Rates pursuant to this Section shall be conclusive and binding upon the Issuer, the Borrower, the 1989 Trustee, the Series One Paying Agent, the Series One Tender Agent, the Series One Credit Provider, and the Owners of the Series One Bonds. The Issuer, the Borrower, the 1989 Trustee, the Series One Paying Agent, the Series One Tender Agent and the Series One Remarketing Agent shall not be liable to the Owners of any Series One Bond for failure to give any notice required above or for failure of the Owner of any Bond to receive any such notice.

(b) Weekly Rate Periods. Weekly Rate Periods shall be from Wednesday of each week to (but not including) Wednesday of the following week; except that:

(i) in the case of a conversion to a Weekly Rate Period from a different Variable Rate Period or from Commercial Paper Rate Periods, the initial Weekly Rate Period for the Series One Bonds shall be from the Weekly Rate Conversion Date to (but not including) Wednesday of the following week; and

(ii) in the case of a conversion of the Series One Bonds from a Weekly Rate Period to a different Rate Period, the last Weekly Rate Period shall end on the Conversion Date.

The Weekly Rate for each Weekly Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the Business Day which is immediately prior to the commencement date of the Weekly Rate Period to which it relates.

(c) Monthly Rate Periods. Monthly Rate Periods shall be from the first Business Day of each calendar month to (but not including) the first Business Day of the following month.

The Monthly Rate for each Monthly Rate Period shall be determined as follows:

(i) a Minimum Monthly Rate for each Monthly Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the last Business Day which is at least eight days immediately preceding the commencement date of such period; and

(ii) the actual Monthly Rate for each Monthly Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the Business Day immediately preceding the commencement date of such period.

(d) Semiannual Rate Periods. Semiannual Rate Periods shall be:

(i) from the Semiannual Rate Conversion Date for the Series One Bonds and from the first Business Day of each sixth calendar month thereafter; to (but not including)

(ii) the first Business Day of the sixth month thereafter.

The Semiannual Rate for each Semiannual Rate Period shall be determined as follows:

(A) a preliminary Semiannual Rate for each Semiannual Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the last Business Day which is at least 30 days immediately preceding the commencement date of such period;

(B) a Minimum Semiannual Rate for each Semiannual Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the last Business Day which is at least 18 days immediately preceding the commencement date of such period; and

(C) the actual Semiannual Rate for each Semiannual Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the Business Day immediately preceding the commencement date of such period.

(e) Extended Rate Periods. Extended Rate Period shall commence initially on the Extended Rate Conversion Date, and subsequently on the first Business Day of the calendar month following the last day of the prior Rate Period and extend for a period of one year or integral multiples of six months in excess of one year set by the Series One Remarketing Agent, and end on a day which is the last day preceding the first Business Day of a calendar month.

The Extended Rate for each Extended Rate Period shall be determined as follows:

(i) a preliminary Extended Rate for each Extended Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the last Business Day which is at least 30 days immediately preceding the commencement date of such period;

(ii) a Minimum Extended Rate for each Extended Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the last business Day which is at least 18 days immediately preceding the commencement date of such period; and

(iii) the actual Extended Rate for each Extended Rate Period shall be determined not later than 4:00 p.m. (New York City Time) on the Business Day immediately preceding the commencement date of such period.

(f) Commercial Paper Rate Periods. The Commercial Paper Rate Periods shall be of such duration, not exceeding 180 days, as may be offered by the Series One Remarketing Agent and specified by the purchaser of the related Series One Bond pursuant to Section 303 or 304 hereof. Each Commercial Paper Rate Period shall:

(i) commence on a Business Day (initially, the Commercial Paper Rate Conversion Date); and

(ii) end on a day which immediately precedes a Business Day.

The Commercial Paper Rate for each Commercial Paper Rate Period shall be effective from the commencement date of such period to the day following the last day thereof. Each such Commercial Paper Rate shall be determined by the Series One Remarketing Agent in connection with the sale of the Series One Bond to which it relates pursuant to Sections 303 or 304 hereof.

Section 207. Conversion between Variable Rate Periods and Commercial Paper Rate Periods.

(a) Conversion at Series One Remarketing Agent's Option. At the option of the Series One Remarketing Agent and upon delivery of an Opinion of Bond Counsel to the Issuer and the 1989 Trustee, the Series One Bonds may be converted from one Variable Rate Period to another or to or from a Commercial Paper Rate Period or Periods, as provided in this Section, which will, in the Series One Remarketing Agent's judgment, from the date of determination, produce the greatest likelihood of the lowest net interest cost to the Issuer and the Borrower during the term of the Series One Bonds; *provided that*, notwithstanding the foregoing, in no event may the Series One Bonds be converted from a Weekly Rate Period to a Commercial Paper Rate Period or any Variable Rate Period other than a Weekly Rate Period unless and until the Issuer has appointed a person or entity to act as Series One Tender Agent during the Rate Period to which the Series One Bonds are to be converted and the person or entity so appointed agrees in writing to act in such capacity. It is recognized that:

(i) the Series One Remarketing Agent may, in the exercise of its judgement, determine Variable or Commercial Paper Rate Periods for the Series One Bonds in order to achieve an average of Commercial Paper Rate Periods that result in interest rates on the Series One Bonds that are higher than those that would be borne by Series One Bonds with shorter Variable or Commercial Paper Rate Periods in order to increase the likelihood of achieving the lowest overall debt service costs to the Issuer and the Borrower by assuring the availability of such interest rates for the longer Variable or Commercial Paper Rate Periods; and

(ii) in view of the uncertainties involved in forecasting interest rates, the Series One Remarketing Agent may establish different Commercial Paper Rate Periods for the Series One Bonds in order to achieve an average of Commercial Paper Rate Periods that, in its judgment, is most likely to achieve the lowest overall debt service on the Series One Bonds during their life.

The Series One Remarketing Agent, in its discretion, may consider such information and resources as it deems appropriate in making the determinations required by this paragraph, but the Series One Remarketing Agent's determination of the Variable or Commercial Paper Rate Period for the Series One Bonds shall be based solely upon the Series One Remarketing Agent's judgment.

(b) Conversion Dates. In the case of conversion between Variable Rate Periods or to a Commercial Paper Rate Period or Periods, the Conversion Date shall be an Interest Payment Date for the Variable Rate Period from which the conversion is to be made; *provided however, that* in the case of a conversion from an Extended Rate Period, the Conversion Date shall be limited to an Interest Payment Date on which a new Extended Rate Period for the Series One Bonds would otherwise have commenced pursuant to Section 206(e) hereof. In the case of conversion from a Commercial Paper Rate Period, the Conversion Date shall be both:

(i) the first Business Day of a calendar month; and

(ii) the last Interest Payment Date on which interest is payable for any and all Commercial Paper Rate Periods theretofore established for any Series One Bond pursuant to Section 303 (as established by a certificate of the Series One Remarketing Agent).

(c) Notice From Series One Remarketing Agent of Conversion. The Series One Remarketing Agent shall give written notice of any such conversion to the Borrower, the 1989 Trustee, the Series One Paying Agent, the Series One Tender Agent, the Issuer and the Series One Credit Provider not less than five Business Days prior to the date on which the Series One Tender Agent is required to notify the Owners of the affected bonds of the conversion pursuant to Section 207(d) below. Such notice shall specify the Conversion Date and the Rate Period to which the conversion will be made.

(d) Notice to Owners. Not less than 30 days prior to the Conversion Date in the case of conversions from a Weekly or Commercial Paper Rate Period or Periods, and not less than 30 days prior to the Conversion Date in all other cases, the Series One Tender Agent shall mail or cause the Series One Paying Agent to mail a written notice of the conversion to the Series One Credit Provider, the Borrower and all of the Owners of the Series One Bonds. A copy of such notice shall be sent to the Issuer and the 1989 Trustee. Such notice shall set forth:

(i) the information contained in the notice from the Series One Remarketing Agent pursuant to Section 207(c) above;

(ii) the Interest Payment Dates for the new Rate Period;

(iii) in the case of conversion to a Variable Rate Period, the dates on which the Series One Remarketing Agent will determine and the Series One Tender Agent will notify the Owners of the preliminary or Minimum Variable Rate (if applicable) and the Variable Rate for the Variable Rate Period commencing on the Conversion Date pursuant to; and

(iv) the matters required to be stated pursuant to Section 304 with respect to purchases of Series One Bonds governed by such Section.

(e) Other Determinations by Series One Remarketing Agent. The preliminary or Minimum Variable Rate (if applicable), the Variable Rate for the Variable Rate Period or the Commercial Paper Rate for each Commercial Paper Rate Period commencing on the Conversion Date shall be determined by the Series One Remarketing Agent in the manner and on the date provided in Section 206. In addition to determining the Variable Rate or Commercial Paper Rates for the Rate Period to which conversion is to be made, the Series One Remarketing Agent shall determine a Weekly Rate at the time specified in Section 206(b) hereof, and give notice thereof to the Series One Tender Agent and the 1989 Trustee, which Weekly Rate shall take effect if needed pursuant to Section 207(f) below.

(f) When Conversion Not Effective. Notwithstanding the delivery of notice of conversion pursuant to Section 207(c) above, conversion to a new Variable or Commercial Paper Rate Period shall not take effect if:

(i) the Series One Remarketing Agent fails to determine a Variable Rate or Commercial Paper Rate (as the case may be) for the Rate Period to which the conversion is to be made;

(ii) any notice required by this Section 207 is not given when required; or

(iii) there is not delivered to the Issuer and the 1989 Trustee an Opinion of Bond Counsel dated as of the Conversion Date.

In any such event, the Series One Bonds which were to be converted shall automatically be converted to a Weekly Rate Period on the date such conversion was to be made, *provided that* any mandatory or optional tender for purchase on the Conversion Date shall nevertheless be carried out. No cancellation of a conversion pursuant to this subsection shall constitute an Series One Event of Default hereunder. Upon the occurrence of an event described in Section 207(f)(i) above, the Weekly Rate shall be the *per annum* rate of interest determined on each Wednesday (or if such day is not a Business Day, the next prior Business Day) by the 1989 Trustee which is equal to the most recently published rate set forth in the Kenny Information Systems 30-day High Grade Index plus 1/5th of one percent, but not to exceed the Maximum Rate.

Section 208. Conversion to Fixed Rate.

(a) Conversion Upon Borrower's Request; Conversion Date. The Series One Bonds shall be converted to bear interest at a Fixed Rate or Rates upon the written request of the Borrower as provided in this Section; *provided that*, in no event shall the Series One Bonds be converted to a Fixed Rate without the prior written consent of the Series One Credit Provider. The Fixed Rate Conversion Date shall be:

(i) in the case of a conversion from a Variable Rate Period other than an Extended Rate Period, an Interest Payment Date for the Series One Bonds on which interest is payable for the Variable Rate Period from which the conversion is to be made;

(ii) in the case of a conversion from an Extended Rate Period, an Interest Payment Date for the Series One Bonds on which a new Extended Rate Period would otherwise have commenced pursuant to Section 206(e) hereof; and

(iii) in the case of a conversion from Commercial Paper Rate Periods, a day which is both (A) the first Business Day of a calendar month and (B) the last Interest Payment Date for the Series One Bonds on which interest is payable for any and all Commercial Paper Rate Periods theretofore established for the Series One Bonds pursuant to Section 206(f) hereof.

Not less than 45 days prior to the Fixed Rate Conversion Date, the Borrower shall give written notice to the 1989 Trustee, the Series One Tender Agent, the Series One Remarketing Agent, the Issuer and the Series One Credit Provider, setting forth:

(1) the election to convert to a Fixed Rate or Rates; and

(2) the proposed Fixed Rate Conversion Date.

The 1989 Trustee, the Series One Credit Provider and the Series One Remarketing Agent shall receive, concurrently with the notice from the Borrower described above, an Opinion of Bond Counsel.

(b) Duties of Series One Remarketing Agent Upon Conversion to Fixed Rate. The Series One Remarketing Agent shall make a preliminary determination of the Fixed Rate or Rates for the Series One Bonds in the same manner as is provided for the final determination of rates pursuant to Section 208(d) below. Such preliminary determination shall be made on a Business Day which is at least 35 days prior to the Fixed Rate Conversion Date. On the date of the preliminary determination, the Series One Remarketing Agent shall notify the Series One Tender Agent, the Issuer, the Borrower, the 1989 Trustee, the Series One Paying Agent, and the Series One Credit Provider, by telephone (promptly confirmed in writing), telegram, telecopy, telex or other similar means of communication of the preliminary Fixed Rate or Rates so determined.

(c) Notice of Conversion to Owners. Subject to the provisions of Section 208(b) above, the Series One Tender Agent shall mail or cause the 1989 Trustee to mail a notice of the proposed conversion to the Owners of all Series One Bonds to be converted. A copy of such notice shall be sent to the Borrower and the Issuer. Such notice shall be mailed not less than 30 days prior to the proposed Fixed Rate Conversion Date. Such notice shall set forth:

(i) the proposed Fixed Rate Conversion Date;

(ii) the dates on which the Series One Remarketing Agent will determine and the Series One Tender Agent will notify the Owners of the Fixed Rate or Rates pursuant to Section 208(d) below;

(iii) the matters required to be stated pursuant to Section 304(c) hereof with respect to purchases of Series One Bonds governed by such Section; and

(iv) the preliminary Fixed Rate or Rates determined pursuant to Section 208(b) above.

(d) Determination of Fixed Rates. The Series One Remarketing Agent shall determine the Fixed Rate or Rates by 3:30 p.m. (New York City Time) not later than the last Business Day that is at least 5 days prior to the Fixed Rate Conversion Date. The Fixed Rate or Rates shall be the lowest rate (not in excess of the Maximum Rate) which, in the judgment of the Series One Remarketing Agent as of the date of determination and under prevailing market conditions, would cause the Series One Bonds to have a market value equal to the principal amount thereof, plus accrued interest. Not later than 4:00 p.m. (New York City Time) on the date of determination of the Fixed Rate or Rates, the Series One Remarketing Agent shall notify the Series One Tender Agent of the Fixed Rate or Rates applicable to each Series One Bond to be converted by telephone (promptly confirmed in writing). Such determination shall be conclusive and binding upon the Issuer, the Borrower, the 1989 Trustee, the Series One Tender Agent, the Series One Credit Provider and the Owners of the Series One Bonds.

The Series One Tender Agent shall make such Fixed Rate or Rates available upon request by telephone (promptly confirmed in writing), telegram, telecopy, telex or other similar communication to the Issuer, the Borrower, the 1989 Trustee, the Series One Credit Provider and all Owners who have elected to retain their Series One Bonds. In addition to determining a Fixed Rate or Rates, the Series One Remarketing Agent shall determine a Weekly Rate pursuant to Section 206(b) and give notice thereof to the Series One Tender Agent, the Series One Paying Agent, the 1989 Trustee and the Series One Credit Provider, which Weekly Rate shall take effect if needed pursuant to Section 208(f) below.

(e) [RESERVED]

(f) When Fixed Rate Conversion Not Effective. Notwithstanding the delivery of notice of a Fixed Rate conversion pursuant to Section 208(a) above, conversion to a Fixed Rate Period shall not take effect if:

(i) the Issuer withdraws such notice of conversion not later than the Business Day preceding the date on which the Fixed Rate is to be determined;

(ii) the Series One Remarketing Agent fails to determine a Fixed Rate or Rates; or

(iii) any notice required by this Section 208 is not given when required.

In any of such events, the Series One Bonds shall automatically be converted to a Weekly Rate Period on the date the Fixed Rate conversion was to be made, *provided that* the mandatory tender for purchase pursuant to Sections 304 and 305 hereof shall nevertheless be carried out if notice of the Fixed Rate conversion had been given to the Owners. Withdrawal of a conversion notice shall be given by the Issuer to the 1989 Trustee, the Series One Tender Agent, the Series One Remarketing Agent and the Series One Credit Provider, by telephone, promptly confirmed in writing. No cancellation of a Fixed Rate conversion pursuant to this subsection shall constitute a Series One Event of Default hereunder. If the Series One Bonds are converted to a Weekly Rate, and the Series One Remarketing Agent fails to set a Weekly Rate, the Weekly Rate shall be the *per annum* rate of interest determined on each Wednesday (or if such day is not a Business Day, the next prior Business Day) by the 1989 Trustee which is equal to the most recently published rate set forth in the Kenny Information Systems 30-day High Grade Index plus 1/5th of one percent, but in no event greater than the Maximum Rate.

Section 209. Conditions Precedent to Issuance of Series One Bonds. In addition to complying with the requirements set forth in the Master Ordinance and the 1989 Supplemental Ordinance in connection with the

issuance of the Series One Bonds, all the Series One Bonds shall be executed by the Issuer for delivery to the 1989 Trustee and thereupon shall be authenticated by the 1989 Trustee and delivered as directed by the Issuer, but only upon the further receipt by the 1989 Trustee of:

(a) executed or certified copies of the executed Series One Loan Agreement and the Series One Credit Agreement;

(b) certified copies of the Master Ordinance, the 1989 Supplemental Ordinance and this Series One Supplemental Ordinance;

(c) an opinion of Bond Counsel regarding the due authorization, issuance and validity of the Series One Bonds, the federal tax-exempt status of the interest thereon, and related matters, in form and substance satisfactory to the Issuer, the Underwriter, the 1989 Credit Provider, counsel to the 1989 Credit Provider, the Series One Credit Provider and counsel to the Series One Credit Provider;

(d) an opinion of counsel to the Borrower regarding the due authorization, execution, delivery and validity of the Series One Loan Agreement and other documents, instruments and agreements relating thereto, and setting forth various other opinions regarding the transactions contemplated hereby, all in form and substance satisfactory to Bond Counsel, the Issuer, the Series One Credit Provider, counsel to the Series One Credit Provider, the 1989 Credit Provider, counsel to the 1989 Credit Provider and the Underwriter;

(e) an opinion of counsel to the obligor under the Series One Credit Agreement regarding the due authorization, execution, delivery and validity of the Series One Credit Agreement, in form and substance satisfactory to Bond Counsel, the Issuer, the Series One Credit Provider, counsel to the Series One Credit Provider, the 1989 Credit Provider, counsel to the 1989 Credit Provider and the Underwriter;

(f) an opinion of counsel to the Borrower regarding the truth, accuracy and completeness of the final official statement relating to the Series One Bonds, in form and substance satisfactory to Bond Counsel, the Issuer, the Underwriter, the 1989 Credit Provider, counsel to the 1989 Credit Provider, the Series One Credit Provider and counsel to the Series One Credit Provider;

(g) an opinion of counsel to the Series One Credit Provider, regarding the due authorization, execution, delivery and validity of the Series One Credit Facility and setting forth various other opinions regarding the transactions contemplated hereby, all in form and substance satisfactory to Bond Counsel, the Issuer, the 1989 Credit Provider, counsel to the 1989 Credit Provider and the Underwriter;

(h) an opinion of counsel to the Series One Credit Provider regarding the truth, accuracy and completeness of the statements and information regarding the Series One Credit Provider, the Series One Credit Facility and the Series One Credit Agreement contained in the final official statement relating to the Series One Bonds, in form and substance satisfactory to Bond Counsel, the Issuer, the 1989 Credit Provider, counsel to the 1989 Credit Provider and the Underwriter;

(i) the Series One Credit Facility, duly executed and delivered by the Series One Credit Provider to the 1989 Trustee and in full force and effect;

(j) the written consent of the 1989 Credit Provider to the issuance of the Series One Bonds as Additional Bonds (as defined in the 1989 Supplemental Ordinance) under the 1989 Supplemental Ordinance; and

(k) such other documents, instruments, agreements, certificates, opinions and other materials as may be requested by Bond Counsel, the Issuer, the Underwriter, counsel to the Underwriter, the 1989 Credit

Provider, counsel to the 1989 Credit Provider, the Series One Credit Provider and counsel to the Series One Credit Provider.

ARTICLE III

REDEMPTION AND PURCHASE OF SERIES ONE BONDS

Section 301. Optional Redemption.

(a) Optional Redemption During Weekly, Monthly or Commercial Paper Rate Periods.

The Series One Bonds bearing interest at Weekly, Monthly or Commercial Paper Rates are subject to optional redemption prior to their Stated Maturity, without premium, upon Borrower's written request to the Issuer and the 1989 Trustee in whole on any date or in part on any Interest Payment Date at a price equal to 100% of the principal amount to be redeemed plus accrued interest thereon to the redemption date, *provided that*, in no event shall the Series One Bonds be redeemed pursuant to this Section 301(a) without the prior written consent of the Series One Credit Provider.

(b) Optional Redemption During Semiannual Rate Period. The Series One Bonds bearing interest at Semiannual Rates are subject to optional redemption prior to their Stated Maturity, without premium, upon Borrower's written request to the Issuer and the 1989 Trustee in whole or in part on any Interest Payment Date at a price equal to 100% of the principal amount to be redeemed plus accrued interest thereon to the redemption date, *provided that*, in no event shall the Series One Bonds be redeemed pursuant to this Section 301(b) without the prior written consent of the Series One Credit Provider.

(c) Optional Redemption on Last Interest Payment Date of Extended Rate Period. The Series One Bonds bearing interest at Extended Rates are subject to optional redemption, without premium, upon Borrower's written request to the Issuer and the 1989 Trustee in whole or in part on the final Interest Payment Date of any Extended Rate Period at a price equal to 100% of the principal amount to be redeemed plus accrued interest thereon to the redemption date, *provided that*, in no event shall the Series One Bonds be redeemed pursuant to this Section 301(c) without the prior written consent of the Series One Credit Provider.

(d) Optional Redemption During Fixed Rate Period. The Series One Bonds are subject to redemption after the Fixed Rate Conversion Date upon Borrower's written request to the Issuer and the 1989 Trustee in whole on any date or in part on any Interest Payment Date, upon expiration of the applicable call protection period set forth below, at a redemption price equal to 100% of the principal amount to be redeemed plus accrued and unpaid interest thereon to the date fixed for redemption plus a premium (expressed as percentages of the principal amount to be redeemed) as set forth below, *provided that*, in no event shall the Series One Bonds be redeemed pursuant to this Section 301(d) without the prior written consent of the Series One Credit Provider.

Length of Fixed Rate Period:**Premium Applicable to:****Equal to or
greater than: But less
than:****No-call
Period:****First and
Second
Call Date:****Third and
Fourth
Call Date:****Fifth Call
Date and
Thereafter:**

18 years	N/A	9 years	2%	1%	0%
12 years	18 years	8 years	2%	1%	0%
9 years	12 years	6 years	2%	1%	0%
7 years	9 years	5 years	1%	0%	0%
5 years	7 years	3 years	1%	0%	0%

Section 302. Tenders During Variable Rate Periods.

(a) Purchase Dates. During any Variable Rate Period with respect to the Series One Bonds, the Owners of the Series One Bonds (other than the Series One Credit Provider) may elect to have their Series One Bonds (or portions thereof in Authorized Denominations) purchased at the Purchase Price, on the following Purchase Dates and upon the giving of the following telephonic or written notices meeting the further requirements of Section 302(b) below:

(i) Series One Bonds bearing interest at Weekly Rates may be tendered for purchase on any Business Day upon delivery of a written notice of tender to the Series One Tender Agent not later than 5:00 p.m. (New York City Time) on a Business Day not less than seven days prior to the Purchase Date.

(ii) Series One Bonds bearing interest at Monthly or Semiannual Rates may be tendered for purchase on any Interest Payment Date upon delivery of a written notice of tender to the Series One Tender Agent not later than 5:00 p.m. (New York City Time) on a Business Day which is not less than seven days prior to the Purchase Date in the case of the Series One Bonds bearing interest at Monthly Rates, or 15 days prior to the Purchase Date in the case of Series One Bonds bearing interest at Semiannual Rates.

(iii) Series One Bonds bearing interest at Extended Rates may be tendered for purchase on the commencement date of any Extended Rate Period (other than the Extended Rate Conversion Date) upon delivery of a written notice of tender to the Series One Tender Agent not later than 5:00 p.m. (New York City Time) on a Business Day which is not less than 15 days prior to the Purchase Date.

(b) Notice of Tender. Each notice of tender:

(i) shall, in the case of a written notice, be delivered to the Series One Tender Agent at its principal office and be in form satisfactory to the Series One Tender Agent;

(ii) shall state, whether delivered in writing or by telephone:

(A) the principal amount of the Series One Bond or portion of the Series One Bond to be purchased, the number assigned to such Series One Bond and the Series thereof;

(B) that the Owner irrevocably demands purchase of such Series One Bond or portion thereof;

(C) the date on which such Series One Bond or portion thereof is to be purchased; and

(D) payment instructions; and

(iii) shall automatically constitute, whether delivered in writing or by telephone:

(A) an irrevocable offer to sell the Series One Bond or portion thereof to which the notice relates on the Purchase Date to any purchasers selected by the Series One Remarketing Agent, at the Purchase Price;

(B) an irrevocable authorization and instruction to the Series One Bond Registrar to effect transfer of such Series One Bond or portion thereof upon payment of such price to the Series One Tender Agent on the Purchase Date;

(C) an irrevocable authorization and instruction to the Series One Tender Agent to effect the exchange of the Series One Bond to be purchased in whole or in part for other Series One Bonds in an equal aggregate principal amount and of the same Series and tenor so as to facilitate the sale of such Series One Bond or portion thereof; and

(D) an acknowledgement that such tendering Owner will have no further rights with respect to such tendered Series One Bond or portion thereof, except for the right of such Owner to receive such Purchase Price upon surrender of such Series One Bond to the Series One Tender Agent.

The determination of the Series One Tender Agent as to whether a notice of tender has been properly delivered pursuant to the foregoing shall be conclusive and binding upon the Owner.

(c) Series One Bonds to be Remarketed. Not later than 4:30 p.m. (New York City Time) on the Business Day immediately following the date of receipt of any notice of tender, the Series One Tender Agent shall notify the Series One Remarketing Agent and the 1989 Trustee of the principal amount of Series One Bonds or portions thereof to be tendered and remarketed and the date they are to be tendered and remarketed. Such notices shall be given by telephone, telegram, telecopy, telex or other similar communication and shall be promptly confirmed in writing.

(d) Remarketing of Tendered Bonds. The Series One Remarketing Agent shall offer for sale and use its best efforts to find purchasers for all Series One Bonds or portions thereof properly tendered. All Series One Bonds shall be at all times remarketed at par plus accrued and unpaid interest (if any). The terms of any sale by the Series One Remarketing Agent shall provide for the purchase of the Series One Bonds or portions thereof to be tendered at the Purchase Price and the payment of such Purchase Price by the Series One Remarketing Agent at the time specified in Section 306 against delivery of the remarketed Series One Bonds to the Series One Tender Agent at or before 11:30 a.m. (New York City Time) on the Purchase Date. Notwithstanding the foregoing, the Series One Remarketing Agent shall not offer for sale any Series One Bond if notice of conversion from one Variable Rate Period to another, to Commercial Paper Rate Periods or to a Fixed Rate Period has been given to the Owners by the 1989 Trustee, unless the Series One Remarketing Agent has advised the person to whom the offer is made of such conversion and the effect of such conversion on the rights of Owners to tender their Series One Bonds, as described in the conversion notice from the 1989 Trustee to the Owners.

Section 303. Tenders During Commercial Paper Rate Periods.

(a) Purchase Dates. Each Series One Bond bearing interest at a Commercial Paper Rate shall be subject to mandatory tender for purchase at the Purchase Price on the first Business Day following the end of each Commercial Paper Rate Period applicable to such Series One Bond.

(b) Remarketing of Tendered Commercial Paper Bonds. Commencing at 3:00 p.m. (New York City Time) on the Business Day immediately preceding each Purchase Date, the Series One Remarketing Agent shall offer for sale and use its best efforts to find purchasers for all Series One Bonds required to be purchased on the ensuing Purchase Date except for Series One Bonds which the Owners have elected to retain as provided in Section 303(c) below. In remarketing the Series One Bonds, the Series One Remarketing Agent shall offer and accept purchase commitments for the Series One Bonds for such Commercial Paper Rate Periods and at such Commercial Paper Rates as it deems to be advisable in order to minimize the net interest cost on the Series One Bonds under prevailing market conditions; *provided, however, that* the foregoing shall not prohibit the Series One Remarketing Agent from accepting purchase commitments for longer Commercial Paper Rate Periods (and at higher Commercial Paper Rates) than are otherwise available at the time of any Series One Remarketing if in the reasonable judgment of the Series One Remarketing Agent, under prevailing market conditions, a lower interest cost on the Series One Bonds can be achieved over the longer Commercial Paper Rate Periods than over a succession of shorter Commercial Paper Rate Periods. No Commercial Paper Rate may be established which exceeds the Maximum Rate; and no Commercial Paper Rate Period may be established which exceeds 180 days or, if the Series One Remarketing Agent has given or received notice of any conversion to a Variable or Fixed Rate Period or notice of a mandatory tender pursuant to Sections 304 or 305, the remaining number of days prior to the Conversion Date, or mandatory tender date, as the case may be. The terms of any sale by the Series One Remarketing Agent shall provide for the purchase of the Series One Bonds to be remarketed at the Purchase Price and the payment of such Purchase Price by the Series One Remarketing Agent at the time specified in Section 304 against delivery of the remarketed Series One Bonds to the Series One Tender Agent at or before 11:30 a.m. (New York City Time) on the Purchase Date.

(c) Election to Retain. Prior to 3:00 p.m. (New York City Time) on the Business Day immediately preceding each Purchase Date for any Series One Bond bearing interest at a Commercial Paper Rate, the Owner thereof may elect to retain such Series One Bond for an additional Commercial Paper Rate Period by giving telephonic notice of such election to the Series One Tender Agent *provided that* prior to such time on such Business Day such Owner has agreed with the Series One Remarketing Agent as to the duration of the additional Commercial Paper Rate Period and the Commercial Paper Rate to be effective during such period subject to the limitations described in Section 303(b) above. Any Owner so electing to retain a Series One Bond shall be required to deliver such Series One Bond and pay the Purchase Price for the Series One Bond for the additional Commercial Paper Rate Period in the same manner as is provided for the purchase of Series One Bonds for resale to a different Owner. Any Owner electing to retain such Bond and pay the Purchase Price shall also be entitled to receive the Purchase Price for such Series One Bond.

Section 304. Tenders Upon Variable, Commercial Paper or Fixed Rate Conversion.

(a) Purchase Dates and Election to Retain. In the case of any conversion from one Rate Period to another, the Series One Bonds to be converted are subject to mandatory tender for purchase on the Conversion Date at the Purchase Price; *provided that* the Owners of such bonds may elect to retain their Series One Bonds notwithstanding a mandatory tender pursuant to this paragraph by giving notice of such election to the Series One Tender Agent. Notice of election to retain Series One Bonds shall be given to the Series One Tender Agent:

(i) in the case of conversion to a Weekly Rate Period, in writing on a Business Day not less than five Business Days prior to the Conversion Date;

(ii) in the case of conversion to a Monthly Rate Period, in writing on a Business Day not less than five Business Days prior to the Conversion Date;

(iii) in the case of conversion to a Semiannual or Extended Rate Period, in writing on a Business Day not less than 15 days prior to the Conversion Date;

(iv) in the case of conversion to a Commercial Paper Rate Period, by telephone not later than 3:00 p.m. (New York City Time) on the Business Day immediately preceding the Commercial Paper Rate Conversion Date; and

(v) in the case of conversion to a Fixed Rate Period, in writing not later than the last Business Day which is at least ten days prior to the date the Fixed Rate is determined pursuant to Section 208(d) hereof.

(b) Notice of Election to Retain. Notices of election to retain Series One Bonds pursuant to Section 304(a) above shall state that the person delivering the same is an Owner, specify the principal amount, Series and number of the Series One Bonds to which such notice relates, and direct the Series One Tender Agent not to purchase the Series One Bonds so specified. In addition, in the case of a conversion to a Fixed Rate Period, such notice shall state:

(i) that the Owner acknowledges that after the Fixed Rate Conversion Date, the Series One Bonds will no longer be subject to tender at the option of the Owner; and

(ii) that the Owner is aware that after the Fixed Rate Conversion Date the rating or ratings assigned to the Series One Bonds may be lowered or withdrawn.

Any such notice given to the Series One Tender Agent shall be irrevocable and binding upon the Owner delivering the same and all subsequent Owners of the Series One Bonds to be retained, including any Series One Bonds to be issued in exchange therefor or upon transfer thereof; except that, in the case of a notice given in connection with a conversion to Commercial Paper Rates, such notice shall be subject to the Owner's ability to reach an agreement with the Series One Remarketing Agent with respect to the initial Commercial Paper Rate Period and Commercial Paper Rate in the manner described in Section 303 hereof.

(c) Notice to Owners. Any notice of a conversion given to Owners pursuant to Section 208(c) hereof shall, in addition to the requirements of such Section, specify:

(i) that the Series One Bonds to be converted will be subject to optional or mandatory tender for purchase on the Conversion Date and the time at which Series One Bonds are to be tendered for purchase;

(ii) the date and time by which any notice of an election to retain Series One Bonds pursuant to this Section must be received; and

(iii) if appropriate, the matters required to be stated in a notice of election to retain Series One Bonds (or contain a form thereof).

(d) Remarketing. At or before 4:00 p.m. (New York City Time) on the Business Day immediately following the last day on which notices of election to retain Series One Bonds may be delivered to the Series One Tender Agent pursuant to Section 304(b) above (or immediately upon receipt of such notice in the case of conversions to Commercial Paper Rate Periods), the Series One Tender Agent shall notify the 1989 Trustee, the Series One Credit Provider, and the Series One Remarketing Agent, by telephone, telegram, telecopy, telex or other similar communication, of the aggregate principal amount of Series One Bonds to be tendered for purchase on the Conversion Date. The Series One Remarketing Agent shall offer for sale and use its best efforts to find purchasers for the Series One Bonds to be tendered. The terms of any sale by the Series One Remarketing Agent shall provide for the purchase of the Series One Bonds to be tendered at the Purchase Price and the payment of such purchase price to the Series One Tender Agent by the Series One Remarketing Agent at the time specified in Section 306 against

delivery of the remarketed Series One Bonds at or before 11:30 a.m. (New York City Time), on the Conversion Date.

Section 305. Tenders Upon Expiration, Substitution or Termination of Series One Credit Facility; Mandatory Purchase Upon Event of Default Under Series One Credit Agreement.

(a) Purchase Dates Upon Expiration, Substitution or Termination of Series One Credit Facility. Prior to the expiration, substitution or termination of the Series One Credit Facility, the Series One Bonds shall be subject to mandatory tender for purchase at the Purchase Price:

(i) on a Business Day which is at least five days prior to the date on which the Series One Credit Facility is to be cancelled in connection with replacement by an Alternate Credit Facility pursuant to Section 604 of this Series One Supplemental Ordinance but only if as a result of such replacement the ratings assigned to the Series One Bonds by the Rating Agencies will be withdrawn or will be lower than the ratings assigned thereto immediately prior to such replacement; or

(ii) on a Business Day which is at least five days prior to a termination or expiration of the Series One Credit Facility.

Notwithstanding paragraphs (i) and (ii) above, the Owners of the Series One Bonds may elect to retain their Series One Bonds by giving notice of such election in writing to the Series One Tender Agent not later than five Business Days prior to the Purchase Date.

(b) Election to Retain In Connection With Purchase Upon Expiration, Substitution or Termination of Series One Credit Facility. Notices of election to retain Series One Bonds shall state that the person delivering the same is an Owner, specify the principal amount, Series and numbers of the Series One Bonds to which such notice relates, and direct the Series One Tender Agent not to purchase the Series One Bonds so specified notwithstanding the occurrence of the event giving rise to the mandatory tender. Any election to retain Series One Bonds given to the Series One Tender Agent shall be irrevocable and binding upon the Owner delivering the same and all subsequent Owners of the Series One Bonds to be retained, including any Series One Bonds issued in exchange therefor. Notices of election shall state, in connection with the mandatory tender pursuant to Sections 305(a)(i) and (ii), that the Owner is aware that as a result of the related Alternate Credit Facility or the expiration of the Series One Credit Facility the rating or ratings assigned to the Series One Bonds may be lowered or withdrawn; state in the case of a mandatory tender pursuant to Section 305(a)(ii) that the Owner is aware that the obligation of the Series One Credit Provider to purchase the Series One Bonds pursuant to the Series One Credit Facility is terminating or expiring and that the Series One Bonds will no longer be subject to purchase at the option of the Owner.

(c) Notice to Owners of Purchase Upon Expiration, Substitution or Termination of Series One Credit Facility. Notice of mandatory tender shall be given by mail by the 1989 Trustee to the Owners of the affected Series One Bonds by two separate mailings at least one week apart, the first of which shall be not less than 30 days prior to the mandatory tender date. Such notice shall specify:

(i) the date by which any notice of election to retain Series One Bonds pursuant to this Section must be received;

(ii) whether the ratings assigned to the Series One Bonds will be reduced or withdrawn; and

(iii) the matters required to be stated in a notice of election to retain Series One Bonds (or contain a form thereof).

A copy of such notice shall be sent to the Issuer, the Series One Tender Agent and the Borrower. Notice having been so given, such mandatory tender shall occur on the date provided in such notice whether or not an Alternate Credit Facility is provided after such initial notice has been given.

(d) Remarketing. At or before 4:00 p.m. (New York City Time) on the Business Day immediately following the last day on which notices of election to retain Series One Bonds may be delivered pursuant to Section 305(a) above, the Series One Tender Agent shall notify the Series One Remarketing Agent by telephone, telegram, telecopy, telex or other similar communication of the aggregate principal amount of Series One Bonds to be tendered for purchase on the mandatory tender date. The Series One Remarketing Agent shall offer for sale and use its best efforts to find purchasers for the Series One Bonds to be tendered pursuant to Section 305(a) above. In the case of replacement of the Series One Credit Facility, the Series One Remarketing Agent shall inform prospective purchasers of the identity of the new Series One Credit Provider and the ratings to be in effect on the Series One Bonds following such conversion. The terms of any sale shall provide for the sale of the Series One Bonds to be tendered at the Purchase Price payable at or before 11:30 a.m. (New York City Time) in immediately available funds.

(e) Mandatory Purchase Upon Occurrence of Event of Default under Series One Credit Agreement. In the event that the Series One Credit Provider shall give written notice to the 1989 Trustee, the Issuer, the Series One Remarketing Agent, the Series One Tender Agent and the Borrower that an Event of Default under and as defined in the Series One Credit Agreement has occurred which has not been waived or cured within the applicable time period and instructing the 1989 Trustee to effect a mandatory purchase pursuant to this Section 305(e), then and in such event all Series One Bonds which are secured by the Series One Credit Facility provided under such Series One Credit Agreement shall be purchased or deemed purchased (as provided in Section 302(l) hereof) on the date specified by the 1989 Trustee as provided below.

Within five days of the date of receipt by the 1989 Trustee of the notice from the Series One Credit Provider described in the immediately preceding paragraph, the 1989 Trustee shall give a written mandatory purchase notice by first class mail, postage prepaid, to the Owners of the Outstanding Series One Bonds subject to mandatory purchase pursuant to this Section, which notice:

(i) shall state that such bonds are subject to mandatory purchase pursuant to this Section by virtue of the occurrence and continuation of an Event of Default under and as defined in the Series One Credit Agreement or by virtue of the occurrence of the circumstances referred to in Section 305(e)(2) above;

(ii) shall specify the Purchase Date, which shall be a Business Day selected by the 1989 Trustee and a date not earlier than the tenth nor later than the seventeenth day following the date of mailing of such notice of mandatory purchase; and

(iii) shall state that all Series One Bonds affected thereby shall be purchased or deemed purchased on such Purchase Date and that no Owner of such Series One Bonds shall have the right to retain such Series One Bonds after such Purchase Date.

Section 306. Purchase of Tendered Bonds.

(a) Notices. At or before 3:30 p.m. (New York City Time) on the Business Day immediately preceding the Purchase Date (or 10:30 a.m. (New York City Time) on the Purchase Date in the case of Series One Bonds bearing interest at Commercial Paper Rates), the Series One Remarketing Agent shall give notice by telephone, telegram, telecopy, telex or other similar communication to the 1989 Trustee of the principal amount of tendered Series One Bonds which have been remarketed and of the names, addresses and taxpayer identification numbers of the purchasers and the denominations of remarketed Series One Bonds to be delivered to each purchaser. Upon the receipt of such notice (or, if no notice is received) the 1989 Trustee shall give the related Series One Credit Provider the

notices at the time and in the manner required under the related Series One Credit Facility with respect to such Series One Credit Provider's obligation to purchase any such Series One Bonds which have not been remarketed and draw on such Series One Credit Facility pursuant to Article III hereof.

(b) Sources of Payment. The Series One Remarketing Agent shall pay to the Series One Tender Agent on the Purchase Date all amounts representing proceeds of the Series One Remarketing of such Series One Bonds, such payments to be made in the manner and at the time specified in Sections 302(d), 303(b), 304(d) and 305(d), as applicable. All such proceeds shall be held by the Series One Tender Agent in trust in a separate segregated account and invested solely in Government Obligations which mature not later than the earlier of 30 days after the date of acquisition or the date by which such moneys are expected to be needed to pay the Purchase Price of the related Series One Bonds. The Series One Credit Provider has agreed under the Series One Credit Facility to pay to the 1989 Trustee the Purchase Price of the related Series One Bonds that have not been remarketed on or before 3:30 p.m. (New York City Time) on the Purchase Date.

(c) Payments by the Series One Tender Agent; Payments Due on Saturdays, Sundays and Holidays. Before 4:00 p.m. (New York City Time), on the Purchase Date and upon receipt by the Series One Tender Agent of 100% of the aggregate Purchase Price of the tendered Series One Bonds, the Series One Tender Agent shall pay the Purchase Price of such Series One Bonds to the Owners thereof at its Delivery Office or by bank Wire Transfer. Such payments shall be made in immediately available funds. Payments of such Purchase Price are to be made from the following sources in the order of priority indicated:

(i) the proceeds of the sale of the Series One Bonds which have been remarketed by the Series One Remarketing Agent pursuant to Section 302 of this Series One Supplemental Ordinance (other than proceeds of a sale of the Series One Bonds to the Borrower, any of the Affiliates of the Borrower, or the Issuer);

(ii) moneys paid to the 1989 Trustee pursuant to the Series One Credit Facility; and

(iii) moneys deposited by the Borrower with the 1989 Trustee for the specific purpose of paying the Purchase Price of any Series One Bonds.

Whenever the Purchase Date for any Series One Bond falls on a day which is not a Business Day, then payment of the Purchase Price of such Series One Bond shall be made (upon delivery of such Series One Bond to the Series One Tender Agent as provided above) on the next Business Day with the same force and effect as if made on the applicable Purchase Date.

(d) Registration and Delivery of Tendered or Purchased Bonds. On the Purchase Date, the Bond Registrar shall register and deliver (or hold) all Series One Bonds purchased on any Purchase Date as follows:

(i) Series One Bonds purchased or remarketed by the Series One Remarketing Agent shall be registered in accordance with the instructions of the Series One Remarketing Agent and made available to be picked up by the Series One Remarketing Agent against payment of the Purchase Price by 11:30 a.m. (New York City Time); and

(ii) Series One Bonds purchased under a Series One Credit Facility shall be registered in the name of the related Series One Credit Provider or its nominee and shall be delivered to such Series One Credit Provider or to its agent.

(e) Delivery of Bonds; Effect of Failure to Surrender Bonds. All Series One Bonds to be purchased on any date shall be required to be delivered to the Delivery Office of the Series One Tender Agent at or before 11:30 a.m. (New York City Time) on the Purchase Date, except that Series One Bonds bearing interest at

Semiannual or Extended Rates being tendered for purchase at the election of the Owner pursuant to Section 302 shall be delivered to the Delivery Office of the Series One Tender Agent along with the notice of tender.

If the Owner of any Series One Bond (or portion thereof) that is subject to purchase pursuant to this Section fails to deliver such Series One Bond to the Series One Tender Agent for purchase on the Purchase Date, and if the Series One Tender Agent is in receipt of the Purchase Price therefor, such Series One Bond (or portion thereof) shall nevertheless be deemed purchased on the Purchase Date and ownership of such Bond (or portion thereof) shall be transferred to the purchaser thereof as provided in Section 306(d) above. Any Owner who fails to deliver a Series One Bond for purchase as required above shall have no further rights thereunder except the right to receive the Purchase Price thereof upon presentation and surrender of said Series One Bond to the Series One Tender Agent. The Series One Tender Agent shall promptly notify the 1989 Trustee of any such failure to deliver a Series One Bond to the Series One Tender Agent and the 1989 Trustee shall be entitled to conclusively rely on such notification.

(f) No Physical Delivery Required While Book-Entry System in Place. Notwithstanding anything expressed or implied in this Series One Supplemental Ordinance to the contrary, so long as the Book-Entry System for the Series One Bonds is maintained by the Issuer, there shall be no requirement of physical delivery to the Series One Tender Agent of any Series One Bonds subject to mandatory or optional purchase as a condition to the payment of the Purchase Price therefor. Rather notice of any change in ownership of any Series One Bond as a result of any such mandatory or optional purchase shall be given by the Series One Remarketing Agent to DTC by telephone, telegram, telecopy, telex or other similar communication on or before 12:00 noon (New York City time) on the applicable Purchase Date and DTC shall thereupon register the transfer of Beneficial Ownership of such Series One Bond as directed in such notice, whereupon the Purchase Price shall be paid to the former Beneficial Owner thereof.

Section 307. Credit Purchased Bonds. In the event that any Series One Bonds are registered in the name of a Series One Credit Provider pursuant to Section 306(d), the Series One Remarketing Agent shall continue to offer for sale and use its best efforts to sell such Series One Bonds at the Purchase Price. Prior to such remarketing, the Series One Tender Agent shall deliver such Series One Bonds to the Series One Credit Provider or its designee, or, if so instructed by such Series One Credit Provider, shall hold such Series One Bonds on its behalf, *provided that*, so long as the Book-Entry System for the Series One Bonds is maintained by the Issuer, notice of any change in ownership shall be given to DTC as described above in Section 306(f). While a Series One Credit Facility is effective, Series One Bonds paid for with funds made available under such Series One Credit Facility shall not be delivered upon remarketing unless such Series One Credit Facility is automatically reinstated for the principal amount thereof and interest thereon in accordance with its terms or the Series One Remarketing Agent, the Series One Paying Agent, the Series One Tender Agent and the 1989 Trustee have been advised by such Series One Credit Provider that it has elected to reinstate such Series One Credit Facility for the required amount. The initial Series One Credit Facility provides that it is automatically reinstated for the principal amount and interest on Credit Purchased Bonds which are remarketed in accordance with its terms.

Section 308. No Purchase or Sales After Certain Defaults. Anything in this Series One Supplemental Ordinance to the contrary notwithstanding, there shall be no purchase or sales of Series One Bonds pursuant to this Article III:

(a) if there shall have occurred and be continuing a Series One Event of Default described in Section 701(a)(i) of this Series One Supplemental Ordinance by virtue of the failure of the 1989 Trustee to properly draw under the Series One Credit Facility amounts sufficient to pay when due the amounts owing under the Series One Bonds; or

(b) if:

- (i) (A) the obligation of the Series One Credit Provider to purchase Series One Bonds pursuant to the Series One Credit Facility has expired or has been terminated; or
- (B) if the Series One Credit Provider is in default under the Series One Credit Facility; and
- (ii) no Alternate Credit Facility has been obtained in replacement for the Series One Credit Facility pursuant to Article VI of this Series One Supplemental Ordinance.

Promptly upon receiving actual notice or knowledge of the same, the 1989 Trustee shall give notice to each Owner of Series One Bonds, the Series One Remarketing Agent, the Series One Tender Agent, and the Series One Credit Provider of the occurrence and continuance of any of the events set forth in the preceding paragraph and that such event results in no purchases or sales of Series One Bonds being permitted pursuant to this Article, and of the curing of any of such events and that consequently the purchases and sales are again permitted pursuant to this Article.

Section 309. Insufficient Funds for Purchases. If the moneys available for purchase of Series One Bonds pursuant to this Article III are inadequate for the purchase of all Series One Bonds tendered on any Purchase Date, all Series One Bonds subject to such purchase shall continue to bear interest at the same rate as in effect on the day prior to the Purchase Date to the date on which the earliest of the following occurs:

- (i) the Fixed Rate Conversion Date for the affected Series One Bonds;
- (ii) the date on which any default by the related Series One Credit Provider under the terms of the related Series One Credit Facility has been cured; or
- (iii) the date on which an Alternate Credit Facility meeting the requirements of the applicable provisions of Article VI of this Series One Supplemental Ordinance has been obtained as security for the affected Series One Bonds.

If the preceding paragraph becomes applicable, the Series One Tender Agent shall immediately (but no later than the end of the next succeeding Business Day):

- (A) return all affected tendered Series One Bonds to the Owners thereof;
- (B) return all moneys received for the purchase of such Series One Bonds to the persons who provided such moneys; and
- (iii) notify all affected Owners in writing of the interest rate to be effective pursuant to the preceding paragraph and the term during which it will be effective in accordance with the provisions of this Section.

Section 310. Restriction on Remarketing of Bonds to Issuer or Borrower. So long as the Series One Credit Facility is effective, no Series One Bond tendered pursuant to this Article III shall be remarketed to the Issuer or the Borrower or any of the Borrower's Affiliates. The Series One Tender Agent shall not be required to monitor the actions of the Series One Remarketing Agent to insure that it will not sell Series One Bonds to the Borrower or any of its Affiliates.

ARTICLE IV

DEPOSIT AND APPLICATION OF BOND PROCEEDS; ESTABLISHMENT AND OPERATION OF ACCOUNTS

Section 401. Establishment of Accounts. There is hereby established with the Series One Trustee the following account, which shall be a special separate subaccount of the Master Project Account established under the Master Ordinance, and the following subaccounts, which shall be separate subaccounts of certain accounts established under the 1989 Supplemental Ordinance:

- (i) the Series B Refunding Account;
- (ii) the Series One Subaccount of the 1989 Construction Account;
- (iii) the Series One Subaccount of the 1989 Debt Service Account; and
- (iv) the Series One Subaccount of the 1989 Rebate Account.

Section 402. Use of Series One Bond Proceeds. The proceeds of sale of the Series One Bonds shall, as soon as practicable upon the delivery thereof to the 1989 Trustee, be applied as follows:

- (a) an amount equal to the accrued interest paid by the initial purchasers of the Series One Bonds shall be deposited in the Series One Subaccount of the 1989 Debt Service Account;
- (b) an amount sufficient to satisfy the requirements established under the Master Ordinance and the 1989 Supplemental Ordinance for refunding the Series B Bonds shall be deposited in the Series B Refunding Account; and
- (c) the balance shall be deposited in the Series One Subaccount of the 1989 Construction Account.

In addition, on the Interest Payment Date on which the Series B Bonds are redeemed the following transfers shall be made:

- (d) all moneys properly attributable to the Series B Bonds, in an amount specified in writing by or on behalf of the Issuer to be provided to the 1989 Trustee on or before the Closing Date, shall be transferred from the 1989 Construction Account, but not from the Series One Subaccount thereof, to the Series One Subaccount of the 1989 Construction Account;
- (e) all moneys in the Series B Reserve Account shall be transferred to the Series One Subaccount of the 1989 Construction Account; and
- (f) all moneys properly attributable to the Series B Bonds (except for the amount required to pay accrued interest on the Series B Bonds on the Interest Payment Date on which the Series B Bonds are redeemed), in an amount specified in writing by or on behalf of the Issuer to be provided to the 1989 Trustee on or before the Closing Date, shall be transferred from the 1989 Debt Service Account, but not from the Series One Subaccount thereof, to the Series One Subaccount of the 1989 Debt Service Account.

Section 403. The Series One Subaccount of the 1989 Construction Account. Amounts on deposit in the Series One Subaccount of the 1989 Construction Account shall be disbursed and applied from time to time to pay the Capital Costs of the 1989 Compost Project upon compliance with the requisition provisions set forth in this Section. Upon the receipt by the 1989 Trustee of a Requisition Certificate signed by the Borrower and meeting the requirements of Section 5.1 of the Series One Loan Agreement, the 1989 Trustee shall disburse from the Series One Subaccount of the 1989 Construction Account to or upon the order of the Borrower the amount requested in such Requisition Certificate.

Notwithstanding anything expressed or implied herein to the contrary:

(i) not less than 95% of the moneys and investment earnings on deposit in the Series One Subaccount of the 1989 Construction Account shall be expended for Qualifying Costs; and

(ii) in no event shall the proceeds of the Series One Bonds be expended to pay Costs of Issuance in excess of two percent (2%) of the proceeds of the Series One Bonds (within the meaning of Code Section 147(g)(1)).

Any balance remaining in the Series One Subaccount of the 1989 Construction Account after payment of all Capital Costs of the 1989 Compost Project shall be transferred to and deposited in the Series One Subaccount of the 1989 Debt Service Account and applied, to the extent possible, to redeem Series One Bonds at the earliest possible date at which such bonds may be redeemed without premium, with any amounts remaining after such redemption of Series One Bonds to be used to pay interest on the Series One Bonds then Outstanding; *provided that* pending such application the moneys so transferred to the Series One Subaccount of the 1989 Debt Service Account shall be invested at such yield as shall be specified in an Opinion of Bond Counsel delivered to the Issuer, the Borrower and the 1989 Trustee.

Section 404. The Series B Refunding Account. The amounts deposited in the Series B Refunding Account are to be deposited therein for the purpose of defeasing the Series B Bonds as provided in and pursuant to Section 1001(b) of the 1989 Supplemental Ordinance. The amounts on deposit in the Series B Refunding Account shall be invested in Government Obligations as the Issuer shall specify on the Closing Date. The amounts on deposit in the Series B Refunding Account shall be held by the 1989 Trustee in trust for the sole and exclusive benefit of the holders of the Series B Bonds and, as long as the 1989 Credit Facility remains in full force and effect with respect to the Series B Bonds, the 1989 Credit Provider, to secure the performance of the Borrower obligations under the 1989 Credit Agreement with respect to the Series B Bonds, and shall be used by the 1989 Trustee for the purpose of paying the redemption price of (1) all Credit Purchased Bonds acquired by the 1989 Credit Provider on or after the date on which formal, irrevocable notice is provided to owners of the Series B Bonds of the redemption date established by the Borrower with respect to the Series B Bonds, which Credit Purchased Bonds shall be redeemed as soon as practicable following the date on which they are acquired by the 1989 Credit Provider, (2) all Series B Bonds outstanding on the redemption date established by the Borrower with respect to the Series B Bonds and (3) to the extent otherwise permitted under the 1989 Supplemental Ordinance, to pay any other amounts owed with respect to the Series B Bonds. The amounts on deposit in the Series B Refunding Account shall not secure or be available to pay any amounts owing on any outstanding bonds other than the Series B Bonds, and no holders of any bonds (other than the holders of the Series B Bonds) shall have any right, title or interest therein or claim thereto. Any moneys remaining on deposit in the Series B Refunding Account after payment in full of all amounts owing under the Series B Bonds shall be transferred to the Series One Subaccount of the 1989 Construction Account.

Section 405. The Series One Subaccount of the 1989 Debt Service Account. In addition to the deposit required by Sections 402 and 403 hereof, there shall be deposited in the Series One Subaccount of the 1989 Debt Service Account all Series One Loan Repayments as and when received by the 1989 Trustee. On each date upon which any amounts of principal of, premium (if any) or interest on the Series One Bonds are due and payable,

the 1989 Trustee shall withdraw from the Series One Subaccount of the 1989 Debt Service Account an amount equal to the amounts due on the Series One Bonds and use the amounts so withdrawn to pay to the Owners of the Series One Bonds the amounts so due thereon; *provided that* if, on any payment date for the Series One Bonds, the principal, interest or premium due on the Series One Bonds on such date has been paid from moneys drawn under the Series One Credit Facility, then the 1989 Trustee, after payment of all amounts due on the Series One Bonds on such date, shall withdraw from the Series One Subaccount of the 1989 Debt Service Account, to the extent available, an amount equal to the amount drawn under the Series One Credit Facility for the purpose of paying such amounts and shall pay the amount so withdrawn to the related Series One Credit Provider in repayment of the corresponding amount owing under the related Series One Credit Agreement. Pursuant to the Amended and Restated Intercreditor Agreement, Series One Loan Repayments (but not moneys drawn under the Series One Credit Facility) are subordinate in right of payment to Series A Loan Repayments.

Section 406. The Series One Subaccount of the 1989 Rebate Account.

(a) Calculation of Rebate Amount; Deposits to and Withdrawals from the Series One Subaccount of the 1989 Rebate Account. The Issuer, pursuant to the Series One Loan Agreement, has covenanted and agreed that, in accordance with the applicable provisions of the Code, it shall cause a Rebate Analyst to calculate the Rebate Amount accruing with respect to each issue of Series One Bonds as provided herein. Within 25 days after the close of each Calculation Period for each issue of Series One Bonds and within 25 days after the final payment in full of all 1989 Compost Project Bonds of a particular issue, the 1989 Trustee shall provide the Issuer and the Rebate Analyst with detailed information concerning the investments made during the Calculation Period just ended out of any moneys held by the 1989 Trustee hereunder which relate to such issue of Series One Bonds and the Rebate Analyst shall compute the Rebate Amount for such issue of Series One Bonds in accordance with the requirements of Section 148(f) of the Code and shall provide to the Borrower, the Issuer and the 1989 Trustee a Rebate Report setting forth such calculations.

In the event a Rebate Report shows a positive Rebate Amount, the Borrower shall deposit into the Series One Subaccount of the 1989 Rebate Account an amount equal to such Rebate Amount.

In the event that a Rebate Report shows that the amounts on deposit in the Series One Subaccount of the 1989 Rebate Account exceed the cumulative Rebate Amount for all prior Calculation Periods, the 1989 Trustee is directed to transfer an amount equal to the amount of such excess from the Series One Subaccount of the 1989 Rebate Account to the Series One Subaccount of the 1989 Debt Service Account (but only to the extent of any amounts on deposit in the Series One Subaccount of the 1989 Rebate Account).

Amounts on deposit from time to time in the Series One Subaccount of the 1989 Rebate Account shall, to the extent practicable, be invested by the 1989 Trustee in such Government Obligations as the Borrower shall direct in writing.

(b) Payment of Rebate Amount to United States. Not later than 30 days after the end of the first Installment Computation Date for each issue of Series One Bonds and every Installment Computation Date thereafter for each issue of Series One Bonds, the 1989 Trustee shall pay to the United States of America, from moneys on deposit in the Series One Subaccount of the 1989 Rebate Account or, if moneys on deposit in the Series One Subaccount of the 1989 Rebate Account are insufficient or unavailable to make such payments, from moneys paid by the Borrower, at least 90% of the Excess Earnings during the preceding Calculation Period for such issue of Series One Bonds and 100% of the investment earnings on such Excess Earnings. In addition, not later than 60 days after the Final Computation Date for each issue of Series One Bonds, the 1989 Trustee shall pay to the United States of America all amounts required to be paid thereto in respect of such issue pursuant to Section 148(f) of the Code as set forth in the final Rebate Report, said payment to be made out of moneys on deposit in the 1989 Rebate Account or, to the extent the moneys on deposit in the Series One Subaccount of the 1989 Rebate Account are insufficient for such purpose, out of moneys paid by the Borrower.

Notwithstanding anything expressed or implied herein to the contrary, it is the intent that there shall be paid to the United States of America, out of moneys on deposit in the Series One Subaccount of the 1989 Rebate Account or payments made by the Borrower, all amounts required to be paid pursuant to Section 148(f) of the Code at the times required thereby.

(c) Conformance to the Code Requirements; "Issue" Defined. Notwithstanding anything expressed or implied herein to the contrary:

(i) the provisions of this Section 406 may be amended from time to time by the Borrower, the Issuer and the 1989 Trustee without the consent of or notice to any Owners in order to conform to the requirements of the Code regarding the payment of the Rebate Amount to the United States of America or the manner or time of calculating such Rebate Amount; and

(ii) in no event shall the Borrower be deemed to be in default in respect of its obligations under this Section 406 so long as all actions taken by the Borrower with respect to the calculation of the Rebate Amount and the payment thereof to the United States of America conform to the requirements of the Code as such requirements may be changed, modified or amended from time to time.

As used in this Section 406 and as used in the definitions of the terms "Bond Year", "Calculation Period", "Excess Earnings" and "Rebate Amount" that appear in Article I hereof, the phrase "issue of Series One Bonds" or any words of similar import shall mean all Series One Bonds of any Series which, for purposes of the arbitrage rebate provisions of the Code, are considered to be a single issue of bonds.

Notwithstanding anything expressed or implied herein or in any Supplemental Ordinance to the contrary, the covenants of the Borrower set forth in this Section 406 shall survive the payment in full and/or defeasance of all Outstanding Series One Bonds or any particular issue of Series One Bonds.

Section 407. Investment of Moneys in Accounts. Subject to the restrictions hereinafter set forth in this Section and compliance with the provisions of Section 3.3 of the Series One Loan Agreement and notwithstanding the provisions of any other ordinance of the Issuer:

(i) any moneys held in the Series One Subaccount of the 1989 Construction Account shall be invested and reinvested by the 1989 Trustee upon the written instructions of the Borrower in Investment Securities, maturing no later than the date on which it is estimated that such moneys will be required to be paid out hereunder; and

(ii) any moneys held in the Series One Subaccount of the 1989 Debt Service Account shall be invested and reinvested by the 1989 Trustee upon the written instructions of the Borrower in Permitted Investments, maturing no later than the date on which it is estimated that such moneys will be required to be paid out hereunder.

The 1989 Trustee may make any and all such investments through its own investment department. Neither the Issuer nor the 1989 Trustee shall be responsible or liable for the performance of any such investments or for keeping the moneys held by either hereunder fully invested at all times. Any obligations acquired by the 1989 Trustee as a result of such investment or reinvestment shall be held by or under the control of the 1989 Trustee (except for such investments held in book entry form) and shall be deemed to constitute a part of the account from which the moneys used for its purchase were taken. All investment income shall be retained in the Account to which the investment is credited from which such income is derived except to the extent such income is required to be deposited in the Series One Subaccount of the 1989 Rebate Account. Subject to the restrictions on the types of

investments permitted to be made from the moneys on deposit in the various Accounts established hereunder, the moneys in each such Account may be co-mingled for purposes of investment.

ARTICLE V

THE 1989 TRUSTEE THE SERIES ONE REMARKETING AGENT AND THE SERIES ONE TENDER AGENT

Section 501. Acceptance by 1989 Trustee. First Interstate Bank of Oregon, N.A., in its capacity as 1989 Trustee under the 1989 Supplemental Ordinance is hereby appointed to act as trustee, Series One Bond Registrar, and Series One Paying Agent for the Series One Bonds under and pursuant to this Series One Supplemental Ordinance. First Interstate Bank of Oregon, N.A. shall evidence acceptance of such appointment and its agreement to perform the duties of 1989 Trustee under this Series One Supplemental Ordinance by means of a written instrument of acceptance signed by its authorized officer and delivered to the Issuer.

Section 502. Responsibilities of 1989 Trustee. Any recitals of fact contained in the Series One Supplemental Ordinance or in the Series One Bonds shall be taken as the statements of the Issuer and no 1989 Trustee assumes any responsibility for the correctness of the same. The 1989 Trustee makes no representations as to the validity or sufficiency of this Series One Supplemental Ordinance or of any Series One Bonds issued hereunder or as to the security afforded by this Series One Supplemental Ordinance, and the 1989 Trustee shall not incur any liability in respect thereof. The 1989 Trustee shall not be under any obligation or duty to perform any act which would involve it in any expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions of the next paragraph, the 1989 Trustee shall not be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct, or default.

The 1989 Trustee, prior to the occurrence of a Series One Event of Default and after the curing of all Series One Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Series One Supplemental Ordinance. In case a Series One Event of Default has occurred (which has not been cured) the 1989 Trustee shall exercise such of the rights and powers vested in it by this Series One Supplemental Ordinance, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of her own affairs. Any provision of this Series One Supplemental Ordinance relating to action taken or to be taken by the 1989 Trustee or to evidence upon which the 1989 Trustee may rely shall be subject to the provisions of this Article.

Section 503. Evidence on Which 1989 Trustee May Act. The 1989 Trustee, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Series One Supplemental Ordinance, shall examine such instrument to determine whether it conforms to the requirements of this Series One Supplemental Ordinance and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. 1989 Trustee may consult with counsel, who may or may not be Bond Counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Series One Supplemental Ordinance in good faith and in accordance therewith.

Whenever 1989 Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Series One Supplemental Ordinance, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of the Issuer, the 1989 Credit Provider, the Series One Credit Provider, the Series One Remarketing Agent or the Borrower, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Series One Supplemental Ordinance upon the faith thereof; but in its discretion the 1989 Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

Except as otherwise expressly provided in this Series One Supplemental Ordinance, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Issuer to 1989 Trustee shall be sufficiently executed in the name of the Issuer by an Authorized Issuer Representative thereof.

Section 504. Compensation. Pursuant to the Series One Loan Agreement, the Borrower shall cause to be paid to the 1989 Trustee from time to time reasonable compensation for all services rendered under this Series One Supplemental Ordinance, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under this Series One Supplemental Ordinance and the 1989 Trustee shall have a lien therefor on any and all funds at any time held by it under this Series One Supplemental Ordinance except with respect to: (i) any monies drawn under the Series One Credit Facility; and (ii) moneys representing the proceeds derived from the Series One Remarketing of any Series One Bonds required to be purchased hereunder.

Section 505. [RESERVED]

Section 506. Resignation of 1989 Trustee. The 1989 Trustee may at any time resign and be discharged of the duties and obligations created by this Series One Supplemental Ordinance (without the requirement that the 1989 Trustee also resign its duties with respect to the Series A Bonds under the 1989 Supplemental Ordinance) by giving not less than sixty (60) days' written notice to the Issuer, the Borrower, the Series One Credit Provider and the 1989 Credit Provider, and mailing notice thereof, postage prepaid, specifying the date when such resignation shall take effect, to each Owner of Series One Bonds then Outstanding at his address appearing upon the registry books of the Issuer, and such resignation shall take effect upon the later to occur of the day specified in such notice or the appointment by the Issuer of a trustee to succeed to the 1989 Trustee's duties under this Series One Supplemental Ordinance. Any resignation by the 1989 Trustee of its duties under this Series One Supplemental Ordinance shall not take effect until the appointment of a successor trustee.

Section 507. [RESERVED]

Section 508. [RESERVED]

Section 509. [RESERVED]

Section 510. [RESERVED]

Section 511. Series One Tender Agent; Duties of Series One Tender Agent. Until the final maturity of all Series One Bonds which could bear interest at a Variable Rate or a Commercial Paper Rate, there shall be a Series One Tender Agent appointed by the Issuer and subject to direction of the 1989 Trustee in the purchase of Series One Bonds pursuant to Article III and payment of the Purchase Price therefor. Without limiting the foregoing, the Issuer hereby covenants and agrees that prior, and as a condition precedent, to the conversion of the Series One Bonds to a Commercial Paper Rate Period or any Variable Rate Period (other than a Weekly Rate Period),

it shall appoint a person or entity other than the Series One Remarketing Agent to act in the capacity of Series One Tender Agent during such Rate Period. First Interstate Bank of Oregon, N.A. is hereby appointed to act as initial Series One Tender Agent hereunder and shall signify its acceptance of such appointment by executing and delivering to the Issuer and the 1989 Trustee an appropriate instrument. Such Series One Tender Agent shall at all times be a bank, trust company or member of the National Association of Securities Dealers, Inc., organized and doing business under the laws of the United States or of any state, with a combined capital and surplus of at least \$75,000,000, or, in the case of any Series One Tender Agent which is not a bank or trust company, whose debt obligations, or the debt obligations of its parent company, shall be rated not lower than "aa/P3" by Moody's, and, except with respect to a member of the National Association of Securities Dealers, Inc., authorized under such laws to exercise corporate trust powers and subject to supervision or examination by Federal or state authority. During any period in which the Series One Bonds are not subject to the Book-Entry System, the Series One Tender Agent must also be an entity having an office in the City and County of New York, New York. If such corporation publishes reports of condition at least annually pursuant to law or the requirements of such authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

Any corporation into which any Series One Tender Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation, or conversion to which any Series One Tender Agent shall be a party, or any corporation succeeding to the corporate trust business of any Series One Tender Agent, shall be the successor of the Series One Tender Agent hereunder, if such successor corporation is otherwise eligible under this Section, without the execution or filing of any further act on the part of the parties hereto or the Series One Tender Agent or such successor corporation.

Any Series One Tender Agent may resign by giving written notice of resignation to the 1989 Trustee, the Issuer, the Series One Credit Provider, if the Series One Credit Facility is then in effect, and the Borrower. The Issuer may terminate the agency of any Series One Tender Agent by giving written notice of termination to such Series One Tender Agent, the Series One Credit Provider, the Borrower and the 1989 Trustee. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Series One Tender Agent shall cease to be eligible under this Section, the Issuer shall promptly appoint a successor Series One Tender Agent, and shall give written notice of such appointment to the 1989 Trustee, the Series One Credit Provider, the Borrower and the Owners.

No such resignation or removal shall take effect until a successor Series One Tender Agent shall have been appointed and agrees to act in such capacity. If no successor Series One Tender Agent has accepted appointment within 30 days after the Series One Tender Agent has given notice of its resignation as provided above, the Series One Tender Agent may petition any court of competent jurisdiction for the appointment of a temporary successor Series One Tender Agent, *provided that* any Series One Tender Agent so appointed shall immediately and without further act be superseded by any Series One Tender Agent appointed by the Issuer as provided above.

The Issuer will cause a Series One Tender Agent other than the 1989 Trustee to execute and deliver to the 1989 Trustee an instrument in which such Series One Tender Agent shall agree with the 1989 Trustee, subject to the provisions of this Section, that such Series One Tender Agent will:

(i) hold all sums held by it for the payment of the Purchase Price of Series One Bonds in a separate account for the benefit of the Owners of such Series One Bonds until such sums shall be paid to such Owners or otherwise disposed of as herein provided and, if the funds are invested, they shall be invested in Investment Securities at the written request of the Borrower;

(ii) at any time, upon the written request of the 1989 Trustee, forthwith pay to the 1989 Trustee all sums so held by such Series One Tender Agent; and

(iii) observe and perform the obligations of the Series One Tender Agent hereunder.

The 1989 Trustee may at any time, for the purpose of obtaining the satisfaction and discharge of this Series One Supplemental Ordinance or for any other purpose, direct the Series One Tender Agent to pay to the 1989 Trustee all money held by such Series One Tender Agent; and, upon such payment by the Series One Tender Agent to the 1989 Trustee, the Series One Tender Agent shall be released from all further liability with respect to such money.

Section 512. Series One Remarketing Agent. Until the final maturity of all Series One Bonds which could bear interest at a Variable Rate or a Commercial Paper Rate, there shall be a Series One Remarketing Agent selected by the Borrower subject to the conditions set forth in this Section 512. The Series One Remarketing Agent initially appointed hereunder is Donaldson, Lufkin & Jenrette Securities Corporation, which shall signify its acceptance of such appointment by executing and delivering to the Issuer and the 1989 Trustee an appropriate instrument. The Series One Remarketing Agent shall designate to the 1989 Trustee its principal office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the 1989 Trustee and the Borrower. The Series One Remarketing Agent shall by acceptance of its appointment agree to, and shall, do each of the following:

(a) act as agent for the Borrower in determining the Variable Rates, Commercial Paper Rates and the Fixed Rate, act as agent for Owners in receiving and holding Series One Bonds tendered for purchase and moneys to pay the Purchase Price thereof, and act as agent for the Borrower in performing all other functions as Series One Remarketing Agent under the Series One Supplemental Ordinance;

(b) hold all Series One Bonds delivered to it by the Series One Tender Agent in trust for the benefit of the respective Owners which shall have so delivered such Series One Bonds to the Series One Tender Agent until moneys representing the Purchase Price of such Series One Bonds shall have been delivered to or for the account of or to the order of such Owners;

(c) hold all moneys delivered to it hereunder for the purchase of Series One Bonds in trust for the benefit of the person which shall have so delivered such moneys until the Series One Bonds purchased with such moneys shall have been delivered to or for the account of such person, and not co-mingle such moneys with other funds of the Series One Remarketing Agent;

(d) keep such books and records as shall be consistent with prudent industry practice and make such books and records available for inspection by the Issuer, the Series One Credit Provider, the 1989 Trustee and the Borrower at all reasonable times; and

(e) perform the duties of Series One Remarketing Agent and comply with the provisions applicable to such duties set forth in Articles II and III hereof.

The Series One Remarketing Agent shall be a commercial bank or a member of the National Association of Securities Dealers, Inc., having an office in New York, New York, and a capitalization of at least \$75,000,000 and authorized by law to perform all the duties imposed upon it by this Series One Supplemental Ordinance.

The Series One Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Series One Supplemental Ordinance by giving at least 60 days' written notice to the Issuer, the Borrower, the Series One Credit Provider and the 1989 Trustee, but any such resignation shall not be effective until a successor is appointed. The Series One Remarketing Agent may be removed at any time by the Borrower. In the event of any resignation or removal of the Series One Remarketing Agent, a successor Series One Remarketing Agent shall be appointed by the Borrower. No removal of the Series One Remarketing Agent shall be effective until a successor is appointed and has accepted such appointment.

In the event of the resignation or removal of the Series One Remarketing Agent, the Series One Remarketing Agent shall pay over, assign and deliver any moneys and Series One Bonds held by it in such capacity to its successor.

Section 513. 1989 Trustee's Liability for Series One Tender Agent and Series One Remarketing Agent. Notwithstanding anything contained herein to the contrary, the 1989 Trustee shall not be liable for any failure of the Series One Tender Agent or the Series One Remarketing Agent to perform in accordance with the Series One Supplemental Ordinance any duty required or authorized herein to be performed by such person.

ARTICLE VI

THE SERIES ONE CREDIT FACILITY

Section 601. The Series One Credit Facility.

(a) **Series One Credit Facility to be Held as Security for the Series One Bonds.** The Series One Credit Facility and all moneys drawn thereunder shall be held by the 1989 Trustee in trust for the sole and exclusive benefit of the Owners of the Series One Bonds (other than a Credit Purchased Bond) as security for the payment of the pecuniary obligations which, in accordance with the terms of the Series One Credit Facility, are permitted to be satisfied from moneys drawn under the Series One Credit Facility and, notwithstanding anything expressed or implied in the Ordinance to the contrary, are not to be held for the benefit of the 1989 Credit Provider or the owners of Series A Bonds and the 1989 Credit Provider and the owners of Series A Bonds shall have no right or claim thereto.

(b) **No Surrender or Transfer of Series One Credit Facility.** The 1989 Trustee shall not sell, assign or transfer the Series One Credit Facility except to a successor trustee. In addition, the 1989 Trustee shall not terminate the Series One Credit Facility or surrender the Series One Credit Facility to the related Series One Credit Provider except (i) upon the expiration of the Series One Credit Facility in accordance with its terms or (ii) upon the delivery to the 1989 Trustee of an Alternate Credit Facility in replacement therefor.

(c) **Rights and Duties under Series One Credit Facility.** The 1989 Trustee is hereby instructed, without further direction, to draw amounts under the Series One Credit Facility in accordance with the terms and conditions set forth therein at the times, in the manner and for the purposes set forth in this Series One Supplemental Ordinance. The Issuer agrees that the 1989 Trustee in its name or in the name of the Issuer may enforce all rights of the 1989 Trustee and of the Issuer and all obligations of the related Series One Credit Provider (including the obligation of such Series One Credit Provider to honor drafts duly presented in accordance with the terms and conditions of the Series One Credit Facility) under and pursuant to the Series One Credit Facility for the benefit of the Owners of the Series One Bonds. The 1989 Trustee agrees to assume and perform the duties and obligations contemplated under the Series One Credit Facility to be assumed and performed by the 1989 Trustee.

Section 602. Draws Under the Series One Credit Facility.

(a) Draws to Pay Principal, Premium and Interest on the Series One Bonds. To the full extent permitted under the terms of the Series One Credit Facility then in effect, on or before each Interest Payment Date for the Series One Bonds, the 1989 Trustee shall draw under the Series One Credit Facility securing such Series One Bonds an amount sufficient to pay in full all amounts of principal of, premium (if any, and if covered under the Series One Credit Facility) and interest on such Series One Bonds due on such Interest Payment Date, which draw shall be made at such time and on such date as shall ensure that the moneys so drawn will be received by the 1989 Trustee in time to duly pay all amounts required to be paid on such Series One Bonds on such Interest Payment Date; *provided that* in no event shall moneys be drawn under any Series One Credit Facility for the purpose of paying any amounts owing under any Credit Purchased Bonds.

(b) Draws to Pay Purchase Price. In addition, to the full extent permitted under the terms of the Series One Credit Facility then in effect, the 1989 Trustee shall draw moneys under the Series One Credit Facility securing particular Series One Bonds in accordance with the terms thereof to the extent necessary to make timely payments of the Purchase Price of such Series One Bonds required to be made pursuant to, and in accordance with, Article III hereof, as appropriate.

(c) Deposit of Moneys Received Under Series One Credit Facility. All moneys received by the 1989 Trustee under the Series One Credit Facility shall be held by the 1989 Trustee in a separate, segregated account established for such purpose and shall not be co-mingled with any other moneys held by the 1989 Trustee and may only be invested in Government Obligations which mature or are subject to redemption at the holders' option not later than the earlier of 30 days from the date of investment or the date upon which they will be needed for the purposes from which such moneys were drawn. All moneys received by the 1989 Trustee under the Series One Credit Facility shall be used solely and only for the purpose of paying, to the Owners or former Owners of the Series One Bonds entitled thereto, the amounts for which such moneys were drawn.

Section 603. Subrogation Rights of the Series One Credit Provider. If the Series One Credit Facility is drawn upon to pay principal of, premium (if any) or interest on any Series One Bonds, the related Series One Credit Provider shall be subrogated to the rights of the Owners of such Series One Bonds to receive the principal of, premium (if any) and interest on such Series One Bond (as the case may be) which has been paid from the proceeds of a draw under the Series One Credit Facility.

Section 604. Alternate Credit Facility.

(a) Surrender of Series One Credit Facility In Connection With Alternate Credit Facility. If at any time there shall be delivered to the 1989 Trustee an Alternate Credit Facility in accordance with this Section 604, then the 1989 Trustee shall accept such Alternate Credit Facility and on the effective date of such Alternate Credit Facility the 1989 Trustee shall promptly surrender the Series One Credit Facility then in effect for which such Alternate Credit Facility is given in replacement to the Series One Credit Provider which issued such Series One Credit Facility in accordance with its terms for cancellation.

(b) Requirements for Alternate Credit Facility. Subject to the limitations set forth herein and except as may be otherwise expressly provided in and subject to the terms and conditions of the Series One Credit Agreement, the Borrower may, at any time and from time to time, deliver or cause to be delivered to the 1989 Trustee an Alternate Credit Facility, which Alternate Credit Facility may, but need not be, given in complete or partial substitution for or replacement of the Series One Credit Facility or any Alternate Credit Facility then in effect with respect to all or any of the Series One Bonds.

No Alternate Credit Facility shall be deemed to meet the requirements of this Section 604, nor shall the 1989 Trustee accept any Alternate Credit Facility, unless such Alternate Credit Facility has a term of not less than one year. Except as otherwise provided in this Section 604, the 1989 Trustee shall accept any such Alternate Credit Facility.

If the effective date of any Alternate Credit Facility is a date on which the Owners of the Series One Bonds do not have the right to require the Series One Tender Agent to purchase such bonds pursuant to Article III hereof, the Borrower may not substitute, and the 1989 Trustee shall not accept, any Alternate Credit Facility in complete or partial substitution for or replacement of the Series One Credit Facility or any Alternate Credit Facility then in effect, unless the 1989 Trustee shall receive, not less than 25 days prior to the proposed effective date of the substitute Alternate Credit Facility, written evidence that, upon the substitution of such Alternate Credit Facility, the Series One Bonds will be rated in the same (or higher) rating category by the Rating Agencies as such bonds are rated immediately prior to such substitution; *provided that*, for purposes of the foregoing limitation, neither the extension of the term of or the renewal of an existing Series One Credit Facility or Alternate Credit Facility, nor the delivery to the 1989 Trustee of an Alternate Credit Facility in replacement of and issued by the issuer of an existing Series One Credit Facility or Alternate Credit Facility within 60 days prior to the stated expiration date thereof, shall be deemed to be a substitution for or replacement of the Series One Credit Facility or Alternate Credit Facility which is being extended, renewed or so replaced. The Borrower may not substitute, and the 1989 Trustee shall not accept, any Alternate Credit Facility without having received the prior written consent of the 1989 Credit Provider to the substitution.

(c) Notice of Substitution of Alternate Credit Facility. Not less than 20 days prior to the effective date of an Alternate Credit Facility to be given pursuant to this Section 604, the 1989 Trustee shall give notice by mail to the Owners of all affected Outstanding Series One Bonds, which notice shall:

(i) describe generally the Series One Credit Facility or Alternate Credit Facility, if any, then in effect;

(ii) describe generally the Alternate Credit Facility proposed to be given and the effective date of such Alternate Credit Facility;

(iii) the rights of such Owners, if any, to have such Series One Bonds purchased on or before the effective date of such Alternate Credit Facility; and

(iv) the ratings, if any, to be assigned to the Series One Bonds by the Rating Agencies upon the substitution of such Alternate Credit Facility.

ARTICLE VII

SERIES ONE EVENTS OF DEFAULT AND REMEDIES

Section 701. Series One Events of Default.

(a) Series One Events of Default. The occurrence of any one or more of the following shall constitute a Series One Event of Default:

(i) default in the due and punctual payment of the principal of, premium (if any) or interest on any Series One Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise;

(ii) default by the Issuer in the performance or observance of any other of the covenants, agreements or conditions on its part contained in this Series One Supplemental Ordinance and which relate to the Issuer's obligations with respect to the Series One Bonds, which default shall continue for a period of sixty (60) days after written notice thereof to the Issuer by the 1989 Trustee or to the Issuer and to the 1989 Trustee by the Owners of not less than fifty percent (50%) in principal amount of the Series One Bonds Outstanding;

(iii) default by the Borrower in the performance or observance of any other of the covenants, agreements or conditions on its part contained in the Series One Loan Agreement and which relate to the Borrower's obligations with respect to the Series One Bonds, which default shall continue for a period of 30 days after written notice specifying such failure and requesting that it be remedied, given to the Borrower by the Issuer or the 1989 Trustee or by the Owners of not less than fifty percent (50%) in principal amount of the Series One Bonds Outstanding; *provided, however, that if said default shall be such that it cannot be corrected within such period, it shall not constitute a Series One Event of Default if, in the opinion of the 1989 Trustee, it is correctable without material adverse effect on the Series One Bonds and if corrective action is instituted by the Borrower within such period and diligently pursued until the default is corrected;*

(iv) an Act of Bankruptcy of the Borrower or the Series One Credit Provider providing the Series One Credit Facility with respect to the Series One Bonds;

(v) written notice shall have been received by the 1989 Trustee from the Series One Credit Provider providing the Series One Credit Facility with respect to the Series One Bonds that an Event of Default has occurred under and as defined in the Series One Credit Agreement with respect to the Borrower's obligations relating to the Series One Bonds and directing the 1989 Trustee to effect a mandatory purchase of the Series One Bonds pursuant to Section 305(e) hereof; and

(vi) the failure or refusal of the Series One Credit Provider to honor a proper demand for payment under the Series One Credit Facility securing the Series One Bonds, or if the Series One Credit Facility securing the Series One Bonds becomes invalid or unenforceable.

(b) Limitations on Actions and Remedies Following Series One Event of Default. The occurrence and continuation of a Series One Event of Default shall not constitute a Series A Event of Default under the 1989 Supplemental Ordinance nor shall the occurrence and continuation of a Series One Event of Default permit

the 1989 Trustee, the Series One Credit Provider or the Owners of the Series One Bonds to take any action that disturbs in any way the lien, or the priority of the lien, on the Series A Trust Estate granted as security for the Series A Bonds as set forth in Section 103 of the 1989 Supplemental Ordinance. Upon the occurrence and continuation of a Series One Event of Default, the sole remedy of the 1989 Trustee and the Owners of the Series One Bonds shall be to enforce their rights with respect to the Series One Trust Estate, and except to the extent that it may be an Owner of Series One Bonds, the Series One Credit Provider shall have no rights with respect to the Series One Trust Estate. The occurrence of a Series A Event of Default shall not constitute a Series One Event of Default nor give rise to the right of the 1989 Trustee, the Series One Credit Provider or the Owners of the Series One Bonds to exercise any remedy available hereunder as a result of such Event of Default.

(c) Limitations on the Commencement of Suits. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, SO LONG AS THE 1989 CREDIT FACILITY REMAINS IN EFFECT OR ANY AMOUNTS REMAIN OUTSTANDING UNDER THE 1989 CREDIT AGREEMENT (IRRESPECTIVE OF WHETHER SUCH AMOUNTS ARE THEN DUE AND PAYABLE), EACH OWNER OF THE SERIES ONE BONDS AND THE 1989 TRUSTEE MAY NOT COMMENCE, BRING, MAINTAIN, JOIN OR IN ANY OTHER WAY PARTICIPATE (EXCEPT AS A NAMED DEFENDANT) IN ANY PROCEEDING, ACTION OR SUIT, AT LAW OR IN EQUITY, AGAINST THE BORROWER OR AGAINST ANY OF ITS PROPERTIES OR REVENUES BEFORE ANY COURT, GOVERNMENTAL DEPARTMENT, COMMISSION, BOARD, BUREAU, INSTRUMENTALITY OR AGENCY OR ARBITRATOR BY REASON OF THE OCCURRENCE OF ANY SERIES ONE EVENT OF DEFAULT INCLUDING, WITHOUT LIMITATION, BY REASON OF THE BORROWER'S FAILURE TO MAKE SERIES ONE LOAN REPAYMENTS UNDER THE SERIES ONE LOAN AGREEMENT. THE BORROWER WAIVES AND/OR EXTENDS ALL STATUTES OF LIMITATIONS APPLICABLE TO ANY SUCH CLAIMS THROUGHOUT THE ENTIRE PERIOD DURING WHICH THE IMMEDIATELY PRECEDING SENTENCE SHALL BE IN EFFECT. The restrictions on actions against the Borrower described above in this Section 701(c) shall in no way preclude the 1989 Trustee from exercising its rights and remedies against the Series One Credit Provider to honor a conforming draw under the Series One Credit Facility.

(d) Acceleration. So long as a Series One Event of Default shall be continuing, unless the principal of all the Series One Bonds shall have already become due and payable, the 1989 Trustee (by notice in writing to the Issuer) may, and upon the written request of the Owners of not less than fifty percent (50%) in principal amount of the Series One Bonds Outstanding (by notice in writing to the Issuer, the Borrower, the Series One Credit Provider and the 1989 Trustee), shall declare the principal of all the Series One Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this Series One Supplemental Ordinance or in any of the Series One Bonds contained to the contrary notwithstanding; *provided, however, that* only the Series One Credit Provider shall direct the 1989 Trustee to declare a default upon the occurrence of a Series One Event of Default described in Section 701(a)(v). The right of the 1989 Trustee or of the Owners of not less than fifty percent (50%) in principal amount of Series One Bonds then Outstanding to make any such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, but before the Series One Bonds shall have matured by their terms, all overdue installments of interest upon the Series One Bonds, together with interest on such overdue installments of interest to the extent permitted by law and the reasonable and proper charges, expenses and liabilities of the 1989 Trustee, and all other sums then payable by the Issuer or the Borrower under this Series One Supplemental Ordinance (except the principal of, and interest accrued since the next preceding Interest Payment Date on, the Series One Bonds due and payable solely by virtue of such declaration) shall be paid for the account of the Issuer or provision satisfactory to the 1989 Trustee shall be made for such payment, and all defaults under the Series One Bonds or under this Series One Supplemental Ordinance (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be cured or be secured to the satisfaction of the 1989 Trustee or provision deemed by the 1989 Trustee to be adequate shall be made therefor, then and in every such case the 1989 Trustee, by written notice to the Issuer, the Borrower, the Series One Credit Provider and the Owners of the Series One Bonds, or the Owners of fifty percent (50%) in principal amount of the Series One Bonds Outstanding, by

written notice to the Issuer, the Borrower, the Series One Credit Provider and to the 1989 Trustee, may rescind such declaration and annul such default in its entirety, but no such rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

(e) Transfer of Moneys to the Series One Subaccount of the 1989 Debt Service Account Upon Occurrence of Series One Event of Default. Provided that the 1989 Credit Facility is no longer in effect and no amounts remain outstanding thereunder (irrespective of whether such amounts are then due and payable), immediately upon the occurrence of a Series One Event of Default, all moneys and investments on deposit in the Series One Subaccount of the 1989 Construction Account held by the 1989 Trustee hereunder shall be transferred to the Series One Subaccount of the 1989 Debt Service Account for application as provided in Section 703 hereof; *provided that* if, following such transfer, the Series One Event of Default shall have been duly waived or cured in accordance with the terms hereof and all existing Series One Credit Facilities have been reinstated or replaced with Alternate Credit Facilities, the remaining moneys and investments then on deposit in the Series One Subaccount of the 1989 Debt Service Account shall be transferred, *pro rata* (based on the amounts transferred from the various Series One Subaccounts to the Series One Subaccounts of the 1989 Debt Service Account), back to the various Series One Subaccounts from which they were derived. In the event the 1989 Credit Facility is in effect or amounts remain outstanding thereunder (irrespective of whether such amounts are then due and payable), the foregoing provisions of this Section 701(d) shall be of no effect, and immediately upon the occurrence of a Series One Event of Default, all monies and investments on deposit in the Series One Subaccount of the 1989 Construction Account with the 1989 Trustee hereunder shall be transferred to that part of the 1989 Construction Account not contained within the Series One Subaccount of the 1989 Construction Account and treated in the manner specified in the 1989 Supplemental Ordinance.

Section 702. Accounting and Examination of Records After Default and Assignment of Contracts. The Issuer covenants that if an Series One Event of Default shall have happened and shall not have been remedied, the books of record and accounts of the Issuer and all other records relating to the Series One Bonds shall at all times be subject to the inspection and use of the 1989 Trustee and the Series One Credit Provider and of their respective agents and attorneys.

Section 703. Application of Revenues and Other Moneys After Default. During the continuance of a Series One Event of Default, the 1989 Trustee shall apply the Series One Trust Estate, including all moneys derived from the liquidation thereof received by the 1989 Trustee pursuant to any right given or action taken under the provisions of this Article, as follows and in the following order:

(i) **Rebate Payments** - to the payment of any amounts required to be rebated to the United States of America in accordance with the covenants in Section 406 hereof;

(ii) **Expenses of the 1989 Trustee** - to the payment of the reasonable and proper charges, expenses and liabilities of the 1989 Trustee incurred in connection with the Series One Bonds;

(iii) **Payment of Series One Bonds** - subject to the provisions of the Amended and Restated Intercreditor Agreement, to the payment of the interest on and principal of the Series One Bonds then due as follows:

(A) unless the principal of all of the Series One Bonds shall have become or have been declared due and payable:

First: To the payment to the persons entitled thereto of all installments of interest then due on the Series One Bonds, together with accrued and unpaid interest on the Series One Bonds theretofore called for redemption, and, if the

amount available shall not be sufficient to pay in full any installment or installments, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal of any Series One Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Series One Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal due on such date, to the persons entitled thereto, without any discrimination or preference; and

(B) if the principal of all of the Series One Bonds shall have become or have been declared due and payable, first to the payment of the principal and interest then due and unpaid upon the Series One Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Series One Bond over any other Series One Bond, ratably, according to the amounts due respectively or principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Series One Bonds;

Provided that, notwithstanding anything expressed or implied herein to the contrary, all moneys drawn by or paid to the 1989 Trustee under the Series One Credit Facility following a Series One Event of Default shall only be used for the purpose of paying the principal of and interest on the Series One Bonds secured thereby.

Section 704. [RESERVED]

Section 705. Proceedings Brought by 1989 Trustee. Subject to the terms and provisions of Section 701(c) hereof and the Amended and Restated Intercreditor Agreement, if a Series One Event of Default shall happen and shall not have been remedied, then and in every such case, the 1989 Trustee, by its agents and attorneys, may proceed, and upon written request of the Owners of not less than twenty-five percent (25%) in principal amount of the Series One Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Owners of the Series One Bonds, under this Series One Supplemental Ordinance forthwith by a suit or suits in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted or any remedy granted under the Act or at law, or in the enforcement of and other legal or equitable right as the 1989 Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this Series One Supplemental Ordinance; *provided that* no action taken by the 1989 Trustee as a result of a Series One Event of Default shall in any way disturb the lien, or the priority of the lien, on the Series A Trust Estate granted as security for the Series A Bonds hereunder or the application of the proceeds of the Series A Trust Estate as provided in 1989 Supplemental Ordinance.

All rights of action under this Series One Supplemental Ordinance may be enforced by the 1989 Trustee without the possession of any of the Series One Bonds or the production thereof on the trial or other proceedings, and any such suit or proceedings instituted by the 1989 Trustee shall be brought in its name.

Subject to the terms and provisions of Section 701(c) hereof and the Amended and Restated Intercreditor Agreement, the Owners of not less than a majority in principal amount of the Series One Bonds at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the 1989 Trustee as a result of a Series One Event of Default, or of exercising any trust or power conferred upon the 1989 Trustee following a Series One Event of Default, *provided that* the 1989 Trustee shall have the right to decline to follow any such direction if the 1989 Trustee shall not be provided adequate security and indemnity or shall be

advised by counsel that the action or proceeding so directed may not lawfully be taken or shall be inconsistent with the provisions of this Series One Supplemental Ordinance, or if the 1989 Trustee in good faith shall determine that the action or proceeding so directed would involve the 1989 Trustee in personal liability or be unjustly prejudicial to the Owners of the Series One Bonds not parties to such direction.

Subject to the terms and provisions of Section 701(c) hereof and the Amended and Restated Intercreditor Agreement, regardless of the happening of a Series One Event of Default, the 1989 Trustee shall have power to, but unless requested in writing by the Owners of a majority in principal amount of the related Series One Bonds then Outstanding, and furnished with reasonable security and indemnity, shall be under no obligation, to institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Series One Supplemental Ordinance by any acts which may be unlawful or in violation of this Series One Supplemental Ordinance, and such suits and proceedings as the 1989 Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of Owners of the related Series One Bonds.

Section 706. Restriction on Owner's Action. No Owner of any Series One Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Series One Supplemental Ordinance or the execution of any trust under this Series One Supplemental Ordinance or for any remedy under this Series One Supplemental Ordinance, unless (but in any event subject to the terms and provisions of Section 701(c) hereof) such Owner shall have previously given to the 1989 Trustee written notice of the happening of a Series One Event of Default, as provided in this Article, and the Owners of at least 25% in principal amount of the Series One Bonds then Outstanding shall have filed a written request with the 1989 Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in this Series One Supplemental Ordinance or to institute such action, suit or proceeding in its own name, and unless such Owners shall have offered to the 1989 Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the 1989 Trustee shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Owners of Series One Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Series One Supplemental Ordinance, or to enforce any right under this Series One Supplemental Ordinance, except in the manner therein provided, and that all proceedings at law or in equity to enforce any provision of this Series One Supplemental Ordinance shall be instituted, had and maintained in the manner provided in this Series One Supplemental Ordinance and for the equal benefit of the Owners of the Outstanding Series One Bonds, subject only to the provisions of Sections 701(c) and 702.

Except for Section 701(c) hereof, nothing in this Series One Supplemental Ordinance or in the Series One Bonds shall affect or impair the obligation of the Issuer, which is absolute and unconditional, to pay at the respective dates of maturity and places therein expressed the principal of (and premium, if any) and interest on the Series One Bonds to the respective Owners thereof (but solely out of the Series One Trust Estate), or affect or impair the right of action, which is also absolute and unconditional, of any Owner to enforce such payment of her Series One Bond.

Section 707. Not Exclusive. No remedy by the terms of this Series One Supplemental Ordinance conferred upon or reserved to the 1989 Trustee or the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall, subject to Section 701(c) hereof, be cumulative and shall be in addition to every other remedy given under this Series One Supplemental Ordinance or existing at law, including under the Act, or in equity or by statute on or after the effective date of this Series One Supplemental Ordinance.

Section 708. Effect of Waiver and Other Circumstances. No delay or omission of the 1989 Trustee or any Owner to exercise any right or power arising upon the happening of a Series One Event of Default shall impair any right or power or shall be construed to be a waiver of any such Series One Event of Default or be an acquiescence therein; and every power and remedy given by this Article to the 1989 Trustee or to the Owners may be exercised from time to time and as often as may be deemed expedient by the 1989 Trustee or by the Owners.

Prior to the acceleration of maturity of the Series One Bonds as provided in Section 701, the Owners of not less than a majority in principal amount of the Series One Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on behalf of the Owners of all Series One Bonds waive any past default with respect to the Series One Bonds under this Series One Supplemental Ordinance and its consequences, except a default in the payment of interest on or principal of or premium (if any) on any of the Series One Bonds. No such waiver shall extend to any subsequent or other default with respect to the Series One Bonds or impair any right consequent thereon.

Section 709. Termination of Proceedings. In case any proceeding taken by the Series One Trustee on account of any Series One Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the 1989 Trustee or the Owners, the Issuer, the 1989 Trustee, the Borrower, the related Series One Credit Provider and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the 1989 Trustee, the related Series One Credit Provider and the Owners shall continue as if no such proceeding had been taken.

Section 710. Notice of Default. The 1989 Trustee shall notify the Series One Credit Provider of the happening of a Series One Event of Default and the Series One Bond Registrar shall promptly mail written notice of the occurrence of any Series One Event of Default to each Owner of Series One Bonds then Outstanding at his address, if any, appearing upon the registry books of the Issuer.

Section 711. Series One Credit Provider's Rights Upon Series One Events of Default. Notwithstanding that the Series One Credit Provider in its capacity thereof (and not in its capacity as an Owner of the Series One Bonds) has no right in the Series One Trust Estate and notwithstanding anything in this Series One Supplemental Ordinance to the contrary, if any Series One Event of Default hereof has occurred and is continuing, the issuer of the Series One Credit Facility securing the Series One Bonds shall have the right, in lieu of the Owners of the affected bonds secured by said Series One Credit Facility, by an instrument in writing, executed and delivered to the 1989 Trustee, to direct the time, method and place of conducting all remedial proceedings available to the 1989 Trustee under this Series One Supplemental Ordinance, or exercising any trust or power conferred on the 1989 Trustee by this Series One Supplemental Ordinance, *provided that* the 1989 Trustee shall have the right to decline to follow any such direction if the 1989 Trustee shall not be provided adequate security and indemnity or shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the 1989 Trustee in good faith shall determine that the action or proceeding so directed would involve the 1989 Trustee in personal liability. Said direction shall be controlling to the extent the direction of the Owners of Series One Bonds secured by said Series One Credit Facility would have been controlling under this Article. Notwithstanding the foregoing, no Series One Credit Provider shall be entitled to exercise any rights under this Section 711 during any period when:

(i) the Series One Credit Facility issued by such Series One Credit Provider shall not be in full force and effect (other than by reason of the Series One Credit Facility having expired due to all available amounts having been drawn and paid thereunder) or such Series One Credit Provider shall have failed or refused for any reason to honor a proper demand for payment under such Credit Facility issued thereby;

(ii) such Series One Credit Provider shall have filed a petition or otherwise sought relief under any federal or state bankruptcy or similar law; or

(iii) an order or decree shall have been entered, with the consent or acquiescence of such Series One Credit Provider, appointing a receiver or receivers of the assets of such Series One Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Series One Credit Provider, shall not have been vacated or discharged or stayed within ninety (90) days after the entry thereof.

ARTICLE VIII
AMENDMENTS TO
SERIES ONE SUPPLEMENTAL ORDINANCE
AND SERIES ONE LOAN AGREEMENT

Section 801. Amendments Effective Without Consent of Owners. For any one or more of the following purposes and at any time or from time to time and subject to the conditions set forth in Sections 908 and 909 of this Series One Supplemental Ordinance, the Issuer may enact an ordinance amending, modifying or supplementing this Series One Supplemental Ordinance without the consent of Owners:

(1) To add to the covenants and agreements of the Issuer in this Series One Supplemental Ordinance, other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Series One Supplemental Ordinance as theretofore in effect;

(2) To add to the limitations and restrictions in this Series One Supplemental Ordinance, other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Series One Supplemental Ordinance as theretofore in effect;

(3) With the prior written Opinion of Bond Counsel that to do so will not adversely affect the status of Series One Bonds issued as Tax-Exempt Obligations (as defined in the Master Ordinance), to authorize, in compliance with all applicable law, Series One Bonds to be issued in the form of coupon bonds registrable as to principal only and, in connection therewith, specify and determine the matters and things relative to the issuance of such coupon bonds, including provisions relating to the timing and manner of provision of any notice required to be given hereunder to the holders of such coupon bonds, which are not contrary to or inconsistent with this Series One Supplemental Ordinance as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such coupon bonds;

(4) To modify, amend or supplement this Series One Supplemental Ordinance in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the Series One Bonds for sale under the securities laws of any of the states of the United States of America;

(5) To add additional security as part of the Series One Trust Estate subject to the pledge and lien of this Series One Supplemental Ordinance;

(6) To provide any Tax Covenants not provided by this Series One Supplemental Ordinance or to modify in any respect any Tax Covenant so as to conform to the then applicable requirements of the Code or to delete or restrict the applicability of any Tax Covenant which, under the Code as then in effect, is no longer applicable to all or any Series One Bonds issued or to be issued hereunder;

(7) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the terms of this Series One Supplemental Ordinance, but only if the surrender of such right, power or privilege is

not contrary to or inconsistent with the covenants and agreements of the Issuer contained in this Series One Supplemental Ordinance;

(8) To confirm, as further assurance, any security interest or pledge created under this Series One Supplemental Ordinance;

(9) To cure any ambiguity, supply any omission, or cure or correct any defect, mistake or error or inconsistent provision in this Series One Supplemental Ordinance;

(10) To insert such provisions clarifying matters or questions arising under this Series One Supplemental Ordinance as are necessary or desirable and are not contrary to or inconsistent with this Series One Supplemental Ordinance as thereto for in effect; or

(11) To modify any of the provisions of this Series One Supplemental Ordinance in any other respect whatever, *provided that*:

(i) no Series One Bonds shall be Outstanding at the date of the adoption of such supplemental ordinance; or

(ii) (a) such modification shall be, and be expressed to be, effective only after all Series One Bonds Outstanding at the date of the adoption of such Supplemental Ordinance shall cease to be Outstanding, and (b) such modifying ordinance shall be specifically referred to in the text of all Series One Bonds authenticated and delivered after the date of the adoption of such ordinance and of Series One Bonds issued in exchange therefor or in place thereof; or

(12) To make any change required by the Rating Agencies as a precondition to the issuance of a rating on any Series One Bonds which is not to the prejudice of the Owners of any other the Series One Bonds; or

(13) So long as a Series One Credit Facility is in full force and effect with respect to any Series One Bonds affected by such supplemental ordinance, to make any other change which is consented to in writing by the Series One Credit Provider other than any change which:

(A) would result in a downgrading or withdrawal of the rating then assigned to the affected Series One Bonds by the Rating Agencies; or

(B) changes the Stated Maturity (except as expressly permitted herein), the Interest Payment Dates, interest rates, redemption and purchase provisions, and provisions regarding notices of redemption, purchase and tender applicable to the affected Series One Bonds.

Section 802. Supplemental Ordinances Effective With Consent of Owners. At any time or from time to time, the Issuer may enact an ordinance amending, modifying or supplementing this Series One Supplemental Ordinance subject to consent by Owners in accordance with and subject to the provisions of Article IX, which ordinance, upon compliance with the provisions of said Article IX, shall become fully effective in accordance with its terms as provided in said Article IX.

Section 803. General Provisions. Any ordinance amending, modifying or supplementing this Series One Supplemental Ordinance referred to and permitted or authorized by Section 801 may be enacted by the Issuer without the consent of any of the Owners, but shall become effective only on the conditions, to the extent and at the time provided in said Section. The copy of every ordinance amending, modifying or supplementing this Series One

Supplemental Ordinance shall be placed on file with the 1989 Trustee and the Series One Credit Provider and shall be accompanied by an Opinion of Bond Counsel stating that such ordinance:

(i) has been duly and lawfully enacted by the Issuer in accordance with the provisions of this Series One Supplemental Ordinance, is authorized or permitted by this Series One Supplemental Ordinance, and is valid and binding upon the Issuer and enforceable in accordance with its terms; and

(ii) will not adversely affect the maintenance of any existing exclusion of interest payable on the Series One Bonds issued as Tax-Exempt Obligations (as defined in the Master Ordinance) from gross income for federal income tax purposes.

The 1989 Trustee is hereby authorized to accept the delivery of a certified copy of any ordinance amending, modifying or supplementing this Series One Supplemental Ordinance referred to and permitted or authorized by Sections 801 or 802 and to make all further agreements and stipulations which may be therein contained, and the 1989 Trustee, in taking such action, shall be fully protected in relying on an Opinion of Bond Counsel that such ordinance is authorized or permitted by the provisions of this Series One Supplemental Ordinance.

No ordinance amending, modifying or supplementing this Series One Supplemental Ordinance shall change or modify any of the rights or obligations of the 1989 Trustee, any Series One Credit Provider, the Series One Remarketing Agent or the Series One Tender Agent without the prior written consent of such parties.

Section 804. Amendments of Series One Loan Agreement. With the prior written consent of the Series One Credit Provider, in the event it has a material adverse affect on the rights or duties of the Series One Credit Provider, but without the consent of the 1989 Trustee or any Owners, upon delivery to the 1989 Trustee and the Series One Credit Provider of an Opinion of Bond Counsel, the Issuer and the Borrower may enter into an agreement modifying, amending or supplementing in any respect the terms and provisions of the Series One Loan Agreement; *provided that* without the prior written consent of the Owners of 100% in aggregate principal amount of the Series One Bonds affected thereby, no such agreement may be entered into by the Issuer and the Borrower which diminishes the amount of the Series One Loan Repayments or the obligation of the Borrower to make such Series One Loan Repayments.

ARTICLE IX

NOTICES AND CONSENTS

Section 901. Mailing of Notice.

(a) **Notice to Owners.** Any provision in this Series One Supplemental Ordinance for the mailing of a notice or other materials to Owners shall be fully complied with if it is mailed postage prepaid only (i) to each registered owner of Series One Bonds then Outstanding at his address appearing upon the registry books of the Issuer and (ii) to the 1989 Trustee and the Series One Credit Provider.

(b) **Notice to Other Parties.** Any provision in this Series One Supplemental Ordinance for the mailing of a notice or other materials to the Issuer, the 1989 Trustee, the 1989 Credit Provider, the Borrower, the Series One Tender Agent, the Series One Remarketing Agent or the Series One Credit Provider shall be fully complied with if it is mailed postage prepaid to the following addresses or to such other address as the Issuer, the 1989 Trustee, the

Borrower, the Series One Tender Agent, the Series One Remarketing Agent or the Series One Credit Provider shall hereafter specify in writing to each of the other parties:

To the Issuer: Metropolitan Service District
2000 SW First
Portland, Oregon 97201
Attention: Director of Finance and Administration

To the 1989 Trustee: First Interstate Bank of Oregon, N.A.
Corporate Financial Services T-10
1300 S.W. Fifth Avenue
Portland, Oregon 97201

To the 1989 Credit Provider: Credit Suisse
100 Wall Street, 14th Floor
New York, New York 10005
Attention: Public Finance Department

To the Series One Credit Provider: United States National Bank of Oregon
International Banking Division
309 S.W. Sixth Avenue
Portland, Oregon 97204
Attention: Tom Zwald

To the Series One Remarketing Agent: Donaldson, Lufkin & Jenrette Securities Corporation
140 Broadway
New York, New York 10005
Attention: Mr. Kevin Cassedy

To the Series One Tender Agent:

During Any Weekly Rate Period:	During Any Other Rate Period:
First Interstate Bank of Oregon, N.A. Corporate Financial Services 1300 S.W. Fifth Avenue Portland, Oregon 97201	Such address as the Series One Tender Agent for such Rate Period shall specify.

To the Borrower: Riedel Oregon Compost Company, Inc.
4611 N. Channel Avenue
P.O. Box 5007
Portland, Oregon 97208 (street address) 97208-5007 (P.O. Box)
Attention: Chief Financial Officer

To Moody's: 99 Church Street
New York, New York 10007
Attention: Public Finance Department, Structured Finance Group

Section 902. Powers of Amendment. Subject to the conditions set forth in Sections 908 and 909 of this Series One Supplemental Ordinance, any modification or amendment of this Series One Supplemental Ordinance and of the rights and obligations of the Issuer and of the Owners of the Series One Bonds, in any particular other than for the purposes set forth in Section 801 may be made by an ordinance duly enacted by the Issuer with the written consent given as provided in Section 903 of the Owners of at least a majority in principal amount of the affected Series One Bonds Outstanding at the time such consent is given and the Series One Credit Provider; *provided, however, that* if such modification or amendment will, by its terms, not take effect so long as any Series One Bonds of like maturity remain Outstanding the consent of the Owners of such Series One Bonds, and the Series One Credit Provider, shall not be required and such Series One Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Series One Bonds under this Section 902.

No such modification or amendment shall permit a change in the terms of any terms of redemption, purchase or maturity of any Outstanding Series One Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Owner of such Series One Bond, or shall reduce the percentages or otherwise affect the classes of Series One Bonds the consent of the Owners of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

For the purposes of this Section 902, Series One Bonds of a particular maturity shall be deemed to be affected by a modification or amendment of this Series One Supplemental Ordinance if the same adversely affects or diminishes the rights of the Owners of Series One Bonds of such maturity. The 1989 Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment Series One Bonds of any particular maturity would be affected by any modification or amendment of this Series One Supplemental Ordinance, and may rely upon the advice of Bond Counsel, and any such determination shall be binding and conclusive on the Issuer and all Owners of Series One Bonds.

Section 903. Consent of Owners. The Issuer may at any time enter into an ordinance amending, modifying or supplementing this Series One Supplemental Ordinance as permitted by the provisions of Section 902 to take effect when and as provided in this Section 903. A copy of such ordinance amending, modifying or supplementing this Series One Supplemental Ordinance (or brief summary thereof or reference thereto in form approved by the 1989 Trustee), together with a request to the affected Owners and each affected Series One Credit Provider, for their consent thereto in form satisfactory to the 1989 Trustee, shall be mailed by the 1989 Trustee to such Owners and the Series One Credit Provider. Such ordinance amending, modifying or supplementing this Series One Supplemental Ordinance shall not be effective unless and until:

(i) there shall have been filed with the 1989 Trustee:

(a) the written consents of Owners of the percentages of affected Outstanding Series One Bonds specified in Section 902 and the Series One Credit Provider; and

(b) an Opinion of Bond Counsel stating that such ordinance amending, modifying or supplementing this Series One Supplemental Ordinance has been duly and lawfully enacted by the Issuer in accordance with the provisions of this Series One Supplemental Ordinance, is authorized or permitted by this Series One Supplemental Ordinance, and is valid and binding upon the Issuer and enforceable in accordance with its terms, subject to bankruptcy, insolvency and other laws affecting creditors' rights generally; and

(ii) a notice shall have been given as hereinafter in this Section 903 provided.

Each such consent shall be effective only if accompanied by proof of the ownership, at the date of such consent, of the Series One Bonds with respect to which such consent is given, which proof shall be such as is

permitted by Section 1002. A certificate or certificates executed by the 1989 Trustee and filed with the Issuer stating that it has examined such proof and that such proof is sufficient shall be conclusive that the consents have been given by the Owners of the affected Series One Bonds and the Series One Credit Provider described in such certificate or certificates of the 1989 Trustee. Any such consent shall be binding upon the Owner of the Series One Bonds and the Series One Credit Provider and, anything in Section 1002 to the contrary notwithstanding, upon any subsequent Owner of such Series One Bonds and of any Series One Bonds issued in exchange therefor (whether or not such subsequent Owner thereof has notice thereof) unless such consent is revoked in writing by the Owner of such Series One Bonds or the Series One Credit Provider or a subsequent Owner thereof by filing such revocation with the 1989 Trustee, prior to the time when the written statement of the 1989 Trustee hereinafter in this Section 903 provided for is filed. The fact that a consent has not been revoked may likewise be proved by a certificate of the 1989 Trustee filed with the Issuer to the effect that no revocation thereof is on file with the 1989 Trustee. At any time after the Owners of the required percentages of Series One Bonds and the Series One Credit Provider shall have filed their consents to the Series One Supplemental Ordinance or resolution, the 1989 Trustee shall make and file with the Issuer a written statement that the Owners of such required percentages of Series One Bonds and the Series One Credit Provider have filed such consents. Such written statements shall be conclusive that such consents have been so filed.

At any time thereafter, notice stating in substance that the ordinance amending, modifying or supplementing this Series One Supplemental Ordinance (a copy of which is on file with the 1989 Trustee) has been consented to by the Owners of the required percentages of Series One Bonds and the Series One Credit Provider, and will be effective as provided in this Section 903, shall be given to Owners and the Series One Credit Provider by the 1989 Trustee by mailing such notice to Owners and the Series One Credit Provider not more than ninety (90) days after the Owners of the required percentages of Series One Bonds and the Series One Credit Provider shall have filed their consents to the Series One Supplemental Ordinance and the written statement of the 1989 Trustee hereinabove provided for is filed. A record, consisting of the certificates or statements required or permitted by this Section 903 to be made by the 1989 Trustee shall be proof of the matters therein stated. Such ordinance making such amendment or modification shall be deemed conclusively binding upon the Issuer, the Fiduciaries, the Owners of all Series One Bonds and the Series One Credit Provider upon the filing by the 1989 Trustee of the notice referred to in the preceding paragraph.

Section 904. Modifications by Unanimous Consent. Subject to the conditions set forth in Sections 908 and 909 of this Series One Supplemental Ordinance, the terms and provisions of this Series One Supplemental Ordinance and the rights and obligations of the Issuer and of the Owners of the Series One Bonds may be modified or amended in any respect upon the enactment by the Issuer of an ordinance and the consent of the Series One Credit Provider, and the Owners of all affected Series One Bonds then Outstanding, such consent to be given as provided in Section 903 except that no notice to Owners by mailing shall be required; *provided, however, that* no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the 1989 Trustee of the written assent thereto of such Fiduciary in addition to the consent of the affected Owners and the Series One Credit Provider.

Section 905. Exclusion of Series One Bonds. Series One Bonds owned or held by or for the account of the Issuer or the Borrower shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Series One Bonds provided for in this Article IX, and the Issuer or the Borrower shall not be entitled with respect to such Series One Bonds to give any consent or take any other action provided for in this Article. At the time of any consent or other action taken under this Article, the Issuer and the Borrower shall furnish the 1989 Trustee a certificate of an Authorized Issuer Representative upon which the 1989 Trustee may rely, describing all Series One Bonds so to be excluded.

Section 906. Notation on Series One Bonds. Affected Series One Bonds authenticated and delivered after the effective date of any action taken as in Article VIII or this Article IX provided may, and, if the 1989 Trustee so determines, shall bear a notation by endorsement or otherwise in form approved by the Issuer and the 1989

Trustee as to such action, and in that case upon demand of the Owner of any Series One Bond Outstanding at such effective date and presentation of this Series One Bond for the purpose at the Corporate Trust Office of the 1989 Trustee or upon any transfer or exchange of any Series One Bond Outstanding at such effective date, suitable notation shall be made on such Series One Bond or upon any Series One Bond issued upon any such transfer or exchange by the 1989 Trustee as to any such action.

Section 907. Consent of Series One Credit Provider Required in Certain Cases. Notwithstanding anything expressed or implied herein to the contrary, during any period when:

(a) the Series One Credit Facility issued by such Series One Credit Provider is in full force and effect and such Series One Credit Provider shall not have failed or refused for any reason to honor a proper demand for payment under such Series One Credit Facility;

(b) such Series One Credit Provider shall not have filed a petition or other wise sought relief under any federal or state bankruptcy or similar law; or

(c) no order or decree shall have been entered, with the consent or acquiescence of such Series One Credit Provider, appointing a receiver or receivers of the assets of such Series One Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such Series One Credit Provider, shall have been vacated or discharged or stayed within 90 days after the entry thereof,

no amendment to this Series One Supplemental Ordinance which has a material adverse affect on the rights or duties of the Series One Credit Provider shall be effective without the prior written Series One Credit Provider.

Section 908. Consent of Borrower Required in Certain Cases. Notwithstanding anything expressed or implied herein to the contrary, no amendment to this Series One Supplemental Ordinance which has a material adverse affect on the rights or duties of the Borrower shall be effective without the prior written consent of the Borrower.

Section 909. Consent of 1989 Credit Provider Required in Certain Cases. Notwithstanding anything expressed or implied herein to the contrary, during any period when:

(a) the 1989 Credit Facility issued by such 1989 Credit Provider is in full force and effect and such 1989 Credit Provider shall not have failed or refused for any reason to honor a proper demand for payment under such 1989 Credit Facility;

(b) such 1989 Credit Provider shall not have filed a petition or other wise sought relief under any federal or state bankruptcy or similar law; or

(c) no order or decree shall have been entered, with the consent or acquiescence of such 1989 Credit Provider, appointing a receiver or receivers of the assets of such 1989 Credit Provider, or if such order or decree having been entered without the consent or acquiescence of such 1989 Credit Provider, shall have been vacated or discharged or stayed within 90 days after the entry thereof,

no amendment to this Series One Supplemental Ordinance which has a material adverse affect on the rights of the 1989 Credit Provider shall be effective without the prior written consent of the 1989 Credit Provider.

ARTICLE X

MISCELLANEOUS

Section 1001. Defeasance.

(a) **Complete Defeasance of Series One Supplemental Ordinance.** If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Series One Bonds the principal of, premium (if any) and interest due or to become due thereon at the times and in the manner stipulated therein and in this Series One Supplemental Ordinance, then the lien of this Series One Supplemental Ordinance and all covenants, agreements and other obligations of the Issuer to the Owners of the Series One Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the 1989 Trustee shall cause an accounting for such period or periods as shall be requested by the Issuer to be prepared and filed with the Issuer and, upon the request of the Issuer shall execute and deliver to the Issuer all such instruments as may be desirable to evidence such discharge and satisfaction, and the 1989 Trustee shall pay over or deliver, as directed by the Borrower, all moneys or securities held by them pursuant to this Series One Supplemental Ordinance which are not required for the payment of principal of, premium (if any) and interest on Series One Bonds not theretofore surrendered for such payment or redemption.

(b) **Partial Defeasance of Series One Supplemental Ordinance.** If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, all amounts owing to the Owners of all Outstanding Series One Bonds or of particular Series One Bonds, such Series One Bonds shall cease to be entitled to any lien, benefit or security under this Series One Supplemental Ordinance, and all covenants, agreements and obligations of the Issuer to the Owners of such Series One Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

(c) **When Series One Bonds Deemed Paid.** Series One Bonds for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the 1989 Trustee (through deposit pursuant to this Series One Supplemental Ordinance of funds for such payment or redemption or otherwise, as verified by a report of nationally recognized independent certified public accountants) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section 1001. Any Series One Bonds of any particular Series or maturity shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in this Section 1001 if:

(i) the Issuer shall have given the 1989 Trustee in form satisfactory to it irrevocable instructions to mail, postage prepaid, to each Owner of Series One Bonds then Outstanding at his address, if any, appearing upon the registry books of the Issuer, a notice to the Owners of such Series One Bonds that the deposit required by (b) above has been made with the 1989 Trustee and that said Series One Bonds are deemed to have been paid in accordance with this Section 1001 and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal of, premium (if any) and interest on said Series One Bonds;

(ii) there shall have been deposited with the 1989 Trustee either moneys in an amount which shall be sufficient, or Government Obligations (including any Government Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the 1989 Trustee at the same time, shall be sufficient, to pay when due the principal of, premium (if any) and interest due and to become due on said Series One Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and the 1989 Trustee receives an opinion of counsel knowledgeable in matters arising under the Federal Bankruptcy Code to the effect that payments on said

Series One Bonds made out of such moneys or Government Obligations will not be subject to treatment as voidable preference payments in the event of an occurrence of an Act of Bankruptcy of the Borrower or the Issuer; and

(iii) in case any of said Series One Bonds are to be redeemed on any date prior to their maturity, the Issuer shall have given to the 1989 Trustee irrevocable instructions accepted in writing by the 1989 Trustee to mail as provided herein notice of redemption of such Series One Bonds.

Neither Government Obligations nor moneys deposited with the 1989 Trustee pursuant to this Section 1001 or principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium (if any) and interest on said Series One Bonds; *provided that* any cash received from such principal or interest payments on such Government Obligations deposited with the 1989 Trustee:

(A) to the extent such cash will not be required at any time for such purpose as determined by the 1989 Trustee, shall be paid over upon the direction of the Borrower as received by the 1989 Trustee, free and clear of any trust, lien, pledge or assignment securing said Series One Bonds or otherwise existing under this Series One Supplemental Ordinance; and

(B) to the extent such cash will be required for such purpose at a later date, shall only be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of, premium (if any) and interest to become due on said Series One Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments, to the extent such interest earnings will not be required at any time for such purpose as determined by the 1989 Trustee, shall be paid over as received by the 1989 Trustee to the Borrower, free and clear of any lien, pledge, or security interest securing said Series One Bonds or otherwise existing under this Series One Supplemental Ordinance.

For the purposes of this Section 1001, the term "Government Obligations" shall mean and include only direct and general obligations of the United States of America which shall not be subject to redemption prior to their maturity other than at the option of the owner thereof.

As to the Variable Rate Series One Bonds discharged and satisfied under the foregoing provisions, the amount required for the interest thereon shall be calculated at the Maximum Rate permitted by the terms of the provisions which authorized the issuance of such Variable Rate Series One Bonds; *provided, however, that* if on any date, as a result of such Variable Rate Series One Bonds having borne interest at less than such Maximum Rate for any period, the total amount of moneys and Government Obligations on deposit for the payment of interest on such Variable Rate Series One Bonds is in excess of the total amount which would have been required to be deposited on such date in respect of such Variable Rate Series One Bonds in order to fully discharge and satisfy such Series One Bonds, the Borrower may use the amount of such excess free and clear of any trust, lien, security interest, pledge or assignment securing said Variable Rate Series One Bonds or otherwise existing under this Series One Supplemental Ordinance.

(d) Unclaimed Moneys Deposited for Defeasance Purposes. Anything in this Series One Supplemental Ordinance to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Series One Bonds which remain unclaimed for four years after the date when such Series One Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the 1989 Trustee at such date, or for four years after the date of deposit of such moneys if deposited with the Fiduciary after the said date when such Series One Bonds became due and payable, shall, at the written request of the Borrower, be repaid by the 1989 Trustee to the Borrower, as its absolute property and free from trust, and the 1989 Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look

only to the Borrower for the payment of such Series One Bonds; *provided, however, that* before being required to make any such payment to the Borrower, the 1989 Trustee shall, at the expense of the Borrower, cause to be mailed, postage prepaid, to each Owner of any unpaid Series One Bonds at his address, if any, appearing upon the registry books of the Issuer, a notice that said moneys remain unclaimed and that after a date named in said notice, which date shall be not less than 30 days after the date of the mailing of such notice, the balance of such moneys then unclaimed will be returned to the Borrower.

(e) No Interest of 1989 Credit Provider. All moneys that have been set aside and held in trust by the 1989 Trustee pursuant to Section 1001(c) shall be for the benefit of the Owners of the Series One Bonds deemed paid pursuant to that provision, and the 1989 Credit Provider and the owners of the Series A Bonds shall have no interest therein.

Section 1002. Evidence of Signatures of Owners and Ownership of Series One Bonds. Any request, consent, revocation of consent or other instrument which this Series One Supplemental Ordinance may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys appointed in writing.

The ownership of Series One Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books.

Any request or consent by the Owner of any Series One Bond shall bind all future Owners of such Series One Bond in respect of anything done or suffered to be done by the Issuer or any Fiduciary in accordance therewith.

Section 1003. Moneys Held for Particular Series One Bonds. The amounts held by the 1989 Trustee for the payment of the interest, principal or premium due on any date with respect to particular Series One Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Series One Bonds entitled thereto.

Section 1004. Preservation and Inspection of Documents. All documents received by the 1989 Trustee under the provisions of this Series One Supplemental Ordinance shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Issuer, the Series One Credit Provider, the Borrower and any Owners holding in the aggregate 25% or more in principal amount of the Series One Bonds then Outstanding and their agents and their representatives, any of whom may make copies thereof.

Section 1005. Parties Interested Herein. Nothing in this Series One Supplemental Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Issuer, the 1989 Trustee, the 1989 Credit Provider, the Series One Credit Provider, the Borrower, and the Owners of the Series One Bonds, any right, remedy or claim under or by reason of this Series One Supplemental Ordinance or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in this Series One Supplemental Ordinance contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the 1989 Trustee, the 1989 Credit Provider, the Series One Credit Provider, the Borrower, and the Owners of the Series One Bonds.

Section 1006. No Recourse. No recourse shall be had for the payment of the principal of or interest on the Series One Bonds or for any claim based thereon or on this Series One Supplemental Ordinance against any properties or assets of the Issuer (other than the Series One Trust Estate) or any member or officer of the Issuer or any person executing the Series One Bonds.

Section 1007. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Series One Supplemental Ordinance on the part of the Issuer or the 1989 Trustee to be

performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Series One Supplemental Ordinance.

Section 1008. Limitation of Issuer's Liability. The obligations of the Issuer under this Series One Supplemental Ordinance as well as any costs or expenses of the Issuer incurred in respect of its obligations and duties hereunder shall never constitute a debt or indebtedness of the Issuer within the meaning of any provision or limitation of the Constitution or statutes of the State of Oregon but shall be payable solely from the Series One Trust Estate pledged pursuant to this Series One Supplemental Ordinance. It is hereby recognized and agreed that neither the members of the Council of the Issuer nor any officer, employee or agent of the Issuer shall be individually liable on the Series One Bonds or the interest thereon or in respect of any undertakings by the Issuer under this Series One Supplemental Ordinance.

Section 1009. Governing Law. This Series One Supplemental Ordinance shall be interpreted governed by and construed under the laws of the State of Oregon, including the Act, as if executed and to be performed wholly within the State of Oregon.

Section 1010. Headings Not Binding. The headings in this Series One Supplemental Ordinance are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Series One Supplemental Ordinance.

Section 1011. Sale of Series One Bonds; Authorization of Other Acts. The Series One Bonds shall be sold in a negotiated sale to the Underwriter as provided in this Section 1011. The Executive Officer of the Issuer is hereby authorized, empowered and directed, for and on behalf of the Issuer, to determine and establish the following terms of and other matters relating to the Series One Bonds:

(a) the aggregate principal amount of the Series One Bonds, provided that in no event shall the aggregate principal amount of the Series One Bonds exceed the sum of \$5,000,000;

(b) (i) if applicable, the Initial Interest Rate to be applicable to the Series One Bonds during the Initial Interest Rate Period; and

(ii) the price at which the Series One Bonds are to be sold to the Underwriter; and

(c) whether there is to be an Initial Interest Rate Period and, if so, the duration thereof.

The authority of the Executive Officer of the Issuer to determine and establish the terms of and other matters relating to the Series One Bonds as provided in this Section shall be exercised by setting forth such terms and other matters as so determined and established in a certificate executed and delivered by the Executive Officer on or prior to the Closing Date.

The Series One Loan Agreement, the Series One Remarketing Agreement, the Amended and Restated Intercreditor Agreement and the Contract of Purchase in substantially the forms submitted to the Council of the Issuer in connection with the enactment of this Series One Supplemental Ordinance is hereby approved. The Executive Officer, the Director of Finance and Administration and the Deputy Executive Officer of the Issuer, and any one of them, are each hereby authorized, empowered and directed, for and on behalf of the Issuer:

(A) to execute and deliver the Series One Loan Agreement, the Series One Remarketing Agreement, the Amended and Restated Intercreditor Agreement and the Contract of Purchase in substantially the form approved hereby but with such changes, additions and deletions as may be necessary or appropriate and not inconsistent with the terms of this Series One Supplemental Ordinance or applicable law;

(B) to execute and deliver such other documents, instruments, certificates and agreements as may be necessary or appropriate to carry out and consummate the transactions contemplated by this Series One Supplemental Ordinance; and

(C) to do and perform all other acts and things necessary or appropriate to carry out and consummate the transactions contemplated by this Series One Supplemental Ordinance.

The distribution by the Underwriter of a preliminary and a final Official Statement describing the Series One Bonds and matters pertaining thereto is authorized and/or ratified in all respects and the Executive officer is hereby authorized to sign and deliver such preliminary and final Official Statements to the Underwriter.

Section 1012. Execution of Bonds. The Series One Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the presiding officer of the Council of the Issuer and by the manual or facsimile signature of the Executive Officer of the Issuer, and the seal of the Issuer, or a facsimile thereof, shall be affixed thereto or imprinted thereon. Any facsimile signatures shall have the same force and effect as if the appropriate officers had personally signed each of the Series One Bonds. In case one or any of the officers who shall have signed or attested the Series One Bonds or whose reproduced facsimile signature appears thereon shall cease to be such officer or officers before the Series One Bonds so signed and attested shall have been actually issued and delivered, the Series One Bonds may be issued and delivered as though the person who signed or attested or whose reproduced facsimile signature appears on such bonds had not ceased to be such officer. Neither the members, directors, officers or agents of the Issuer nor any person executing the Series One Bonds shall be liable personally or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 1013. Covenant to Maintain Federal Tax-Exempt Status of Interest. The Issuer hereby covenants and agrees that it will not make any use of the proceeds of the Series One Bonds issued as Tax-Exempt Obligations or the facilities financed from such proceeds which would cause the interest on such Series One Bonds to become includable for federal income tax purposes in the gross incomes of the Owners (other than any Owner who is a "substantial user" of the facilities financed out of the proceeds of the Series One Bonds or a "related person," as such terms are used in Section 147(a) of the Code), and that it will take all actions within its control which are necessary in order to ensure that the interest on such Series One Bonds does not become includable for federal income tax purposes in the gross incomes of the Owners (other than any Owner who is a "substantial user" or a "related person" as aforesaid).

Section 1014. Notice to Rating Agencies. So long as the Series One Bonds are rated by a Rating Agency, the Issuer shall give each such Rating Agency prior written notice of any of the following events:

- (a) Any change of 1989 Trustee, Series One Tender Agent or Series One Remarketing Agent;
- (b) Any material changes to this Series One Supplemental Ordinance that affect the Series One Bonds;
- (c) Any expiration or termination of the Series One Credit Facility;
- (d) Any change in the Rate Period applicable to any Series One Bonds; and
- (e) Any redemption or defeasance of all or any Series One Bonds.

Section 1015. References to Series One Credit Facility Ineffective Upon Termination or Expiration. Notwithstanding anything expressed or implied herein to the contrary, during any period of time in which the Series One Credit Facility or any Alternate Credit Facility is not in effect with respect to any Series One

Bonds, all references in this Ordinance, and all terms and provisions of this Series One Supplemental Ordinance relating, to the Series One Credit Provider (insofar as such references relate to the Series One Credit Facility or the Series One Bonds), the Series One Credit Facility and any Alternate Credit Facility shall be void and of no force or effect.

Section 1016. Conflict with Master Ordinance. Notwithstanding anything expressed or implied herein to the contrary, in the event of any conflict between the terms and provisions of this Series One Supplemental Ordinance and the Master Ordinance (other than the terms and provisions set forth in Article II of the Master Ordinance), the terms and provisions of this Series One Supplemental Ordinance shall govern and control in all respects insofar as the Series One Bonds are concerned; *provided that* in the event of any conflict between the terms and provisions of this Series One Supplemental Ordinance and the terms and provisions set forth in Article II of the Master Ordinance, the terms and provisions of Article II of the Master Ordinance shall govern and control in all respects.

Section 1017. [RESERVED]

Section 1018. Effectiveness of This Ordinance. This Ordinance shall, except as otherwise provided by law, become effective immediately upon enactment.

Section 1019. Relationship to 1989 Supplemental Ordinance. This Series One Supplemental Ordinance is enacted pursuant to Section 801 of the 1989 Supplemental Ordinance as an amendment of the 1989 Supplemental Ordinance to authorize the issuance of Additional Bonds (as defined in the 1989 Supplemental Ordinance). Except as otherwise expressly stated in this Series One Supplemental Ordinance, this Series One Supplemental Ordinance governs and controls all matters relating to the Series One Bonds (including, but not limited to, the terms and sources of payment on the Series One Bonds, the Series One Trust Estate and the obligations secured thereby, and Series One Events of Default) and notwithstanding anything expressed or implied herein to the contrary, in the event of any conflict between the terms and provisions of this Series One Supplemental Ordinance and the 1989 Supplemental Ordinance, the terms and provisions of this Series One Supplemental Ordinance shall govern and control in all respects insofar as the Series One Bonds are concerned. Notwithstanding the foregoing, the rights and obligations of the 1989 Trustee under the 1989 Supplemental Ordinance apply with respect to the Series One Bonds except to the extent of any conflict with this Series One Supplemental Ordinance. Except for the pledge of additional assets to the Series A Trust Estate, nothing in this Series One Supplemental Ordinance shall affect the terms and conditions of the 1989 Supplemental Ordinance with respect to the Series A Bonds.

Certification of Ordinance

The undersigned do hereby certify that we are the duly elected or appointed, qualified and acting Executive Officer, Presiding Officer of the Council and Clerk of the Council of the Metropolitan Service District, Counties of Multnomah, Clackamas and Washington, State of Oregon; that the foregoing is a true and complete copy of Ordinance No. 90-353 as enacted by the Council of said district at a regular meeting duly called and held in accordance with law on June 14, 1990; and that the following Councilors voted in favor of said Ordinance:

the following Councilors voted against said Ordinance:

and the following Councilors abstained from voting on said Ordinance:

In addition, the Executive Officer hereby certifies that the foregoing ordinance has not been vetoed thereby.

In witness whereof, the undersigned have hereunto set their hands as of the dates set forth below.

Attest:

Michael Ragsdale, Presiding Officer

Date: _____

Clerk of the Council

Date: _____

Rena Cusma, Executive Officer

Date: _____

Bond Form Appendix
to
Ordinance No. 90-353

**METROPOLITAN SERVICE DISTRICT
WASTE DISPOSAL PROJECT REVENUE BONDS
(RIEDEL OREGON COMPOST COMPANY, INC. PROJECT)
1990 SERIES ONE**

R-_____

\$_____

ORIGINAL ISSUE DATE
June __, 1990

TYPE OF RATE PERIOD
Weekly

MATURITY DATE
July 1, 2011

CUSIP

REGISTERED OWNER:

***** Cede & Co. *****

PRINCIPAL AMOUNT:

DOLLARS

The Metropolitan Service District, a political subdivision organized and existing under the laws of the State of Oregon (the "Issuer"), for value received hereby promises to pay (but only from the sources hereinafter provided and not otherwise) to the Registered Owner of this Series One Bond (the "Owner") the Principal Amount specified above on the Maturity Date specified above together with interest at the then applicable rate (as described below) on the balance of said Principal Amount from time to time remaining unpaid. This Bond is one of an authorized series of Bonds (the "Series One Bonds") being issued pursuant to the provisions of Chapter 268 of the Oregon Revised Statutes, as amended, and certain other provisions of the laws of the State of Oregon (the "Act"), Ordinance No. 89-319 (the "Master Ordinance"), Ordinance No. 89-320 (the "1989 Supplemental Ordinance"), and Ordinance No. 90-353 (the "Series One Supplemental Ordinance and, together with the Master Ordinance and the 1989 Supplemental Ordinance being the "Ordinance"), and in accordance with the terms of the Ordinance, the Bond may be converted from one Weekly, Monthly, Semiannual or Extended Rate Period (each a "Variable Rate Period") to another Variable Rate Period or to or from a Commercial Paper Rate Period or Periods or to a Fixed Rate. Notice of any such conversion shall be given to the Owner as provided in the Ordinance. The books and records of the 1989 Trustee shall be conclusive evidence of the Rate Period and the particular rate(s) of interest applicable to this Bond during any period of time and the Owner shall be bound thereby with respect to the applicable Rate Period and the particular rate(s) of interest. The rate(s) of interest applicable to this Bond with regard to any particular Rate Period shall be determined by the Series One Remarketing Agent in the manner and at the times provided in the Ordinance. All terms used in this Bond and not otherwise defined herein shall have the respective meanings assigned thereto in the Ordinance.

THE TERMS AND CONDITIONS OF THIS BOND ARE CONTINUED ON THE REVERSE SIDE HEREOF, WHICH CONTINUED TERMS AND CONDITIONS SHALL HAVE THE SAME EFFECT AS IF PRINTED ABOVE.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and laws of the State of Oregon and the Ordinance to have happened, to exist and to have been performed precedent to and in the issuance of this Bond and the Series One Bonds do exist, have happened and have been performed in regular and due time, form and manner as required by said Constitution, laws and Ordinance; that this Bond and the Series One Bonds do not exceed any constitutional or statutory limitation or indebtedness; and that provision has been made for the payment of the principal of and interest on this Bond and the Series One Bonds as provided in the Ordinance.

This Bond shall not be valid or become obligatory for any purpose unless and until it has been authenticated in the space provided below by a duly authorized officer of the 1989 Trustee.

IN WITNESS WHEREOF, THE METROPOLITAN SERVICE DISTRICT has caused this Bond to be signed by means of the manual or facsimile signatures of its Presiding Officer and Executive Officer, all as of the Original Issue Date set forth above.

METROPOLITAN SERVICE DISTRICT

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series One Bonds issued pursuant to the Ordinance.

FIRST INTERSTATE BANK OF OREGON, N.A.
as 1989 Trustee

By: _____
Its Authorized Officer

Presiding Officer

Executive Officer

Date of Authentication: _____

This Bond and the rights of the Owner are in all respects subject to and governed by the Ordinance, and the Owner, by acceptance of this Bond, assents to and agrees to be bound by all terms and provisions set forth in the Ordinance.

The Series One Bonds are being issued to provide funds which together with other available funds will be used to: (1) make the Series One Loan to Riedel Oregon Compost Company, Inc. (the "Borrower") pursuant to a Loan Agreement dated as of June 1, 1990 (the "Series One Loan Agreement") between the Issuer and the Borrower, the proceeds of which Series One Loan will be used to pay a portion of the costs of the 1989 Compost Project; (2) refund the Issuer's Waste Disposal Project Revenue Bonds (Riedel Oregon Compost Company, Inc. Project), 1989 Series B; and (3) pay certain Costs of Issuance incurred in connection with the issuance and sale of the Series One Bonds. The Series One Bonds are secured by a pledge of the Series One Trust Estate, which initially includes the Series One Credit Facility initially consisting of an irrevocable letter of credit issued by United States National Bank of Oregon in favor of the 1989 Trustee for the account of the Borrower pursuant to the Series One Credit Agreement. For a more detailed description of the collateral pledged as security for the Series One Bonds and the terms of such pledge, reference should be made to the Ordinance. The Series One Bonds are not in any manner or to any extent a general obligation of the Issuer nor a charge upon any revenues or property of the Issuer not specifically pledged thereto. The Owners of the Series One Bonds cannot compel the Issuer to levy any taxes for the purpose of paying any amounts owing under the Series One Bonds. The Series One Bonds are payable solely and only out of the Series One Trust Estate pledged thereto.

The Series One Bonds are subject to mandatory tender for purchase and optional redemption prior to maturity only as provided in the Ordinance.

The Series One Bonds are issuable as fully registered Bonds without coupons as provided for in the Ordinance. This Bond is transferable by the Owner as provided for in the Ordinance.

No recourse shall be had for the payment of the principal of, or premium, if any, or interest on, any of the Series One Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in the Ordinance against any past, present or future commissioner, officer, employee or agent of the Issuer, or any successor, under any rule of law of equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such member, officer, employee or agent as such is hereby expressly waived and released as a condition of, and in consideration for, the issuance of this Bond.

The Owner shall have no right to enforce the provisions of the Ordinance or to institute action to enforce the covenants therein, or to take any action with respect to any Series One Event of Default under the Ordinance, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Ordinance. If a Series One Event of Default (as defined in the Ordinance) occurs, the principal of all Series One Bonds then outstanding under the Ordinance may be declared due and payable upon the conditions and in the manner and with the effect provided in the Ordinance.

The Issuer, the 1989 Trustee and any paying agent of the Issuer or the 1989 Trustee may treat the person in whose name this Bond is registered as the Owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Bond be overdue, and neither the Issuer, the 1989 Trustee nor any paying agent shall be affected by notice to the contrary.

The Ordinance prescribes the manner in which it may be discharged, including a provision that the Series One Bonds shall be deemed to be paid if cash and/or Government Obligations (as defined in the Ordinance) maturing as to principal and interest in such amounts and at such times as will be such to insure the availability of sufficient moneys to pay the principal of, and premium, if any, and interest on, the Series One Bonds shall have been deposited with the 1989 Trustee, after which the Series One Bonds shall no longer be secured by or entitled to the benefits of the Ordinance, except for the purposes of registration and exchange of Series One Bonds and of payment from such source.

Reference is hereby made to the Ordinance, copies of which are on file with the 1989 Trustee, for the provisions, among others, with respect to the nature and extent of the rights, duties and obligations of the Issuer, the 1989 Trustee and the Owners of the Series One Bonds, the terms upon which the Series One Bonds are issued and secured, the collection and disposition of the Series One Loan Repayments pledged as security for the Series One Bonds, the modification, amendment or supplementation of the Ordinance, and other matters, to all of which the Owner assents by the acceptance of this Bond.

Modifications and alterations of the Ordinance or of any supplements thereto may be made only to the extent and in the circumstances permitted by the Ordinance.

ASSIGNMENT

For value received, the undersigned sells, assigns and transfers unto _____

(please insert social security or other tax identification number of assignee)

the within Bond and does hereby irrevocably constitute and appoint _____ as attorney to transfer this Bond on the books kept for registration thereof with the full power of substitution in the premises.

Date:

Note: the signature(s) must correspond with the name(s) as written on the face of this Bond in every particular without enlargement, alteration or any change whatsoever.

Signature Guarantees:

(Bank, Trust Company or NYSE Firm)

(Authorized Officer)

Agenda Item No. 6.1
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1208

CONVENTION & VISITOR FACILITIES
COMMITTEE REPORT

RESOLUTION NO. 90-1208, FOR THE PURPOSE OF CONFIRMING
THE APPOINTMENT OF RICHARD WAKER TO THE METROPOLITAN
EXPOSITION-RECREATION COMMISSION

Date: May 9, 1990

Presented by: Councilor Knowles

COMMITTEE RECOMMENDATION: The Convention and Visitor Facilities Committee voted 4 to 0 to recommend Council adoption of Resolution No. 90-1208. Voting: Councilors Knowles, Buchanan, McFarland and Van Bergen. Absent: Councilor Hansen. This action was taken May 8, 1990.

COMMITTEE DISCUSSION/ISSUES: Don Rocks, Executive Assistant, presented the staff report. Washington County has nominated Richard Waker to fill the position on the Metropolitan Exposition-Recreation Commission previously held by Barbara Klein. The term of the appointment is January 15, 1990 through January 15, 1994.

The Convention and Visitor Facilities Committee invited Mr. Waker to address the Committee. He stated that he had served on the Metro Council for six years, served on the Council's Convention Center Committee and was currently serving on the Advisory Committee on Design and Construction of the Oregon Convention Center.

Mr. Waker said that he had recently met with the Washington County Commissioners regarding the appointment to the Metro ERC and that he had applied for the position in December 1990. He attended a recent work session of the Metro ERC where he saw that the issue of the Commission's autonomy was still a current event. He said he had hoped the issue would be resolved before he was appointed. The Convention and Visitor Facilities Committee said that they hoped Mr. Waker could help with the autonomy issue and help the Commission understand Council's budget concerns. Mr. Waker said he was ready and willing to address the issues and would do his best.

There were no further questions, comments or issues and the Committee voted unanimously to recommend Council adoption of Resolution No. 90-1208.

RB:aeb

A:\RES1208.RPT

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF CONFIRMING THE	)	Resolution No. 90-1208
APPOINTMENT OF RICHARD WAKER TO THE	)	INTRODUCED BY
METROPOLITAN EXPOSITION-RECREATION	)	RENA CUSMA
COMMISSION	)	EXECUTIVE OFFICER

WHEREAS, The Metropolitan Service District Code, Section 6.01.030, provides that the Council confirms members to the Metropolitan Exposition-Recreation Commission; and

WHEREAS, The initial term of member Barbara Klein expired January 15, 1990; and

WHEREAS, The Executive Officer recommends Richard Waker be appointed for a full, four year term; and

WHEREAS, The Council finds that Richard Waker has experience and expertise valuable to the Metropolitan E-R Commission; now, therefore,

BE IT RESOLVED,

That Richard Waker is hereby confirmed for appointment as a member of the Metropolitan Exposition-Recreation Commission for the term beginning January 15, 1990 and ending January 15, 1994.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1990.

Tanya Collier, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION 90-1208 FOR THE PURPOSE OF
CONFIRMING THE APPOINTMENT OF RICHARD WAKER TO THE
METROPOLITAN EXPOSITION-RECREATION COMMISSION

DATE: May 2, 1990

Presented by: Don Rocks

Initial Metro E-R Commission appointments under Ord. 87-225 provide for member commissioner terms varying between one and four years in order to begin the staggered term expiration process.

Washington County has nominated Richard Waker to fill the slot previously held by Barbara Klein. The term of this appointment is January 15, 1990 extending through January 15, 1994.

Mr. Waker is a former Metro Councilor, and a past Metro Council Presiding Officer. He has served on the Council's Convention Center Committee, and continues to serve on the Advisory Committee on Design and Construction of the Oregon Convention Center.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends that Richard Waker be confirmed to a four year term on the Metropolitan Exposition Recreation Commission.

Agenda Item No. 6.2
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1243

CONVENTION & VISITOR FACILITIES
COMMITTEE REPORT

RESOLUTION NO. 90-1243 AUTHORIZING A STUDY OF FUNDING
FOR METRO ERC FACILITIES AND THE FEASIBILITY OF
CONSTRUCTING NEW SPORTS FACILITIES AND DEFINING STUDY
OBJECTIVES

Date: May 17, 1990

Presented by: Councilor Knowles

COMMITTEE RECOMMENDATION: The Committee at its April 4, 1990 meeting voted to recommend Council adoption of Resolution No. 90-1243. Councilors Buchanan and Knowles voted in favor of the motion; Councilor McFarland voted in opposition and Councilor Van Bergen abstained.

COMMITTEE DISCUSSION/ISSUES: Councilor Knowles presented a draft resolution to the Committee for consideration. He indicated that the purpose of the resolution was to provide direction for the regional facilities and funding study that was included in the Executive Officer's Proposed Budget (the funds are included in the Council Approved Budget). Resolution No. 90-1243 does three things as follows:

1. Establishes the study objectives as follows: a) investigate long-term funding for the operation of the convention and spectator facility system; b) investigate the need for a new sports arena; c) investigate the need for a new stadium; d) and investigate long-term funding for the arts;
2. Sets out specific questions to be answered in the investigation to assure a comprehensive unbiased investigation so the Council and the community have adequate information on which to base any decisions which will be made on these matters; and
3. Requires an additional action by the Council to create a broad based task force to conduct the study and develop a final report to be submitted to the Council Convention and Visitor Facilities Committee and Metro ERC no later than June 30, 1991.

Councilor Knowles reiterated that there appears to be considerable interest in the community that these matters be addressed and that this resolution is an important vehicle for the Council to set the direction for the study.

Two Councilors (McFarland and Van Bergen) indicated that they were not convinced of the need to do the study at this time.

DEC:aeb

A:\RES1243.RPT

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING A	)	Resolution No. 90-1243
STUDY OF PERMANENT OPERATIONS	)	INTRODUCED BY THE
FUNDING FOR METRO ERC FACILITIES	)	COUNCIL CONVENTION
AND THE FEASIBILITY OF	)	AND VISITORS FACILITIES
CONSTRUCTING NEW SPORTS FACILITIES	)	COMMITTEE
AND DEFINING STUDY OBJECTIVES)	

WHEREAS, In May of 1986 the Council of the Metropolitan Service District adopted the Convention, Trade, and Spectator Facilities Master Plan; and

WHEREAS, This Master Plan established the Metropolitan Service District as the lead agency for regional convention, trade, and spectator facilities; and

WHEREAS, This Master Plan contained recommendations that the District pursue development of both a new arena and and new stadium for the region; and

WHEREAS, In December of 1987, the Council of the Metropolitan Service District created the Metropolitan Exposition-Recreation Commission to operate the region's inventory of convention, trade, and spectator facilities; and

WHEREAS, In December of 1989, the Councils of the Metropolitan Service District and the City of Portland approved a Phase 1 consolidation agreement providing for the management of City Spectator and Performing Arts Facilities by the Metropolitan Exposition-Recreation Commission; and

WHEREAS, Phase 2 consolidation is anticipated to lead to Metro assuming financial responsibility for the operation and maintenance of all Metro ERC facilities; and

WHEREAS, The Council needs additional information regarding new facilities and sources of revenue prior to considering Phase 2 of consolidation; and

WHEREAS, Financial studies of the consolidated system of facilities indicate that additional funding will be required within the next few years;

WHEREAS, the Executive Officer's proposed FY-1990-91 Budget includes a program to address the region's future spectator facility needs; now, therefore,

BE IT RESOLVED, that:

1. The Council of the Metropolitan Service District authorizes the Executive Officer to undertake a planning, development and financing effort to address on-going issues related to the region's inventory of convention, trade, and spectator facilities, with the objectives stated below:

a. To develop information and foster community discussion regarding funding necessary to support the current system of Metro ERC facilities, including the Performing Arts Center, Civic Stadium, Memorial Coliseum and the Oregon Convention Center -- taking into account the impact new facilities may have on the existing facilities.

b. To develop information and foster community discussion so that the Council may evaluate interest in constructing a new 15,000 to 25,000 seat arena, capable of serving as a new home for the Portland Trailblazers.

c. To develop information and foster community discussion so that the Council may evaluate interest in constructing a new 60,000 to 75,000 seat stadium.

d. To develop information and foster community discussion so that the Council may evaluate interest in public funding for the arts.

2. Specific questions to be addressed in conduct of this work include:

- a. What is the long-term effect of no action?
- b. What is the public interest in additional funding for the Portland Center for the Performing Arts;
- c. What is the public interest in a new arena or stadium;
- d. What are the tangible or intangible benefits to the region from such new facilities;
- e. Will the new facilities be publicly or privately operated? What impact will new facilities - whether constructed and/or operated privately or publicly or in some public/private mix - have on the Civic Stadium and Memorial Coliseum, and on the current ability of the Coliseum to generate profits to support the Civic Stadium and Portland Center for the Performing Arts operating budgets;
- f. What is the cost to build and operate new facilities, and what is the equitable mix of public and private financing?
- g. If public funds are required for either capital or on-going operating support, what are the most equitable sources?
- h. Where should new facilities be located and what are the transportation and land use implications of alternative sites?
- i. What are the expectations of jurisdictions in the region regarding the funding of current Metro ERC facilities, as well as the funding and siting of any new facilities, and how are those expectations likely to affect support for alternative — funding mechanisms.
- j. What is the recommended timing of construction of any new facilities, and what are the preconditions to construction?
- k. What legislative issues regarding financing and authority need to be addressed in the 1991 Legislature as a result of this program?

3. By subsequent resolution resolution the Council shall establish a Task Force to advise staff in the conduct of this study and to develop recommended actions to take as a result of the study. The Task Force shall regularly report to the Convention Center Committee and the Metro ERC and shall present its final report to the Council no later than June 30, 1991. It is the Council's intent that the Task Force will represent a diversity of interests in terms of constituencies, jurisdictions, and points of view.

ADOPTED by the Council of the Metropolitan Service District
this ____ day of _____, 1990.

Tanya Collier, Presiding Officer

Agenda Item No. 6.3
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1242A



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: May 18, 1990
TO: Metro Council
FROM: ^{AB} Ann Brunson, Committee Clerk
RE: Agenda Item No. 6.3 - Resolution No. 90-1242A, For the Purpose of Including Metro Employees in the Public Employees Retirement System (PERS)

The Finance Committee considered this item at their regularly scheduled meeting May 17, 1990. The Committee report will be distributed prior to the Council meeting May 24, 1990.

Anyone wishing copies of the Committee report prior to the Council meeting should contact the Clerk of the Council at extension 206.

A:\RES1242A.MEM

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF INCLUDING	)	RESOLUTION NO. 90-1242A
METRO EMPLOYEES IN THE PUBLIC)	
EMPLOYEES RETIREMENT SYSTEM (PERS)	)	Introduced by Rena Cusma,
	)	Executive Officer

WHEREAS, The Metropolitan Service District presently provides a retirement system to Metro employees consisting of a money purchase plan and a salary savings plan; and

WHEREAS, The money purchase plan is with the Principal Financial Group of Des Moines, Iowa and is funded by a 5 percent salary contribution paid to the fund by Metro on behalf of its employees. This plan is sometimes referred to as the "5 Percent Plan"; and

WHEREAS, The salary savings plan is with the Western Retirement Trust of Seattle, Washington and is funded by a 6 percent of salary contribution paid by Metro on behalf of its employees. This plan is sometimes referred to as the "6 Percent Plan"; and

WHEREAS, It is in the best interest of Metro and its employees to have the opportunity to participate in PERS; and

WHEREAS, PERS participation will increase payroll costs to the District; and

WHEREAS, The District desires to reduce the initial cost of participation; and

WHEREAS, Oregon Laws 1989, Chapter 879 (codified as ORS 268.240) permits classes of Metro employees to participate in

PERS without a contract of integration pursuant to ORS 237.051;
and

WHEREAS, Employees of the City of Portland Exposition-Recreation Commission who will become Metro employees on July 1, 1990, are participants in PERS and have a right to continue that participation pursuant to ORS 236.620(2); and

WHEREAS, The proposed application (attached as Exhibit "A") pursuant to ORS 268.240 has been informally approved by staff officials at PERS; and

WHEREAS, It is in the best interest of Metro to become a participating employer of PERS in accordance with the attached application; now, therefore,

BE IT RESOLVED,

1. That the Metro Executive Officer is authorized to make application pursuant to ORS 268.240 to PERS in substantially the form contained in Exhibit "A" and to execute all documents necessary to make Metro a participating employer pursuant to the terms thereof.

~~[2.--That all employees not represented by a collective bargaining agent may opt to participate in PERS under this Agreement in lieu of the July 1, 1990, Cost of Living Adjustment.]~~

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1990.

Tanya Collier, Presiding Officer

EXHIBIT "A"

BEFORE THE PUBLIC EMPLOYEES RETIREMENT BOARD

In the Matter of the Application
of the Metropolitan Service District
to Become a Participating Employer
under ORS Chapter 237

The Metropolitan Service District makes this application pursuant to ORS 268.240 to become a participating employer under ORS Chapter 237 to the extent of providing membership for each class of employees described in the application.

1. Metro is a regional government organized and existing pursuant to the provision of ORS Chapter 268.
2. The Executive Officer of Metro makes this application with the approval of the Council of the Metropolitan Service District pursuant to Resolution No. 90-1242 (Exhibit attached.)
3. Metro is not, as of this date, participating in the Public Employees Retirement System.
4. Metro applies to this Board to allow the District employees in the following classes of District employees to become members of PERS without entering into a contract of integration (ORS 237.051) but pursuant to this contract authorized by ORS 268.240(3).
 - a. A class of District employees composed of all eligible City of Portland Exposition-Recreation Commission employees transferring to Metropolitan Exposition-Recreation Commission employment on July 1, 1990, based on Metro's 1989 Intergovernmental Agreement with the City of Portland. Inclusion of that class into PERS should be effective July 1, 1990, the date of transferred employment under that Agreement. Inclusion is subject to applicable rights granted to transferring employees pursuant to ORS 236.620(2) and 237.011(2).

- b. A class of employees composed of all eligible employees hired by Metro Exposition-Recreation Commission after July 1, 1990.
- c. A class of employees composed of all eligible employees currently employed as of July 1, 1990, by the Metro Exposition-Recreation Commission.
- d. A class of employees composed of all eligible employees hired by Metro after July 1, [~~1990~~] 1991, who are not represented by an exclusive collective bargaining agent on the effective date of hire.
- e. A class of employees composed of all eligible Metro employees who are not represented by an exclusive collective bargaining agent on July 1, [~~1990~~] 1991, who exercise the option to become members of PERS effective July 1, [~~1990~~] 1991.
- f. A class of employees composed of all eligible employees represented by American Federation of State, County and Municipal Employees (AFSCME) Local 3580 effective on the date a collective bargaining agreement specifically providing for PERS membership by all members of the unit is ratified by both parties.

Metro will place on the negotiating table the issue of PERS membership at the bargaining sessions expected to commence prior to the expiration of the current contract on June 30, 1991, consistent with its agreement in accordance with ORS 268.240(4), below.

- g. A class of employees composed of all eligible persons represented by Laborers International Union Local 483 effective on the date a collective bargaining agreement specifically providing for PERS membership by all members of the unit is ratified by both parties.

Metro will place on the negotiating table the issue of PERS membership at the bargaining sessions expected to commence prior to the expiration of the current contract on June 30, 1991, consistent with its agreement in accordance with ORS 268.240(4), below.

5. Metro hereby agreed eventually to extend PERS coverage to all eligible District employees in accordance with ORS 268.240(4).
6. Terms of admission of current employees transferring to PERS membership shall include the unused sick leave option and prior eligibility service, but not including prior benefit service.
7. The dates provided for in Section 4(d) and 4(e) and the level of the benefits for employees included in PERS provided for in Section 6 hereof may be amended by mutual agreement of PERS and Metro, subject to Metro council approval.

8. [7-] This application and the terms hereof shall, upon approval of the Board, constitute the contract between PERS and Metro contemplated by ORS 268.240. The effective date of the contract shall be the date approved by the Board. The effective date of PERS membership of District employees shall be the first date of eligibility under ORS Chapter 237 inclusion of the class under the terms of this application.

Rena Cusma, Executive Officer
Metropolitan Service District

Date: _____

STAFF REPORT

RELATING TO RESOLUTION NO. 90-1242 FOR THE PURPOSE OF INCLUDING METRO EMPLOYEES IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS).

April 4, 1990

Presented by:
John B. Leahy

BACKGROUND

Metro presently pays a total of 11 percent of payroll into two funds on behalf of District employees for the purpose of establishing retirement benefit entitlements for its employees. Each of the funds are referred to as a "defined contribution plan" which means that a specified amount expressed in percentage of salary is contributed each month to the employees' account. The contributions, together with earnings thereon, accumulate over the years creating a fund from which retirement benefits are paid at retirement. The amount of the benefit depends upon the length of time contributions were made on behalf of the employee and the amount of the earnings thereon over the years. The cost of administering the funds is charged by the fund.

One fund is managed by the Principal Financial Group of Des Moines, Iowa. Metro pays 5 percent of salary to that fund which is referred to as the "5 percent plan." The other fund is administered by the Western Retirement Trust of Seattle, Washington. Metro pays 6 percent of salary to that fund which is referred to as the "6 percent plan." Employees may voluntarily increase that contribution with their own funds as a deferred compensation fund up to a maximum of \$7,979 per year or 14 percent of salary.

PERS is a defined benefit plan operated by the State of Oregon for government employees in Oregon. The plan is funded by contributions made by government employers and employees (most governments "pick up" the employee contribution) in the amount necessary to fund the retirement benefits which are payable upon retirement or disability of the employee and are fixed by Oregon law.

In a defined benefit type plan, the amount of retirement benefits that will be available upon retirement are known and fixed by law, thus facilitating retirement planning. PERS membership is "transferrable" among governments. The labor market that Metro is competing in, to a large extent, is other government employees; many in Oregon. Metro's inability to offer PERS membership puts it at a competitive disadvantage in this labor market.

The 1989 Legislative Assembly adopted SB 211, codified as ORS 268.240, which allows classes of Metro employees to

participate in PERS without an "integration contract" under ORS 237.051 and the usual requirement that all employees must participate. The District must agree, however, that "eventually" all eligible employees will be extended PERS membership (ORS 268.240(4)). Many Metro employees have expressed the desire to have the option to participate in PERS.

Transferring Exposition-Recreation Commission employees who are presently members of PERS have a right under Oregon law to continue that membership (ORS 236.620(2)). The Metropolitan Exposition-Recreation Commission wants to have all Metro ERC employees (the transferring ERC employees, the existing Metro ERC employees, and all new hires for the Oregon Convention Center) included in PERS to facilitate internal promotions and transfers as well as for administrative efficiency.

The Executive Officer is of the view that it is in the best interest of Metro to be a participating employer in PERS in accordance with the attached application (Exhibit A). The application would extend membership to the following classes of employees immediately. One, a class composed of all Metro ERC employees including transferring ERC employees. Two, a class composed of all new non-represented employees hired after the date the application is approved by PERS. Three, a class composed of all current, non-represented employees who opt to participate in PERS.

The application would also indicate a commitment on the part of Metro to negotiate in good faith through the collective bargaining process with the bargaining agents to include represented positions in PERS when contract negotiations reopen. The goal of eventually including represented employees in PERS through collective bargaining is subject to contract approval and budget approval by the Council. This would satisfy the legal requirement that Metro agree to "eventually" include all Metro employees as PERS members, and at the same time preserve the option of all current non-represented employees to become members of PERS or not, as they choose.

The employees who are members of either of the two bargaining units may wish to opt into PERS as a "class" next year (FY 1991-92). That determination can be made by the bargaining unit in next year's wage negotiations and bargained as a component of the "wage package."

COSTS

Metro is presently paying 11 percent of payroll as the retirement benefit for most of its employees. The costs for Metro ERC employees, including transferring ERC employees, will be approximately 18 percent of payroll. This is contained in the proposed budget under consideration by the Council. The estimated costs for Metro's current work force is 16.87 percent of payroll, including the 6 percent employee "pick up" analogous

to the existing 6 percent program. The Executive Officer proposes that current non-represented employees be given the option of PERS participation in lieu of a COLA effective July 1, 1990. This would have the effect of making PERS integration essentially "budget neutral" for FY 1990-91 except for the cost of new hires which can be absorbed in the present proposed budget.

Additional costs for including bargaining unit employees in PERS, if any, would be postponed until after negotiations on the terms next fiscal year. Ultimately, retirement costs could increase, but the immediate impact of joining PERS would be limited to new employees and the non-represented employees who opt in.

Another alternative method of transfer to PERS membership would provide transferring current employees with "prior benefit service." This would purchase credit at PERS for employees based on their date of hire at Metro and give them PERS service credit for time in service of Metro. This alternative is expressed in Application marked Exhibit "B" and would cost 19.36 percent of payroll or an additional 2.49 percent of payroll. This alternative would require budget adjustment to accommodate the additional payroll costs.

EXECUTIVE OFFICER'S RECOMMENDATION:

The Executive Officer recommends adoption of Resolution No. 90-1242 with Application Exhibit either "A" or "B."

FINANCE COMMITTEE REPORT

Council
5/24/90
Item # 6.3

RESOLUTION NO. 90-1242A, FOR THE PURPOSE OF INCLUDING
METRO EMPLOYEES IN THE PUBLIC EMPLOYEES RETIREMENT
SYSTEM (PERS)

Date: May 18, 1990

Presented by: Councilor Gardner

COMMITTEE RECOMMENDATION: The Committee, at its May 17, 1990 meeting, voted unanimously to recommend that the Council adopt Resolution No. 90-1242A. Voting in favor were Councilors Collier, Devlin, Gardner, Van Bergen and Wyers.

COMMITTEE DISCUSSION/ISSUES: John Leahy, former Personnel Officer, presented the staff report. He indicated that adoption of Resolution No. 90-1242 commits the District to become a PERS employer and that eventually all eligible employees will be extended PERS membership. Following legislative authorization (S.B. 211 enacted in 1989), the Resolution sets forth classes of employees and timing requirements for inclusion in the PERS system. All MERC employees including those transferred from the City will become PERS members on July 1, 1990. All represented employees will become members on the date so indicated as a result of future collective bargaining. The original resolution provided for all non-represented employees (excluding MERC) to opt to enter PERS on July 1, 1990 in exchange for the FY 1990-91 COLA.

Mr. Leahy pointed out that the Resolution will facilitate the orderly transition of City employees to the District as part of the merger of facilities to be operated by the MERC. These employees have a right by law to continue with PERS and inclusion of current and future MERC employees will assure that all employees of the MERC have a common retirement system. Also, Mr. Leahy indicated that the Executive Officer is of the opinion that PERS membership is in the District's best interest because it will remove a potential impediment for recruiting applicants for Metro employment.

The Deputy Executive Officer requested that the Resolution be amended to allow non-represented employees additional time to assess the pros and cons of joining PERS (see Exhibit A attached). This request resulted from a meeting of non-represented employees with Mr. Leahy and representatives of PERS and the current retirement plan. The employees expressed concern about the fairness of the recommended approach to PERS and expressed a desire to explore other options to obtain prior year credit. The Council staff report was presented by Don Carlson, Council Analyst (see Exhibit B attached).

Mr. Leahy and Mr. Larry Shaw, Legal Counsel, presented an amended Resolution, No. 90-1242A. The proposed amendments are: 1) remove the provision of the Resolution giving non-represented employees the option to join PERS in exchange for a COLA; 2) amend the

proposed agreement with PERS to delay the effective date for existing and new non-represented employees to July 1, 1991; and 3) amend the agreement to provide for the possibility of a different level of benefits (prior service credit). In response to a question, Mr. Leahy pointed out that these amendments do not alter the Executive Officer's recommendation that PERS membership be offered to non-represented employees in exchange for a COLA so that the cost of joining be as budget neutral as possible. Mr. Leahy also pointed out that future decisions regarding PERS membership and the costs thereof will be brought back to the Council for action.

DEC:aeb
Attachment

A:\RES1242A.RPT

**METRO**2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: May 17, 1990

To: George Van Bergen, Chair Metro Finance Committee

From: *DE* Dick Engstrom, Deputy Executive Officer

Regarding: PERS

This is to request that Resolution No. 90-1240 be continued for deliberation at a future Finance Committee Meeting. This pertains to that portion which deals with coverage for non-represented employees. That portion of the resolution which deals with the coverage of MERC employees by PERS need to be addressed by the Committee this evening. You will find a new resolution drafted by General Counsel addressing that portion of the resolution related to MERC.

The additional time will allow for analysis of some recently proposed options regarding entry of non-represented employees into PERS. In addition a fiscal analysis is being completed as requested by Don Carson, Council Administrator.

Thank you for your consideration.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503 221-1616

Memorandum

Date: May 17, 1990

To: Finance Committee *EC*

From: Donald E. Carlson

Re: RESOLUTION NO. 90-1242 FOR PURPOSE OF INCLUDING
METRO EMPLOYEES IN PERS

The purpose of this resolution is to authorize the Executive Officer to execute documents necessary to make the District a member of PERS and offer non-represented employees the option to participate in PERS in lieu of a COLA for FY 1990-91. While the resolution recommends an option which would cost the District 16.87% of payroll for each non-represented employee who chooses to join PERS, an optional approach is provided which would cost the District 19.36% of payroll for each non-represented employee. The added 2.49 % would purchase prior year service benefit for each participating employee. The resolution states that providing PERS for represented employees would be an issue in the next round of contract negotiations.

The Staff Report indicates that trading PERS membership for a COLA would be cost neutral for the District since the difference in retirement costs of 5.89% (16.89% PERS minus 11% current plan) is offset by the potential COLA. Prior to the committee taking action on this resolution it would be useful for a financial analysis to be prepared which shows the fiscal impact on the District of the requested action. The analysis should show the impact on each appropriate fund in the FY 1990-91 Budget and should cover both options suggested.

The Personnel Office held a meeting on May 16, 1990 to discuss this issue with non-represented employees. A number of concerns and questions were raised by the employees including fairness of the recommended approach and other options for obtaining prior service credit. Because of the basic differences in the two retirement plans it is difficult for an individual to ascertain whether or not it is beneficial to join PERS or continue with the existing plan. It would be useful for the Personnel Office to develop more information on the impact of such decisions for "typical" case situations.

General Counsel has indicated a need for Council action at the next council meeting to assure orderly transition of City employees and MERC employees in PERS by July 1, 1990. He is preparing amendments to the resolution to achieve this and defer action regarding other employees to a later date.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF INCLUDING	)	RESOLUTION NO. 90-1242
METRO EMPLOYEES IN THE PUBLIC)	
EMPLOYEES RETIREMENT SYSTEM (PERS)	)	Introduced by Rena Cusma,
	)	Executive Officer

WHEREAS, The Metropolitan Service District presently provides a retirement system to Metro employees consisting of a money purchase plan and a salary savings plan; and

WHEREAS, The money purchase plan is with the Principal Financial Group of Des Moines, Iowa and is funded by a 5 percent salary contribution paid to the fund by Metro on behalf of its employees. This plan is sometimes referred to as the "5 Percent Plan"; and

WHEREAS, The salary savings plan is with the Western Retirement Trust of Seattle, Washington and is funded by a 6 percent of salary contribution paid by Metro on behalf of its employees. This plan is sometimes referred to as the "6 Percent Plan"; and

WHEREAS, It is in the best interest of Metro and its employees to have the opportunity to participate in PERS; and

WHEREAS, PERS participation will increase payroll costs to the District; and

WHEREAS, The District desires to reduce the initial cost of participation; and

WHEREAS, Oregon Laws 1989, Chapter 879 (codified as ORS 268.240) permits classes of Metro employees to participate in

PERS without a contract of integration pursuant to ORS 237.051;
and

WHEREAS, Employees of the City of Portland Exposition-Recreation Commission who will become Metro employees on July 1, 1990, are participants in PERS and have a right to continue that participation pursuant to ORS 236.620(2); and

WHEREAS, The proposed application (attached as Exhibit "A") pursuant to ORS 268.240 has been informally approved by staff officials at PERS; and

WHEREAS, It is in the best interest of Metro to become a participating employer of PERS in accordance with the attached application; now, therefore,

BE IT RESOLVED,

1. That the Metro Executive Officer is authorized to make application pursuant to ORS 268.240 to PERS in substantially the form contained in Exhibit "A" and to execute all documents necessary to make Metro a participating employer pursuant to the terms thereof.

2. That all employees not represented by a collective bargaining agent may opt to participate in PERS under this Agreement in lieu of the July 1, 1990, Cost of Living Adjustment.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1990.

Tanya Collier, Presiding Officer

EXHIBIT "A"

BEFORE THE PUBLIC EMPLOYES RETIREMENT BOARD

In the Matter of the Application
of the Metropolitan Service District
to Become a Participating Employer
under ORS Chapter 237

The Metropolitan Service District makes this application pursuant to ORS 268.240 to become a participating employer under ORS Chapter 237 to the extent of providing membership for each class of employees described in the application.

1. Metro is a regional government organized and existing pursuant to the provision of ORS Chapter 268.
2. The Executive Officer of Metro makes this application with approval of the Council of the Metropolitan Service District pursuant to Resolution No. 90-1242 (Exhibit attached.)
3. Metro is not, as of this date, participating in the Public Employees Retirement System.
4. Metro applies to this Board to allow the District employees in the following classes of District employees to become members of PERS without entering into a contract of integration (ORS 237.051) but pursuant to this contract authorized by ORS 268.240(3).
 - a. A class of District employees composed of all eligible City of Portland Exposition-Recreation Commission employees transferring to Metropolitan Exposition-Recreation Commission employment on July 1, 1990, based on Metro's 1989 Intergovernmental Agreement with the City of Portland. Inclusion of that class into PERS should be effective July 1, 1990, the date of transferred employment under that Agreement. Inclusion is subject to applicable rights granted to transferring employees pursuant to ORS 236.620(2) and 237.011(2).
 - b. A class of employees composed of all eligible employees hired by Metro Exposition-Recreation Commission after July 1, 1990.

- c. A class of employees composed of all eligible employees currently employed as of July 1, 1990, by the Metro Exposition-Recreation Commission.
- d. A class of employees composed of all eligible employees hired by Metro after July 1, 1990, who are not represented by an exclusive collective bargaining agent on the effective date of hire.
- e. A class of employees composed of all eligible Metro employees who are not represented by an exclusive collective bargaining agent on July 1, 1990, who exercise the option to become members of PERS effective July 1, 1990.
- f. A class of employees composed of all eligible employees represented by American Federation of State, County and Municipal Employees (AFSCME) Local 3580 effective on the date a collective bargaining agreement specifically providing for PERS membership by all members of the unit is ratified by both parties.

Metro will place on the negotiating table the issue of PERS membership at the bargaining sessions expected to commence prior to expiration of the current contract on June 30, 1991, consistent with its agreement in accordance with ORS 268.240(4), below.

- g. A class of employees composed of all eligible persons represented by Laborers International Union Local 483 effective on the date a collective bargaining agreement specifically providing for PERS membership by all members of the unit is ratified by both parties.

Metro will place on the negotiating table the issue of PERS membership at the bargaining sessions expected to commence prior to the expiration of the current contract on June 30, 1991, consistent with its agreement in accordance with ORS 268.240(4), below.

- 5. Metro hereby agrees eventually to extend PERS coverage to all eligible District employees in accordance with ORS 268.240(4).
- 6. Terms of admission of current employees transferring to PERS membership shall include the unused sick leave option and prior eligibility service, but not including prior benefit service.

7. This application and the terms hereof shall, upon approval of the Board, constitute the contract between PERS and Metro contemplated by ORS 268.240. The effective date of the contract shall be the date approved by the Board. The effective date of PERS membership of District employees shall be the first date of eligibility under ORS Chapter 237 inclusion of the class under the terms of this application.

Rena Cusma, Executive Officer
Metropolitan Service District

Date: _____

1042L

EXHIBIT "B"

BEFORE THE PUBLIC EMPLOYES RETIREMENT BOARD

In the Matter of the Application
of the Metropolitan Service District
to Become a Participating Employer
under ORS Chapter 237

The Metropolitan Service District makes this application pursuant to ORS 268.240 to become a participating employer under ORS Chapter 237 to the extent of providing membership for each class of employees described in the application.

1. Metro is a regional government organized and existing pursuant to the provision of ORS Chapter 268.
2. The Executive Officer of Metro makes this application with approval of the Council of the Metropolitan Service District pursuant to Resolution No. 90-1242 (Exhibit attached.)
3. Metro is not, as of this date, participating in the Public Employees Retirement System.
4. Metro applies to this Board to allow the District employees in the following classes of District employees to become members of PERS without entering into a contract of integration (ORS 237.051) but pursuant to this contract authorized by ORS 268.240(3).
 - a. A class of District employees composed of all eligible City of Portland Exposition-Recreation Commission employees transferring to Metropolitan Exposition-Recreation Commission employment on July 1, 1990, based on Metro's 1989 Intergovernmental Agreement with the City of Portland. Inclusion of that class into PERS should be effective July 1, 1990, the date of transferred employment under that Agreement. Inclusion is subject to applicable rights granted to transferring employees pursuant to ORS 236.620(2) and 237.011(2).
 - b. A class of employees composed of all eligible employees hired by Metro Exposition-Recreation Commission after July 1, 1990.

- c. A class of employees composed of all eligible employees currently employed as of July 1, 1990, by the Metro Exposition-Recreation Commission.
- d. A class of employees composed of all eligible employees hired by Metro after July 1, 1990, who are not represented by an exclusive collective bargaining agent on the effective date of hire.
- e. A class of employees composed of all eligible Metro employees who are not represented by an exclusive collective bargaining agent on July 1, 1990, who exercise the option to become members of PERS effective July 1, 1990.
- f. A class of employees composed of all eligible employees represented by American Federation of State, County and Municipal Employees (AFSCME) Local 3580 effective on the date a collective bargaining agreement specifically providing for PERS membership by all members of the unit is ratified by both parties.

Metro will place on the negotiating table the issue of PERS membership at the bargaining sessions expected to commence prior to expiration of the current contract on June 30, 1991, consistent with its agreement in accordance with ORS 268.240(4), below.

- g. A class of employees composed of all eligible persons represented by Laborers International Union Local 483 effective on the date a collective bargaining agreement specifically providing for PERS membership by all members of the unit is ratified by both parties.

Metro will place on the negotiating table the issue of PERS membership at the bargaining sessions expected to commence prior to the expiration of the current contract on June 30, 1991, consistent with its agreement in accordance with ORS 268.240(4), below.

- 5. Metro hereby agrees eventually to extend PERS coverage to all eligible District employees in accordance with ORS 268.240(4).
- 6. Terms of admission of current employees transferring to PERS membership shall include the unused sick leave option, prior eligibility service, and prior benefit service.

7. This application and the terms hereof shall, upon approval of the Board, constitute the contract between PERS and Metro contemplated by ORS 268.240. The effective date of the contract shall be the date approved by the Board. The effective date of PERS membership of District employees shall be the first date of eligibility under ORS Chapter 237 inclusion of the class under the terms of this application.

Rena Cusma, Executive Officer
Metropolitan Service District

Date: _____

1043L

Agenda Item No. 6.4
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1266

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 90-1266, FOR THE PURPOSE OF APPROVING A CONTRACT WITH PARAMETRIX, INC. FOR ENGINEERING SERVICES RELATED TO THE CLOSURE OF THE ST. JOHNS LANDFILL

Date: May 15, 1990

Presented by: Councilor
Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 4 to 0 to recommend Council adoption of Resolution No. 90-1266. Voting: Councilors Hansen, Bauer, Buchanan and DeJardin. Absent: Councilor Wyers. This action was taken May 14, 1990.

Committee Discussion/Issues: The staff report was presented by Dennis O'Neil of the Solid Waste Department. The proposed contract with Parametrix, Inc. retains the services of an engineering consultant to prepare final plans and specifications related to the closure of St. Johns Landfill. The expected construction period is 1990-95. The engineering consultant would also be responsible to ensure construction quality of closure improvements during that period.

An Request for Proposals (RFP) was issued to a list of 63 interested parties. Two proposals were submitted: Parametrix, Inc. with a cost of \$2,260,343 and Sweet-Edwards/EMCON, Inc. with a cost of \$3,739,000.

A technical committee evaluated the two proposals using criteria stated in the RFP. The Solid Waste staff recommends the contract be awarded to Parametrix, Inc.

The Solid Waste Committee held a public hearing on May 14, 1990. Two individuals testified: Mr. Neil Alongi of Sweet-Edwards/EMCON, Inc. recommended that the consultant selection process be repeated with a realistic response time and a more defined scope of work. He stated that the difference in cost between the two proposals resulted from different interpretations of the work scope in the request for proposals.

The Committee asked what the major reason was for the \$1.48 million difference in proposal costs. Staff stated that Parametrix, Inc. proposed that the construction contractor provide quality control testing and that the consultant monitor the testing. Sweet-Edwards/EMCON, Inc. proposed to provide the quality control testing as part of their contract with Metro. This resulted in a \$1.28 million difference in construction phase consulting costs.

The Committee asked if Parametrix, Inc.'s proposed inspection was adequate. Staff stated that they thought it was.

Mr. George Ward asked the Committee and Council not to rule out other methods of landfill closure and to consider alternatives to

SOLID WASTE COMMITTEE REPORT

Resolution No. 90-1266

May 15, 1990

Page 2

the proposed use of a polyethylene cover. Staff indicated that DEQ may require the plastic cover, but options are still open at this time. The Committee indicated they wanted to keep the options open.

The Committee asked how long it would take to repeat the RFP process. Staff stated it would take three months.

The Committee asked about the timing of the DEQ plan review and the public hearings. Staff said that the DEQ cannot complete their review until they have more complete closure plans. After they receive the plans, the DEQ will conduct a public hearing.

The Committee stated that they support the Parametrix, Inc. proposal because of the potential for cost savings to the region.

There were no further questions, comments or issues, and the Committee voted unanimously to recommend Council adoption of Resolution No. 90-1266.

GH:RRB.pa

RRB.185

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING A	)	RESOLUTION NO. 90-1266
CONTRACT WITH PARAMETRIX, INC. FOR)	
ENGINEERING SERVICES RELATED TO THE	)	Introduced by Rena Cusma,
CLOSURE OF THE ST. JOHNS LANDFILL	)	Executive Officer

WHEREAS, A revised Closure and Financial Assurance Plan for the St. Johns Landfill has been developed based on a conceptual design for closure improvements; and

WHEREAS, It is necessary to change the existing design and operations plan for the St. Johns Landfill in order to implement the Revised Closure and Financial Assurance Plan adopted by the Council of the Metropolitan Service District in October 1989; and

WHEREAS, To implement the plan it is necessary to obtain the services of an engineering consultant to develop construction plans and specifications and to be responsible to ensure that these are followed during construction; and

WHEREAS, On February 22, 1990 the Metro Council authorized issuance of a Request for Proposals for Engineering and Construction Monitoring Services related to the closure of the St. Johns Landfill; and

WHEREAS, Two firms, Sweet Edwards/EMCON and Parametrix, Inc. responded to the Request for Proposals; and

WHEREAS, An Evaluation Committee reviewed and determined that utilizing the evaluation criteria in the Request for Proposals that Parametrix, Inc. received the highest score of the two proposers; and

WHEREAS, The resolution authorizing execution of a contract with Parametrix, Inc. was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District approves the award of a contract to Parametrix, Inc. for Engineering and Construction Monitoring Services related to the closure of the St. Johns Landfill.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1990.

Tanya Collier, Presiding Officer



GRANT/CONTRACT SUMMARY

METRO METROPOLITAN SERVICE DISTRICT

GRANT/CONTRACT NO. 901-270 BUDGET CODE NO. SEE COMMENTS
FUND: LANDFILL CLOSURE DEPARTMENT: SOLID WASTE
ACCOUNT (IF MORE THAN ONE) _____
SOURCE CODE (IF REVENUE) _____

INSTRUCTIONS

1. OBTAIN GRANT/CONTRACT NUMBER FROM CONTRACTS MANAGER. CONTRACT NUMBER SHOULD APPEAR ON THE SUMMARY FORM AND ALL COPIES OF THE CONTRACT.
2. COMPLETE SUMMARY FORM.
3. IF CONTRACT IS —
 - A. SOLE SOURCE, ATTACH MEMO DETAILING JUSTIFICATION.
 - B. UNDER \$2,500, ATTACH MEMO DETAILING NEED FOR CONTRACT AND CONTRACTOR'S CAPABILITIES, BIDS, ETC.
 - C. OVER \$2,500, ATTACH QUOTES, EVAL FORM, NOTIFICATION OF REJECTION, ETC.
 - D. OVER \$50,000, ATTACH AGENDA MANAGEMENT SUMMARY FROM COUNCIL PACKET, BIDS, RFP, ETC.
4. PROVIDE PACKET TO CONTRACTS MANAGER FOR PROCESSING

1. PURPOSE OF GRANT/CONTRACT PROVIDE ENGINEERING SERVICES INCLUDING FINAL DESIGN AND CONSTRUCTED MANAGEMENT FOR ST. JOHNS LANDFILL CLOSURE IMPROVEMENTS.

2. TYPE OF EXPENSE ☒ PERSONAL SERVICES ☐ LABOR AND MATERIALS ☐ PROCUREMENT
☐ PASS THROUGH AGREEMENT ☐ INTER-GOVERNMENTAL AGREEMENT ☐ CONSTRUCTION
☐ OTHER

OR

TYPE OF REVENUE ☐ GRANT ☐ CONTRACT ☐ OTHER

3. TYPE OF ACTION ☐ CHANGE IN COST ☐ CHANGE IN WORK SCOPE
☐ CHANGE IN TIMING ☐ NEW CONTRACT

4. PARTIES PARAMETRIX, INC./ METRO

5. EFFECTIVE DATE MAY 24, 1990 TERMINATION DATE APRIL 30, 1996
(THIS IS A CHANGE FROM _____)

6. EXTENT OF TOTAL COMMITMENT: ORIGINAL/NEW \$ 2,301,692.00
PREV. AMEND _____
THIS AMEND _____
TOTAL \$ 2,301,692.00

7. BUDGET INFORMATION

A. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR 1990-1991 \$ 1,060,000 or less
B. BUDGET LINE ITEM NAME ENGINEERING SERVICES AMOUNT APPROPRIATED FOR CONTRACT \$ 1,060,000.
C. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF _____, 19____ \$ see comments

8. SUMMARY OF BIDS OR QUOTES (PLEASE INDICATE IF A MINORITY BUSINESS ENTERPRISE)

<u>PARAMETRIX, INC.</u>	\$ <u>2,260,343.</u>	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
<u>SWEET-EDWARDS/EMCON, INC.</u>	\$ <u>3,739,000.</u>	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
SUBMITTED BY _____	\$ _____	<input type="checkbox"/> MBE
	AMOUNT	

9. NUMBER AND LOCATION OF ORIGINALS PARAMETRIX/METRO SOLID WASTE/METRO CONTRACTS DIVISION

10. A. APPROVED BY STATE/FEDERAL AGENCIES? ☐ YES ☐ NO ☒ NOT APPLICABLE
B. IS THIS A DOT/UMTA/FHWA ASSISTED CONTRACT ☐ YES ☒ NO
11. IS CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? ☐ YES ☒ NO
IF YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION _____
12. WILL INSURANCE CERTIFICATE BE REQUIRED? ☒ YES - ☐ NO
13. WERE BID AND PERFORMANCE BONDS SUBMITTED? ☐ YES ☒ NOT APPLICABLE
TYPE OF BOND _____ AMOUNT \$ _____
TYPE OF BOND _____ AMOUNT \$ _____
14. LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)
- | | | | | |
|------|---------------------------------|---------|-----------------------------------|---|
| NAME | CENTRAC | SERVICE | CIVIL ENGINEERING | <input checked="" type="checkbox"/> MBE |
| NAME | FUJITANI HILLS & ASSOC. | SERVICE | CIVIL ENGINEERING | <input type="checkbox"/> MBE |
| NAME | DESIGN TECH., INC. | SERVICE | BLUEPRINT/PRINTING | <input type="checkbox"/> MBE |
| NAME | WEST LAKE CONSULTANTS, INC. | SERVICE | CONSTRUCTION SUPERVISION DRILLING | <input type="checkbox"/> MBE |
| | KENNER DRILLING OF OREGON, INC. | | | <input type="checkbox"/> MBE |
15. IF THE CONTRACT IS OVER \$10,000
A. IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?
☒ YES ☐ NO
B. IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?
☐ YES DATE _____ INITIAL _____
16. COMMENTS: BUDGETS CODES NOT YET DEFINED BY MANAGEMENT SERVICES. \$350,000 BUDGETED IN
FY 1989-90. NONE HAS BEEN SPENT; IT IS EXPECTED THAT \$95,000 OR LESS WILL BE
EXPENDED DURING FY 1989-90

Two Percent additional cost in contract over Parametrix quote is
due to some additional tasks which respond to D.E.Q. requirements
recently issued.

GRANT/CONTRACT APPROVAL

INTERNAL REVIEW

DEPARTMENT HEAD

FISCAL REVIEW

BUDGET REVIEW

CONTRACT REVIEW BOARD

(IF REQUIRED) DATE _____

1. _____
COUNCILOR

2. _____
COUNCILOR

3. _____
COUNCILOR

COUNCIL REVIEW

(IF REQUIRED)

DATE _____

LEGAL COUNSEL REVIEW AS NEEDED:

A. DEVIATION TO CONTRACT FORM _____

B. CONTRACTS OVER \$10,000 m. [signature] 5/8/90

C. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____

DESIGN SERVICES AGREEMENT

This Agreement is executed by and between the METROPOLITAN SERVICE DISTRICT, a municipal corporation (hereinafter "Metro") whose address is 2000 S.W. First Avenue, Portland, Oregon 97201-5398; and Parametrix, Inc. (hereinafter "Contractor") whose address is 13020 Northup Way, Bellevue, Washington 98005.

ARTICLE I

TERM

The term of this Agreement shall commence _____, and shall expire upon the completion of Contractor's services as set forth in this Agreement, unless terminated sooner under the provisions hereof.

ARTICLE II

GENERAL RESPONSIBILITIES OF THE CONTRACTOR

- A. Contractor shall perform the services in this Agreement and furnish or procure the services of subcontractors, incidental services, and all equipment and facilities necessary for the successful completion of all services set forth in the Agreement.
- B. Contractor and its subcontractors shall possess and shall employ professional skill, efficiency, timeliness and judgment in all of the work described in the Scope of Work in accordance with the prevailing standards of similar firms of national reputation. Contractor shall require equal performance of its subcontractors for work in this Project. Contractor accepts the relationship of trust and confidence established with Metro by this Agreement.
- C. Contractor shall fully cooperate with all corporations, firms, contractors, governmental entities and persons involved in or associated with the construction of the St. Johns Landfill Closure Improvements (hereinafter "the Project"), and especially with Metro in furthering the interests of the Project. Contractor shall provide leadership to Metro on all matters relating to design development services, construction documents services, and bidding and construction management services.
- D. Contractor and its subcontractors shall maintain and pay for such professional certification and licenses required by

federal, state, local or other governmental jurisdictions throughout the term of this Agreement.

- E. Contractor shall be represented by a Project Manager who will have overall responsibility for carrying out the services required in this Agreement, including supervision of the Contractor-supplied Construction Manager. The names and titles of Contractor's Project and Construction Managers respectively are:

Douglas Drennan

Roy Eastman

Contractor shall not change the above representatives without prior written notification to, consultation with, and approval of Metro. Such approval shall not be unreasonably withheld. Metro shall reserve the right to require modifications in the project team prior to and after the award of the contract. Metro shall direct all communications with Contractor through the Project Manager or Construction Manager as appropriate.

- F. Subcontractors. Metro has relied on Contractor to identify the subcontractors necessary and qualified to provide the services described in this Agreement. Although not parties to this Agreement, the following firms and individuals shall be retained as subcontractors by the Contractor. These subcontractors shall be: Westlake Consultants, Inc.; Kenner Drillin of Oregon, Inc.; Centrac; Fujitani Hilts & Associates; Design Tech., Inc.

Contractor shall not change or terminate any subcontractors without the prior written approval of Metro, provided such subcontractors comply with the terms of their Agreement with Contractor. Such approval shall not be unreasonably withheld. All Contractor's subcontractors shall be independent contractors and not employees or agents of Metro or Contractor.

- G. The terms and conditions of this Agreement, except for insurance as specifically provided hereinafter, shall be applicable to and binding upon all subcontractors retained by Contractor for work on this Project.
- H. Contractor shall be solely responsible for the completeness, professional quality, technical accuracy, and coordination of programs, designs, calculations, drawings, specifications and all other professional services furnished by or on behalf of Contractor.
- I. Contractor shall conform in all of its work and that of its subcontractors:

1. to all applicable technical design, construction and other requirements of all federal, state, local or other agencies which have jurisdiction over the Project as of the date of Notice to Proceed; and
 2. to all such requirements of servicing utilities which are in force and effect as of the date of Notice to Proceed or such laws and regulations which have been published on or before Notice to Proceed and having an effective date before the scheduled completion of construction.
- J. Contractor shall meet with Metro as specified in the Scope of Work. Contractor shall cause to have in attendance at such meetings such members of its staff and subcontractors, together with their work product, as may be required by the meeting agenda prepared by Contractor in consultation with Metro. The purpose and content of these meetings will be to review and refine the design consideration and elements of the Project, as well as to provide a progress review. Contractor shall be responsible for complete minutes of such meetings. Contractor shall submit a monthly progress report to Metro. The schedule includes allowances for time required for Metro's review and concurrence of submissions and for concurrence of authorities having jurisdiction over the Project.
- K. The Contractor shall make all Project information available to Metro.

ARTICLE III COMPENSATION

- A. Duty to Compensate. Contractor shall be paid by Metro for services rendered under this Agreement as provided hereinafter. Such payments shall be full compensation for services of the Contractor and any and all subcontractors of the Contractor and for all labor, materials, supplies, and equipment and incidentals necessary to perform such services. Contractor shall provide a separate listing of all costs for Section 7, Regulatory Contingency in the Scope of Work. Refer to Exhibit A, Compensation to the Contractor.
- B. Maintenance and Inspection of Records
1. Required Records. Complete records and documentation relating to services performed by Contractor on this Project shall be kept by Contractor.
 2. Cost and Pricing Data. Contractor shall keep and maintain, from the time of execution of the Agreement

until three years after receipt of final payment under the Agreement, reasonable and reliable detailed records of costs incurred in performing the Agreement.

Contractor shall maintain detailed costs or pricing data sufficient to evaluate the accuracy, completeness, and currency of Contractor's costs in performing this Agreement. Metro or its representatives shall have the right to examine all books, records, documents and other data to verify all costs of Contractor and its subcontractors and suppliers to maintain such records.

3. **Audit and Inspection of Records.** Contractor shall permit the authorized representatives of Metro to inspect and audit all data and records of Contractor relating to its performance under this Agreement at any and all reasonable times for the duration of this Agreement and until the expiration of three years after final payment under this Agreement. Such audit may include all costs.

Notwithstanding any other provisions contained in this Agreement, the periods of access and examination described above, for records which relate to (1) appeals under the "disputes" clause of this Agreement, (2) arbitration or litigation of claims arising out of the performance of this Agreement, or (3) costs and expenses of this Agreement as to which exception has been taken by Metro or any of its duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

4. For purposes of any audit, any records of audits of Contractor shall be made available to Metro at Metro's request. Contractor shall cooperate with Metro and its auditors in the performance of any audit.

ARTICLE IV **METRO'S RESPONSIBILITIES**

- A. Metro's representative for this Project is the Engineering & Analysis Manager of Metro's Solid Waste Department. All communications between Contractor and Metro shall pass through Metro's representative or his designated alternate. During the Construction phase, Metro's representative shall be Metro's Construction Coordinator.
- B. Metro shall provide timely and accurate information regarding its requirements for the Project. Contractor shall notify Metro in writing if any information provided by or required of Metro is insufficient.

- C. Metro shall examine documents and render decisions as reasonably necessary for the orderly progress of the Contractor's services and of the Project.

ARTICLE V
INDEMNITY AND INSURANCE REQUIREMENTS

- A. Indemnity. Contractor assumes responsibility for liability arising out of Contractor's performance of this Agreement and shall hold Metro, its officers, agents, consultants and employees harmless from and indemnify them for any and all liability, settlements, loss, costs, and expenses, including attorney's fees, in connection with any action, suit, or claim caused or alleged to be caused by Contractor's, its agents', subcontractors' or employees' acts, omissions, activities or services provided pursuant to this Agreement unless due to the sole negligence of Metro.
- B. Metro Insurance Requirements. The Contractor shall provide (from insurance companies acceptable to Metro) the insurance coverage designated hereinafter and pay all costs therefor.

Before commencing work under this contract, the Contractor shall furnish Metro with certificates of insurance evidencing coverage as specified, naming Metro as an additional insured (except for professional liability insurance) and showing the expiration of policies. The Insurance Carriers, policies, and certificates shall meet the following criteria and/or contain substantially the following statements:

1. Carrier(s) shall have an A or better insurance rating.
2. This/these policy(ies) shall be considered as primary insurance and exclusive of any insurance carried by Metro and the insurance endorsed by this certificate shall be exhausted first, notwithstanding the fact that Metro may have other valid and collectible insurance covering the same risk.
3. This/these policy(ies) shall not be cancelled, reduced in coverage, nor materially altered until after thirty (30) days written notice of such cancellation, reduction or alteration in coverage shall have been received by Metro. In the event that said policies are cancelled, reduced or materially altered, Contractor will notify Metro and will replace said coverage with equal or better coverage, provided however that the Contractor's failure to obtain substitute equivalent coverage will not be considered a breach of this contract if the Contractor provides evidence to Metro of reasonable actions to obtain substitute equivalent coverage.

4. No act or neglect or breach of contract by the Contractor shall effect the coverage afforded to Metro under the insurance covered by this certificate.
5. Except for professional liability insurance, this/these policy(ies) consist only of insurance on an occurrence basis, not on a claims made basis.

Contractor shall immediately increase the amounts of insurance required to reflect any changes in Oregon Law to ensure that the insurance provided shall cover, at a minimum and in addition to the designated insurance requirements listed below, the maximum limits under the Oregon Tort Claims Act, or any other applicable tort claims act.

- a. Workers' Compensation Coverage. Contractor certifies that Contractor has qualified for Workers' Compensation as required by the State of Oregon. Contractor shall provide Metro a certificate of insurance evidencing coverage of all subject workers under Oregon's Workers' Compensation statutes. All Contractor's subcontractors shall maintain such insurance.
- b. Comprehensive, General, and Automobile Insurance. Contractor shall maintain comprehensive general and automobile liability insurance for the protection of Contractor and Metro, their directors, officers, agents, and employees, insuring against liability for damages because of personal injury, bodily injury, death, and broad form property damage, including loss of use thereof, and occurring or in any way related to Contractor's operations, each in an amount not less than One Million (\$1,000,000) Dollars combined single limit per occurrence/annual aggregate.
- c. Errors and Omissions Insurance. Contractor shall provide Metro with evidence of professional errors and omissions liability insurance for the protection of Contractor and its employees, insuring against bodily injury and property damage arising out of negligent acts, errors, omissions, activities or services by the Contractor its consultants or subcontractors, in an amount not less than One Million (\$1,000,000) Dollars combined single limit per occurrence. Contractor shall maintain in force such coverage for not less than five (5) years following completion of the Project. Such insurance shall be endorsed to include contractual liability.

Deviations or alterations in the terms of the foregoing policies must be approved in advance by Metro, in writing.

ARTICLE VI CHANGES

- A. Metro Change Orders - Metro may, at any time, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract
- B. Payment or Credit for Additional Work - All requests for payment for additional work shall be made only under the conditions and procedures set forth in this section of Article VI. For purposes of this section, the term "additional work" means work which is in addition to the work required to be performed under the original Contract or any amendments thereof.
- C. Request for Proposal for Additional Work
 - 1. In the event Metro issues a written change order requesting additional work, it shall also send the Contractor a request for proposal. Within fourteen (14) calendar days after receipt of a request for proposal for additional work from Metro, the Contractor shall submit to Metro an itemized proposal stating the actual and reasonable costs to the Contractor for performing such additional work, a schedule for performing such work, and the effect, if any, on the Contractor's performance of the existing Contract work by reason of the additional work. The Contractor's proposal shall be based on the least costly method for performing the additional work in accordance with all provisions of the Contract. The parties hereby agree that the profit margin on all work performed pursuant to this section of Article VI shall be deemed to be ten percent (10%) of the actual cost of performing the work.
 - 2. No request for proposals by Metro shall be construed as authorization for the Contractor to perform the additional work covered by such request. To obtain authorization to perform any additional work, the Contractor must be notified in writing by Metro that the Contractor is ordered to proceed with the relevant additional work. In any such written notification Metro shall indicate whether it accepts or rejects the Contractor's proposal. If Metro rejects the Contractor's proposal but orders the additional work to be performed, the Contractor shall perform the additional work as force account work as provided in Section D of this Article. If Metro does not order the

Contractor to perform the relevant work, the Contractor shall not be entitled to any reimbursement for the work in the Contractor's proposal of the costs of developing the proposal.

D. Force Account Work - If the amount of payment cannot be agreed upon prior to the beginning of the work, Metro may issue a written Notice to Proceed pursuant to Section C of this Article directing that the work be done on a force account basis. If this occurs, the Contractor shall furnish labor, equipment, and materials necessary to complete the work in a satisfactory manner and within a reasonable period of time. For the work performed, payment will be made for the documented actual cost of the following:

1. Labor, including supervisors who are directly assigned to the force account work (actual payroll cost, including wages, customary fringe benefits, labor insurance, and labor taxes as established by law). No other fixed labor burdens will be considered, unless approved in writing by Metro in advance of performance of the force account work.
2. Material delivered and used on the designated work, including sales tax, if paid for by the Contractor or its subcontractor.
3. Rental, or equivalent rental cost of equipment, including necessary transportation for items having a value in excess of \$100.
4. Additional bonds, as required and approved by Metro.
5. Additional insurance (other than labor insurance, as required and approved by Metro).

To the costs above there shall be added a fixed fee of ten percent (10%) of the cost of Items (1), (2), and (3) and a fixed fee of five percent (5%) to the cost of Items (4) and (5). An additional fixed fee of ten percent (10%) shall be allowed the Contractor for the administrative handling of portions of the work that are required to be performed by an approved subcontractor. No additional fixed fee will be allowed for the administrative handling of work performed by a subcontractor of a subcontract. The added fixed fees shall be considered to be full compensation, covering the cost of general supervision, overhead, profit, and any other general expense. For equipment under Item (3) above, rental or equivalent rental cost will be allowed for only those days or hours during which the equipment is in actual use. Rental and transportation allowances shall not exceed the current rental rates prevailing in the locality. The rentals allowed for equipment will, in all cases, be understood to cover all fuel, supplies, repairs, and

renewals, and no further allowances will be made for those items.

- E. Metro Furnished Materials and Equipment - Metro reserves the right to furnish such materials and equipment as it deems expedient for work undertaken pursuant to this Article, and the Contractor shall have no claims for profit or added fees on the cost of such materials and equipment.

F. Contractor Records

1. The Contractor shall maintain its records in such a manner as to provide a clear distinction between the direct costs of work paid for on a force account basis and the costs of other operations. The Contractor shall furnish Metro report sheets in duplicate of each day's force account work no later than the working day following the performance of said work. The daily report sheets shall itemize the materials used, and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the Contractor, sub-contractor, or other forces. The daily report sheets shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type and identification number of equipment and hours operated.
2. Material charges shall be substantiated by valid copies of vendors' invoices. Such invoices shall be submitted with the daily report sheets, or, if not available, they shall be submitted with subsequent daily report sheets. Said daily report sheets shall be signed by the Contractor or its authorized agent.
3. To receive partial payments and final payment for force account work, the Contractor shall submit in a manner approved by Metro, detailed and completed documented verification of the Contractor's and any of its subcontractors' actual current costs involved in the force account work pursuant to the issuance of an approved Change Order. Such costs shall be submitted within thirty (30) days after said work has been performed.
4. No payment will be made for work billed and submitted to Metro after the 30-day period has expired. No extra or additional work shall be performed by the Contractor, except in an emergency endangering life or property, unless in pursuance of a written Change Order and Notice to Proceed as described in this Article.

- G. Deductions from Payments for Deleted Work - All deductions from payment for deleted work shall be made under the conditions and procedures of this Article. For purposes of

this Article, the term "deleted work" means work which is deleted from the work required to be performed under the original Contract, but does not include any work which need not be performed due to any changes in law, statutes, rules, regulations, ordinances, permit(s), permit conditions, or regulatory policies.

H. Request for Proposal for Deleted Work

1. In the event Metro issues a written Change Order deleting work, it shall also send the Contractor a request for proposal. Within fourteen (14) calendar days after receipt of a request for proposal for deleted work, the Contractor shall submit an itemized proposal stating the actual and reasonable costs which would be avoided by deleting work called for in the Contract, a schedule for deleting the relevant work, and the effect, if any, on the Contractor's performance of the remaining Contract work by reason of the deleted work. The Contractor's proposal shall be based on all current and future avoided costs to the Contractor for deleting the work and any profit margins or markups which the Contractor's proposal includes for such work.
2. No request for proposals by Metro shall be construed as authorization for the Contractor to delete the work covered by a request for proposal for deleted work. The Contractor shall not delete any work unless and until an order from Metro authorizing such deletion is served upon the Contractor. In any such written notification Metro shall indicate whether it accepts or rejects the Contractor's proposal.
3. If Metro rejects the Contractor's proposal but orders the work to be deleted, the Contractor shall delete the work. Metro may make all appropriate deductions from payments, according to the formula below, if Metro has ordered the Contractor to delete work, regardless of whether the Contractor has complied with such order.

- I. Amount of Deductions for Deleted Work - The amount of any deductions from payments for deleted work shall be equal to all current and future avoided costs resulting from the deleted work plus any profit margin or markups which the Contractor's proposal includes for such work. If the latter profit margin or markup figures are unavailable, the parties hereby agree that the Contractor's profit margin on all work shall be deemed to be ten percent (10%) of the actual cost of performing the work. The Contractor shall submit complete records of materials and labor usage to Metro for review. If the Contractor and Metro cannot agree on the amount of the deduction for the relevant deleted work, the matter shall be submitted to arbitration under section D of Article VII.

- J. Schedule of Payments. Metro shall make any payments due the Contractor under this section of Article VI as soon as possible after the work is performed.

ARTICLE VII
GENERAL PROVISIONS

- A. Disadvantaged Business Program. This Contract has subcontracting goals for Disadvantaged Business Enterprise (DBE) and Women-Owned Enterprise (WBE) participation of 7 percent and 3 percent respectively of the total contract sum to be awarded to each group. If the goals are not met, Contractor must demonstrate a good faith effort to meet the goals. The actions which Contractor must take to demonstrate good faith efforts are set forth in Metro's Disadvantaged Business Program (Metro Code, Ch. 2.04). Contractor shall fully comply with the provisions of the Disadvantaged Business Program (Metro Code, Ch. 2.04) which is attached hereto and by this reference incorporated herein.
- B. Termination
1. This Contract may be terminated prior to the expiration of the agreed-upon term:
 - (a) by mutual written consent of the parties;
 - (b) by Metro for convenience;
 - (c) by Metro for lack of funds; or
 - (d) by Metro for cause.
 2. If Metro terminates the Contract in whole or in part for cause, payment to Contractor shall be limited to the compensation due Contractor through the date of termination and shall be in full satisfaction of all claims by Contractor against Metro.
 3. Termination under any provision of this paragraph shall not affect any right, obligation, or liability of Metro which accrued prior to such termination.
 4. In the event of termination, the Contractor shall furnish Metro a complete set of drawings and all other work-related documents and materials in the Contractor's custody or under its control, all current as of the effective date of termination. The provisions of Article VII, Paragraph H.1, shall apply to all such drawings and documents.
 5. In the event of termination not the fault of the Contractor, the Contractor shall receive compensation

for all services performed to termination date, as well as reasonable termination allowance as agreed to by Metro.

- C. Specific Remedies. The rights, duties and remedies set forth in this Agreement are in addition to, and not a limitation on all rights, duties and remedies under the law.
- D. Resolution of Disputes. If any dispute shall arise between Contractor and Metro, either before or after the termination of this Agreement, Contractor and Metro shall attempt to negotiate a resolution of the dispute in good faith. If a solution satisfactory to Contractor and Metro cannot be reached after such good faith negotiations, the claim shall be arbitrated in accordance with the Multnomah County Circuit Court's Arbitration Rules. Disputes between Metro and Contractor may be joined with disputes or claims of other parties arising from or related to the Project. Contractor agrees to attempt to negotiate such claims or disputes in good faith and if such negotiations fail to resolve the claims/disputes, Contractor agrees to either arbitrate or litigate, whichever resolution method Metro may, in its sole discretion, choose.
- E. Project Information. No news press release or public presentation related to the Project, whether made to representatives of newspapers, magazines, civic organizations or television or radio stations, shall be made by Contractor without authorization from Metro.
- F. Contractor Identification. Contractor shall furnish Metro its employer identification number as designated by the Internal Revenue Service.
- G. Independent Contractor. Contractor's services shall be provided under the general supervision of Metro, but Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Article III of this Agreement.
- H. Work is Property of Metro
 - 1. All documents, including drawings, specifications and calculations prepared by Contractor and its contractors, shall be the property of Metro as works made for hire. Contractor does hereby convey, transfer and grant to Metro all rights of reproduction and the copyright to all such documents. Contractor shall have no publication rights to any material produced by Contractor or its contractors, without the prior written approval of Metro, which approval shall not unreasonably be withheld.

2. If this Agreement is terminated or concluded for any reason, Metro may engage another party to provide services for the Project, including completion, maintenance, repair, expansion, contraction and rehabilitation. Metro and the successor contractor may use all or any portion of the documents upon payment to Contractor of the amount due it under this Agreement as set forth in Article VII, Paragraph B.5.

- I. Successors and Assigns. This Agreement shall be binding on successors, assigns, and legal representatives of Contractor and on the successors and assigns of Metro. The Contractor shall not sell, assign, sublet or transfer any interest in this Agreement, or any part thereof, without the prior written consent of the other. Any attempted assignment by Contractor without Metro's written consent shall be void.
- J. Public Contract Laws. The applicable provisions of ORS Chapter 279 which are required to be included in public contracts are hereby incorporated by reference.
- K. Law of Oregon. This Agreement shall be governed by the laws of the State of Oregon.
- L. Integration. This Agreement represents the entire agreement between Metro and the Contractor and supersedes all prior negotiations, representations or agreements. This Agreement shall not be superseded by any provisions in documents for construction and may be amended only by written agreement signed by both Metro and Contractor.
- M. Severability. Should any provision of this Agreement at any time be in conflict with any law, ruling or regulation, or be unenforceable for any reason, then such provision shall continue in effect only to the extent that it remains valid. In the event any provision of the Agreement becomes less than operative, the remaining provisions of this Agreement shall, nevertheless, remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

PARAMETRIX, INC.

METROPOLITAN SERVICE DISTRICT

Title: _____

Title: _____

Date: _____

Date: _____

PROPOSED SCOPE OF WORK/SCHEDULE

1. GENERAL

1.1. OVERVIEW OF THE WORK IN THIS DOCUMENT.

~~Metro is seeking proposals from qualified firms to develop final designs for St. Johns Landfill closure activities, as well as to manage the closure construction. The overall project - to develop final designs for St. Johns Landfill closure activities, as well as to manage the closure construction - will involve the following phases:~~

- Design Development Services (consisting of final grades, final cover, stormwater management, leachate migration control, gas control, environmental monitoring, and O&M plan);
- Construction Documents Services;
- Bidding;
- Construction Management; and
- Post-construction

1.1.1. Organization of the Work and Proposal Costs

~~Throughout the Scope of Work, The Scope of Work is organized with items these items to be costed in the proposal are indicated by the highlighted "TASK 1", "TASK 2," etc. The Design Development phase has Tasks 1-8. Each of Tasks 9-12 refers to a whole phase (e.g., Construction Documents Services, Bidding, Construction Contract Management, etc.). And Task 13, Regulatory Contingency, is as described in the Scope of Work. The complete list is as follows:~~

1. DESIGN DEVELOPMENT SERVICES: General design work
2. DESIGN DEVELOPMENT SERVICES: Final grades
3. DESIGN DEVELOPMENT SERVICES: Final cover
4. DESIGN DEVELOPMENT SERVICES: Stormwater management
5. DESIGN DEVELOPMENT SERVICES: Leachate migration control
6. DESIGN DEVELOPMENT SERVICES: Gas control
7. DESIGN DEVELOPMENT SERVICES: Environmental monitoring
8. DESIGN DEVELOPMENT SERVICES: O&M plan
9. CONSTRUCTION DOCUMENTS SERVICES
10. BIDDING
11. CONSTRUCTION MANAGEMENT
12. POST-CONSTRUCTION
13. REGULATORY CONTINGENCY

1.2 SCHEDULE

All Design Development and Construction Documents Services shall be completed by ~~October 1, 1990~~ November 15, 1990, and all products described below without designated earlier completion dates shall be due by that date. The Bidding phase shall take place between ~~October 1, 1990~~ November 15, 1990 and ~~February 28, 1991~~ April 15, 1991. The Construction Management and the Post-construction phases shall be completed by ~~December 31, 1995~~ April 30, 1996. (This schedule, including the early due dates described below, is shown in Figure 2, Summary Schedule, at the end of the Scope of Work.)

1.2.1 Early Due Dates

~~The Design Development and the Construction Documents Services shall both have some products due June 18, 1990, July 18, 1990, July 1, 1990, August 1, 1990, and August 15, 1990 as described in Sections 2.3.1(b) and (c), which is concurrent with the Design Development Services phase and prior to award of the construction contract. This is so that some construction work can begin during the summer of 1990. (Note: this will lead to some construction management work beginning June 18, 1990 or soon after, as described in Section 5.1.2.)~~

~~The 1990 construction work will be done by Browning-Ferris, Industries (BFI), the current operations contractor at St. Johns Landfill. This work includes: final grading of Subareas 1, 4, and 5, and the powerline corridor; gas well construction in Subarea 1 and the powerline corridor; abandonment and construction of groundwater monitoring wells; use of temporary sediment retention structures and good housekeeping methods during construction.~~

1.3 CONTRACTOR'S SERVICES

Except as specifically provided below, contractor's services shall consist of those engineering, interpretive planning, construction documentation, technical support, and other services which are required to complete the work and which are customarily provided during the design and construction of comparable projects.

1.4 PROJECT MANAGER

The contractor shall identify a single person as project manager to work with Metro. This person shall be a registered Professional Engineer (preferably in the State of Oregon), with the final products prepared under his/her supervision. The contractor shall be responsible for any subcontractor work and shall be responsible for the day-to-day direction and internal management of the contractor and subcontractor efforts.

1.5 MEETINGS

Regular meetings between Metro and the contractor will be held twice monthly during the Design Development Services, Construction Documents Services, and Bidding phases (approximately 11 to 16 months), and weekly, as needed, during the construction season of the Construction Management and during the Post-construction phases.

2. DESIGN DEVELOPMENT SERVICES

2.1 GENERAL CONTRACTOR RESPONSIBILITIES DURING DESIGN

General responsibilities of the contractor during the Design Development Services phase include:

2.1.1 Metro Closure Plan Review

Upon award of the contract, Metro's September 1989 Revised Closure and Financial Assurance Plan for St. Johns Landfill (see Appendix) shall be reviewed by the contractor. It is also the contractor's responsibility to review Metro-supplied background material such as, but not limited to, the May and July 1989 St. Johns Landfill: Water Quality Impact Investigation and Environmental Management Options by Sweet-Edwards/EMCON.

2.1.2 Preparation of Drawings, etc.

During the Design Development Services phase, the contractor shall prepare all drawings, specifications, details, sections, elevations, construction procedures, plans, and other documents and information which may be necessary to adequately and completely convey to Metro, construction contractor(s), and others, the necessary design information for the construction of the project.

2.1.3 Conformance to the Closure Plan

In general, the final design shall conform to the conceptual plans and costs described in the September 1989 Revised Closure and Financial Assurance Plan. Final design must meet all local, state, and federal regulations.

2.1.4 Additional Investigation, etc.

Contractor is responsible for all additional investigation, data collection, and analysis, as necessary for the Design Development Services phase. Contractor is responsible for the costs of such work, and it shall be reflected in the proposal response.

2.1.5 Integration of all Final Design Components

The contractor shall be responsible at all times to ensure the integration of all final design components (final grades, final cover, stormwater management, leachate migration control, gas control, environmental monitoring, and O&M plan).

2.1.6 Design to Minimize Safety and Vandalism Risks

The contractor shall design monitoring well heads, leachate pump station wet wells and controls, and gas control system well heads, controls, and flares to minimize safety and vandalism risks during operation.

2.1.7 Design for Preventative Maintenance to Minimize Repair

The contractor shall design the final closure so as to effectively use preventative maintenance to avoid the need for major repair(s).

2.1.8 50%, 75%, & 90% Completion of Design Development

At the points in time when approximately 50%, 75%, and 90% of the aggregate design development is complete, the contractor shall conduct a review of the design process with Metro to ascertain that the design development documents are on schedule and addressing Metro's requirements. Separate reviews are required for the preliminary and final grading plans as described in Section 2.3.1, which are due respectively on July 1, 1990 and August 1, 1990. ~~also at 50%, 75%, and 90% completion of the aggregate design of the work with the earlier June 18, 1990 July 18, 1990 due date, as described below.~~ (This is summarized in Figure 1, Review Schedule Summary, which is included at the end of the Scope of Work.)

2.1.9 Metro's Review or Approval

The review or approval by Metro of any drawings, estimates, or other documents of any nature which may be produced by contractor pursuant to this agreement shall not constitute an acceptance by Metro of any work which does not conform to the terms of this agreement, nor shall such review or approval constitute a waiver by Metro for claims against the contractor for contractor's failure to perform according to this agreement.

2.1.10 Projected Work Plan for Future Phases

At the end of the Design Development Services phase, the contractor shall report to Metro on the projected work plan for future phases.

2.1.11 Metro Approval of Design Development Documents

At the end of the Design Development Services phase, the contractor shall present for approval, by Metro, all design development construction-ready drawings and other products, as described above. (This is shown in Figure 1, Review Schedule Summary, at the end of the Scope of Work.)

2.2 GENERAL DESIGN WORK (TASK 1)

2.2.1 Meetings

Within ten (10) working days of contract signing the conceptual closure plan shall be reviewed by the contractor, and a meeting to discuss final design concepts, work schedules, and project management shall take place between Metro and the contractor.

Regular meetings between Metro and the contractor's project manager will be held (at Metro or at St. Johns Landfill) twice monthly during the Design Development Services phase.

Meetings during the Design Development Services phase shall consider all aspects of the design, including the contractor's recommendations on construction feasibility, availability of materials and labor, time requirements for construction, factors relating to costs of alternative designs or materials, and budgets.

2.2.2 Construction Plan, Time Schedule, and Cost Estimates

It is the contractor's responsibility to provide an updated construction plan and time schedule with definitive cost estimates. The estimated cost of construction shall be in sufficient detail to assist Metro in determining reasonable construction costs. The cost estimate shall take into consideration the availability of materials, equipment and labor, construction sequencing, and scheduling. It should be presented for the purpose of comparing construction costs, operating costs, and short- and long-term benefits, e.g., value engineering/life-cycle analysis, energy conservation, and maintenance of mechanical features. Such estimates shall be presented in 1990 dollars for both construction and 30 years of operation and maintenance.

(a) Due Dates. The construction plan, time schedule and cost estimates must be provided with the design products at the 50%, 75%, 90%, and 100% completion of the design. These will include either the grading plan (which will be further developed at these times than the aggregate design). This will be required of all work, including those with the earlier June 18, 1990 July 18, 1990 due date. (Note: The work with the earlier due date will reach 50%, 75%, 90%, and 100% completion of design on a separate schedule than the other work.)

(b) Cost Estimate and Project Budget Comparison at 50% Completion of Design. The project budget approved by Metro is \$26.7 million. If the construction cost estimate plus 25% (for engineering, construction management, and contingency) exceeds the approved project budget, the contractor shall provide Metro with alternatives to reconcile the cost estimate and project budget. If so directed by Metro, the contractor shall, at the contractor's expense, redraw, revise and/or value engineer the project, so that said estimate does not exceed the project budget. Note that the cost estimate shall include the final grading plan 1990 construction work. (This is shown in Figure 1, Review Schedule Summary, at the end of the Scope of Work.)

1) The contractor shall provide two sets of costs (for 5-year and less-than-5-year construction periods) at 50% design, indicating construction and O&M cost impacts for each scenario. Available settlement data, such as from Sections 2.3.1(a)i, ii, and iii, shall be used to develop the scenarios and present cost-effective options for the construction sequencing.

~~ii) The contractor, with Metro's assistance, shall evaluate the effect of settlement on the time of closure.~~

~~iii) ii) Metro shall direct the contractor (after 50% design review) as to what construction period(s) to use for costing in the remainder of the project. If the construction occurs during more than or less than the five years upon which the lump sum contract cost for the Construction Management phase was negotiated, these changes shall be considered under Article VI of the contract.~~

- (c) Independent Cost Review at 75% and 90% Completion of Design. At 75% and 90% completion of the design Metro shall provide an independent evaluation of the contractor's construction plan, time schedule, and cost estimate, referred to as an independent cost review. The contractor must meet with the independent evaluator(s) until both parties can reasonably agree on a cost estimate for the construction of the project. ~~The final grading plan will be The 1990 construction work will not be included in this review.~~ If Metro concludes that contractor's estimated cost of construction is inaccurate, contractor shall revise cost estimate at no additional cost to Metro. (This is shown in Figure 1, Review Schedule Summary, at the end of the Scope of Work.)

2.2.3 Construction Quality Control

Contractor, as part of the design development documents, shall include specifications for quality control to be required of the construction contractor. Such specifications shall be incorporated into the final construction documents.

2.2.4 Construction Quality Assurance Plan

Contractor shall provide Metro a Construction Quality Assurance Plan to be incorporated into the construction documents during the Construction Documents Services phase and implemented by the contractor during the Construction Management phase. It shall be a written document describing the specific approach to be followed in attaining and maintaining consistent high quality construction so that the completed facility meets or exceeds the specified design. It shall include: responsibility and authority, personnel qualifications, inspection activities, sampling requirements, and documentation. The Plan shall describe all facets of the construction quality assurance for this project.

(a) Quality Assurance of Geosynthetic Lining System. Detailed quality assurance of the geosynthetic lining system installation is absolutely required because of the significant impact which installation errors would have on the performance of the facility. The Plan should include quality assurance of manufacture through installation. It should include procedures for acceptance by the geomembrane installer of the ground surface preparation, as well as procedures for placement of soil and granular materials in contact with the geomembrane to minimize risk of damage of the geomembrane.

1) Quality Assurance Manufacturing. The liner system manufacturers should be required to: (1) certify that their products are manufactured of first quality materials, and provide quality control documentation on the base resin; (2) submit certification that the products meet specifications, as delivered; (3) submit quality control documentation gathered during the manufacturing process; and (4) label each roll or product such that it is possible to relate that roll with manufacturing quality control documentation, as well as raw material documentation. Quality assurance of the manufacturing process should also include: a visit to the manufacturing plant while the site-specific material is being produced, if possible; a review of quality control procedures and facilities (sampling, testing, etc.); and a review of handling and shipping techniques.

11) Fabrication. If the geosynthetic rolls are fabricated in a plant into larger factory panels, then the fabrication process should include quality assurance monitoring of the seaming, seam testing, and other quality control operations. In addition, the fabricator should be required to: certify that all seams meet or exceed specifications; submit quality control documentation regarding the fabrication; label each factory panel such that it is possible to relate that factory panel with its constituent rolls; and provide resumes for key fabrication personnel which show them to be experienced and qualified in the particular seaming method used.

iii) Installation.

- (aa) Pre-Construction. Quality assurance during the pre-construction period should include, but not be limited to, the following: cataloging of the materials upon arrival and review of the certifications, quality control documents, and resumes submitted by the manufacturer, fabricator, and installer. A pre-construction meeting should be held with all parties to delineate areas of responsibility, site-specific rules and policies, review of the quality assurance plan, etc. Prior to placement of the geosynthetics, the installer should inspect and accept in writing the condition of the subgrade, in order to avoid potential damage to the geomembrane.
- (bb) Installation Operations. The Plan should indicate the number of monitors required to adequately provide quality assurance of: placing the liner, welding the seam, testing the seam, repair and testing the faults uncovered by the testing, taking destructive test samples and repairing the hole and testing the repair, etc., as well as integrating the final cover installation with the gas and leachate systems.
- (cc) Continuity Testing. The Plan should include nondestructive testing of seams to determine seam continuity. To the greatest extent possible, seams should be 100% nondestructively tested for continuity.
- (dd) Strength (integrity) Testing. The Plan should include strength (integrity) testing of the seams (usually a destructive testing method). State the frequency of sampling, and the required testing (e.g., field tested in a tensometer, tested by an independent laboratory, tested by an installers' laboratory, and a portion of the sample retained by Metro). Establish the procedures to be followed in the event of failure of such a test., especially if the portion of the liner from which the sample was removed, has already been covered by other layers in the system. The Plan shall clearly establish procedures for repairing flaws and defects caused by test sampling.

(b) Quality Assurance of Other Geosynthetics. The Plan should include quality assurance of the installation of other geosynthetics (e.g., geotextiles, geonets, geogrids, geomats, etc.) as well. At a minimum, their quality assurance shall include: receiving (roll identification to ensure the proper material was received); handling (procedures to avoid damage during handling, and protection from damaging elements during storage and after placement); placement (proper overlaps and/or seaming techniques); compliance (testing to ensure the material meets specifications); repair procedures (clear definitions of unacceptable damage, repairable damage, and acceptable repair methods); and cover materials placement (techniques such that the geosynthetic is not damaged, including minimum cover thicknesses prior to trafficking).

(c) Final Report. The Plan should call for a final report to include: a summary of all activities which occurred; daily logs and reports submitted by the monitors; "as-built" drawings showing field panel locations and dimensions, seam identifications, patches and repairs; and a certification of the quality of the installation. This final report is the governing document regarding the entire installation history and it should be comprehensive, detailed and accurate. The CQA Plan must be approved by Metro and DEQ.

2.2.5 Metro Copies of Work Products

Contractor shall provide Metro seven (7) complete sets of all work products - including drawings, specifications, and other documents - at the completion of the 50%, 75%, 90%, and 100% completion of the design development. A complete set of mylar originals of maps and drawings shall also be provided at the completion of the Design Development Services phase. One set of appropriate drawings as determined by Metro shall ~~will~~ be mounted for presentation purposes.

All raw data, calculations, and working notes shall be provided to Metro at the end of each phase of the project and each construction season during the Contract Management Services phase. Additionally, floppy disk computer copies of all data shall be provided to Metro, along with a list of all computer programs used.

2.2.6 Permit(s).

Contractor shall consult with Metro, the Oregon DEQ, the City of Portland, and any other bodies as necessary to obtain required permit(s). Contractor shall also prepare written and graphical explanatory materials and appear on Metro's behalf at the meetings relating to the required permit(s). Contractor shall submit completed applications for all required permits no later than ~~June 18, 1990~~ July 18, 1990 ~~August 15, 1990~~ for the final grading plan for early work or ~~October 1, 1990~~ November 15, 1990 for all other work, unless otherwise directed by Metro. Contractor shall make concerted and good faith effort to assure that permit(s) are issued so as not to delay the commencement of construction. Such permit(s) will be paid for by Metro.

2.2.7 Formal Briefings

Contractor shall provide no more than five (5) formal briefings to public bodies, regulators, and other appropriate citizen groups upon request by Metro.

2.2.8 Criteria and Standards Where Design Not Explicit

Contractor, as part of its production of the design development documents, shall develop and refine as a single integrated document, a written description of the criteria and standards to be incorporated into the final construction documents, where such design has not been explicitly defined in the design development documents.

2.2.9 Proposal Evaluation

As requested by Metro, contractor shall evaluate proposals related to Revised Closure and Financial Assurance Plan, Appendix B (Closure as a Research and Recycling Opportunity).

2.2.10 Construction Certificate and Documentation Reports.

Contractor shall submit to DEQ an organizational format and content outline for presenting the construction certificate and documentation reports required by DEQ.

2.3 COMPONENT DESIGN TASKS

The design components consist of the following: final grades (Task 2), final cover (Task 3), stormwater management (Task 4), leachate migration control (Task 5), gas control (Task 6), environmental monitoring (Task 7), and an O&M plan (Task 8).

2.3.1 Final Grades (TASK 2).

The final grading plan shall: promote runoff of rainfall rather than its percolation into the waste; direct rainfall runoff to surface water control structures; prevent untreated runoff from uncovered or daily covered waste from entering surface water; provide adequate volume for refuse; and provide for construction of permanent roads through the landfill to allow access for monitoring, operations, maintenance, and repair.

Objectives for the final grading plan design should include: (1) achieving grades that will minimize cover maintenance; (2) sequencing and conducting grading to minimize differential settlement after installation of final cover; and (3) minimizing the volume of garbage needed to achieve the design grades.

- (a) Parameters. ~~By the first Metro-Contractor meeting (as described in Section 2.2.1 as part of Task 1) Metro will provide a complete set of parameters including: the maximum elevations of final contours and minimum slopes in each of the subareas and the powerline corridor (Site Map in the Appendix shows the subarea boundaries), the required refuse volume to design for, Design final grades which will use the minimum volume of garbage necessary to achieve grades to the top of daily cover, the purpose of which is to attempt to that will retain at least five percent slopes after compensating for differential settlement estimates. Include location of roads and footpaths, and any end-use considerations such as a parking lot, etc. Metro will also provide topographic maps of the existing landfill surface, and the conceptual designs from the Sweet-Edwards/EMCON report. Design of the final grading plan shall include:~~

- i) Evaluation of Evaluate aerial photographs and other existing data, including information on historical fill sequence and practices, to estimate differential garbage settlement as a function of garbage compaction, depth, and age.
- ii) Prior to designing final grades, installation of install interior wells (as detailed in Section 2.3.6a) to a depth where they contact the underlying silts to provide information on the thickness of garbage, and how much settlement has occurred in the silt layer relative to its elevation in areas adjacent to the landfill.

iii) Evaluation of Evaluate differential landfill settlement as a function of primary and secondary consolidation of underlying silts. Use representative consolidation test data in the evaluation, and attempt to account for the thickness distribution of underlying silts and the garbage loading dynamics (i.e., time of garbage placement, depth of garbage, and changes in garbage density based on compaction and age.

(b) Design Products. The contractor shall produce contour maps, cross sections through each of the sub-areas and the powerline corridor, and a fill plan with procedures and sequence drawings.

- i) The contour map scale shall be 1"=100' with 2' contours. Subarea boundaries shall be clearly designated. It shall show the roads and footpaths. Notes on the drawing shall indicate: (1) the minimum slope, (2) that the proposed fill contours are to the top of the daily cover, and (3) which previous drawing(s) are being superseded. Metro shall provide the contractor a computer floppy disk (in AutoCAD format) of the data used for topographic mapping of the existing landfill contours. Contractor shall provide Metro a floppy disk with the final contour map's coordinates (location and elevation), also in AutoCAD format.
- ii) The cross section scale shall be 1"=100' horizontally and 1"=10' vertically. A minimum of two cross sections shall be shown for each subarea and the powerline corridor, with sections drawn approximately through the length and the width and at right angles to each other.
- iii) The solid waste or engineered fill plan shall be based on Metro input. It ~~shall~~ ~~should~~ show the sequencing of pad construction, and solid waste incorporation into the landfill. It should include construction details for cutting or refilling (with solid waste or engineered fill) areas which have previously been closed in order to achieve desired contours. It should include a plan for reuse of some or all of the currently in-place cover material.

- (c) Due Date. ~~The contractor shall provide Metro all work products described above in Task 2, as well as the construction plan, time schedule, and cost estimates described in Section 2.2.2 and the incorporation of Subareas 1, 4, and 5 and the powerline corridor into the technical specifications (as described in Section 2.1), no later than June 18, 1990 July 18, 1990.~~

The contractor shall provide Metro a preliminary grading plan that may be used to direct Metro's operations contractor to place refuse, control stormwater runoff during placement, and meet design criteria by July 1, 1990. No later than August 1, 1990, the final grading plan, including all work products described above in Task 2, shall be modified as needed based on additional field data to evaluate settlement and identify where overfill or cuts shall be made. (Note: The July 1, 1990 and August 1, 1990 due dates assume DEQ approval for the well construction in Section 2.3.6a within 10 calendar days after the date of submittal.) The information shall be submitted to Metro and DEQ for approval by August 15, 1990.

2.3.2 Final Cover (TASK 3)

The final cover shall be designed such that it limits the amount of rainwater seeping into the garbage, provides a stable surface for stormwater runoff, prevents excess erosion of the final cover soil, and provides a barrier to control landfill gas venting and leachate seep discharges. It must be designed to withstand differential settlement due to refuse compaction, biological decomposition, and subgrade consolidation.

The final cover construction should be sequenced to minimize differential settlement effects on the final cover. The landfill subarea anticipating the least amount of differential settlement should be covered first followed by sequencing cover construction over subareas according to their estimated differential settlement rates. The last subarea to be covered should be the one for which the greatest differential settlement is anticipated.

- (a) Drawings, etc. The following construction-ready drawings, details, specifications, and construction procedures are required:

i) Top slope and side slope cover profile. This shall include:

(aa) Detailed cross-sectional drawings which show: the foundation, low permeability, drainage, protective, and top soil layers, as well as vegetative cover, as applicable. As indicated in the "Smith and Bybee Lakes Management Plan" (Objective 2), the choice of vegetative cover shall be based on an evaluation of plant species native to the adjacent lakes area. If such plant species is not suitable, habitat competition should still be avoided.

If applicable as required by DEQ to obtain a permit, include low permeability soil barrier construction information including:

- pilot construction test pad;
- description of borrow soil excavation;
- specifications of preconstruction CQC tests and frequency;
- specifications for foundation tests and frequency;
- specifications of CQC tests;
- construction equipment and procedures; and
- soil barrier protection;

Note: Low permeability soil barrier construction information for a composite barrier profile (e.g., both a geomembrane and low permeability soil) shall not be the responsibility of the contractor. However, contractor shall consider in-place clay (and existing related data) when designing the final cover profile.

(bb) Landfill stability analyses (slope stability, foundation settlement, and waste settlement);

(cc) Soil balance calculation;

(dd) Water balance analysis;

(ee) ~~Leachate collection and removal system~~ Stormwater analyses (hydraulic head on the liner, filtration design, and the structural stability of gas collection pipes);

(ff) ~~Leachate~~ Stormwater Surface water storage capacity calculations;

(gg) Geosynthetic design analysis (filtration);

- (hh) Evaluation, using information from other sites, of very low density polyethylene (VLDPE) in selection of a geomembrane;
 - (ii) Include the final cover in the construction certification report, as required by DEQ (Section 2.2.10); and
 - (jj) Also, indicate Indicate construction of final cover components in the CQA plan, as well as quality assurance inspection/testing methods, as applicable, for constructing each layer.
- ii) Integration of the final cover between subareas and into the road structure. As needed, provide for strengthening of roads or parking areas due to the additional load of vehicles.
 - iii) Integration of the final cover with the leachate and gas systems.
- (b) Construction Standards and Procedures. Indicate all construction standards and procedures for installing the final cover. Such standards and procedures should include, but are not limited to: (1) geomembrane field tests, (2) cover materials, and (3) reduction of dust emissions such that air quality standards are met. They shall also include the following installation information on geosynthetics: acceptance criteria; transportation and storage; site preparation; handling, placement, and anchoring; geomembrane seaming, repairs, wrinkles, bridging, and protection.
 - (c) Construction Plan and Time Schedule. The construction plan and time schedule for installation of the final cover shall be adequately detailed to indicate the number and size of work crews required and reflect the limitations caused by the wet season.
 - (d) Evaluations. Based on the detailed design of the final cover, evaluate: (1) infiltration of rainwater and (2) the anticipated effects on the leachate mound elevation.

2.3.3 Stormwater Management (TASK 4)

Stormwater management shall protect the final cover and the surrounding surface water during and after cover construction. A conceptual drawing is shown in the Appendix (see Stormwater Management Plan). Drainage structures must be designed to be flexible and regularly maintained, such that differential settlement does not quickly render them ineffective.

Applicable design information required shall include: surface water management (surface water control during facility operation, surface water control after final facility closure); analyses of surface water control structures during facility operation (active area containment capacity, detention pond sizing, and sedimentation pond sizing); and analyses of surface water control structures after final facility closure (capacity calculations, erosion calculations).

All designs shall be consistent with Policy 22 of the "Smith and Bybee Lakes Management Plan" which states, in part: "...Drainage systems will include such features as settling ponds, sumps, or filters to assure adequate treatment of runoff before it can have a significant negative impact on the lakes' ecosystem..."

- (a) Drainage Elements. Provide construction-ready drawings, details, specifications, and procedures for constructing the following drainage elements, as needed.
- i) Lower plastic-lined ditches at the perimeter of each drainage area
 - ii) Upper drainage ditches employed between the 5% top slopes and 20% side slopes
 - iii) Intermediate slope drain pipe in the drainage layer of the landfill's top cap wherever there is a 5% or less slope and a reach of 200' or more with no drainage ditches
 - iv) Downslope flumes to connect the intermediate slope drain pipe to the lower drainage ditches
 - v) Discharge culverts to direct the surface runoff for discharge from the lower drainage ditches to the sloughs
 - vi) Road culverts to allow discharge across the roads
 - vii) Surface water runoff measuring flumes to be installed as part of the surface water monitoring program

- (b) Temporary Sediment Retention Structures. Provide construction-ready drawings, details, specifications, and construction procedures for temporary sediment retention structures, such as silt fencing. ~~For these areas impacted during the 1990 construction season, provide Metro the construction plan, time schedule, and cost estimates described in Section 2.2.2 and incorporate the design work into the technical specifications (as described in Section 3.1), no later than June 18, 1990.~~
- (c) Sedimentation Collection Ponds. Provide construction-ready drawings, details, specifications, and construction procedures for semi-permanent stormwater sedimentation collection ponds to retain sediment generated from the final cover, especially during the final cover's construction phase.
- (d) Good Housekeeping Methods. Indicate all construction standards and procedures including, but not limited to, good housekeeping methods to avoid degrading water quality. ~~Provide for Metro's review with design products, and incorporate this work into the technical specifications (as described in Section 3.1) no later than June 18, 1990.~~
- (e) COA Plan. Include construction of final stormwater management components in the COA plan in Section 2.2.4.
- (f) Construction Certificate and Documentation Reports. Include final stormwater management system in the construction certification reports required by DEQ (Section 2.2.10).

2.3.4 Leachate Migration Control (TASK 5)

For the purpose of this RFP, the proposer shall provide design costs for each of the leachate migration control options described below:

OPTION 1: Construction of a rock drainage layer where leachate seeps occur in order to minimize surface outbreak and physical contact with leachate (Option 1 of the Revised Closure and Financial Assurance Plan). High permeability areas to be excavated and filled with a clay barrier.

- (a) Higher Permeability Soil Investigation. Use a non-destructive investigation method, such as employment of geophysical techniques, to determine during the summer months and at low river stage and tide if there are areas of higher permeability soil in the levees around the older area of the landfill. Confirm the findings with up to 20 soil borings and with a maximum of 500 feet of drilling and, if necessary, laboratory testing and analysis on soil samples. Metro will provide access for drilling in areas where it is required. This investigation shall result in a report of the hydraulic properties of soils along the banks of the sloughs.
- (b) Soil Properties. For the high permeability areas determined by the soil investigation, indicate the procedure for excavation and fill such that all environmental impacts are minimized, and specify the soil properties for the clay barrier.
- (c) Design Products. The contractor shall produce construction-ready drawings, details, specifications, and construction procedures. Detailed leachate surface seepage control plans and specifications shall include:
- i) Construction of leachate seepage control system (LSCS) components in the CQA plan in Section 2.2.4;
 - ii) The LSCS in construction certificate and documentation reports required by DEQ (Section 2.2.10);
 - iii) Operations information on the LSCS in the operations plan in Section 2.3.7; and
 - iv) A conceptual plan to evaluate the effectiveness of using vertical gas risers for both leachate and gas collection purposes.
- (d) Maintenance Program for Existing LCRS. An operations and preventative maintenance program for the existing leachate collection and removal system (LCRS) shall be included in the O&M plan (leachate collection, storage, treatment/disposal) described in Section 2.3.7. The program shall have the following basic objectives: (1) to keep the system operating near maximum efficiency; (2) to obtain the longest operating life of the system; and (3) to accomplish the above two objectives at minimum cost. (Note: such measures may include field-checking collection pipes for clogging at least annually, daily recording of leachate levels in leachate collection tanks, regular maintenance of mechanical equipment such as pumps, etc.)

OPTION 2: Construction of a partial perimeter leachate collection system (LCS) where leachate seeps are a problem (Option 2 of the Revised Closure and Financial Assurance Plan). High permeability areas to be excavated and filled with a clay barrier.

- (a) Higher Permeability Soil Investigation. Use a non-destructive investigation method, such as employment of geophysical techniques, to determine during the summer months and at low river stage and tide if there are areas of higher permeability soil in the levees around the older area of the landfill. Confirm the findings with up to 20 soil borings and with a maximum of 500 feet of drilling and, if necessary, laboratory testing and analysis on soil samples. Metro will provide access for drilling in areas where it is required. This investigation shall result in a report of the hydraulic properties of soils along the banks of the sloughs.
- (b) Soil Properties. For the high permeability areas determined by the soil investigation, indicate the procedure for excavation and fill such that all environmental impacts are minimized, and specify the soil properties for the clay barrier.
- (c) Partial Perimeter Leachate Collection System. Provide construction-ready drawings, details, specifications, construction procedures, and plans for the partial perimeter leachate collection system. (System components include the collection pipes, pump stations, pressure force main, etc.) Include cleanouts in the system, and design for preventative maintenance during operations. Specify the procedure for construction such that additional leachate from the landfill shall be minimal and as few trees as possible removed.
- (d) Design Products. The contractor shall produce construction-ready drawings, details, specifications, and construction procedures. Detailed leachate surface seepage control plans and specifications shall include:
 - i) Construction of leachate seepage control system (LSCS) components in the CQA plan in Section 2.2.4;
 - ii) The LSCS in construction certificate and documentation reports required by DEQ (Section 2.2.10);
 - iii) operations information on the LSCS in the operations plan in Section 2.3.7; and

- iv) A conceptual plan to evaluate the effectiveness of using vertical gas risers for both leachate and gas collection purposes.

- (e) Maintenance Program for Partial Perimeter and Existing LCRS. An operations and preventative maintenance program for the partial perimeter and existing leachate collection and removal (LCRS) systems shall be included in the O&M plan described in Section 2.3.7. The program shall have the following basic objectives: (1) to keep the system operating near maximum efficiency; (2) to obtain the longest operating life of the system; and (3) to accomplish the above two objectives at minimum cost. (Note: such measures may include field-checking collection pipes for clogging at least annually, daily recording of leachate levels in leachate collection tanks, regular maintenance of mechanical equipment such as pumps, etc.)

2.3.5 Gas Control (TASK 6)

Landfill gas management shall prevent off-site migration, protect the surrounding and on-site human, animal, and plant life, allow for differential settlement, and prevent damage to the final cover system.

- (a) Drawings, etc. Produce construction-ready drawings, details, specifications, and construction procedures for an active gas collection system with below-ground collection headers. System components include: vertical and horizontal wells, a network of collection headers, and the landfill gas mechanical equipment. The system must be designed such that it has the capability of recovering energy from the gas if deemed cost-effective to do so in the future.

Design information shall include: system plan, design details, design flexibility, condensate management, landfill gas disposal, landfill gas production rates, and the configuration/size calculations and rationale for the system. Construction information shall include: phased installation, and field verification.

- i) Provide Metro the number, type, and location of gas wells or trenches to be constructed throughout the landfill.

~~For Subarea 1 and the powerline corridor this work shall be provided as well as the construction plan, time schedule, and cost estimates described in Section 2.2.2 and its incorporation into the technical specifications (as described in Section 3.1) no later than June 18, 1990.~~

- ii) Design the wells and trenches, such that they include adjustment valves and gas monitoring capabilities to provide individual throttling of well extraction rates as needed.

~~For Subarea 1 and the powerline corridor this work shall be provided as well as the construction plan, time schedule, and cost estimates described in Section 2.2.2 and its incorporation into the technical specifications (as described in Section 3.1) no later than June 18, 1990.~~

- iii) Design the well laterals and branch headers of the gas collection header system. The design should provide: (1) access to the adjustment valves and sampling ports, and (2) flexibility for settlement and pipe movement due to thermal expansion and contraction.
 - iv) Specify the mechanical equipment of the system, including the scrubber, blower(s), landfill gas flare, and motor control center.
- (b) Air Quality Permit. The design of the gas control system shall be such that an air quality permit can be obtained from DEQ.
 - (c) Gas Condensate Collection. Gas condensate collection should be included in the design as required by EPA's Subtitle D, if known. Otherwise, condensate collection shall be incorporated into the design after discussions with Metro staff.
 - (d) O&M Documentation. The O&M documentation to be included in the O&M plan described in Section 2.3.7 shall include, but not be limited to: the procedures and frequency of regular monitoring, procedures and criteria for system flow adjustments and blower/flare maintenance as required, excavation and repair of broken header lines or damaged wells, methods for collecting and disposing of landfill gas and landfill gas condensate, operation as it relates to landfill settlement, and preparation of required monitoring reports.
 - (e) COA Plan. Construction of gas collection system components shall be included in the COA plan described in Section 2.2.4.
 - (f) Construction Certificate and Documentation Report. The gas collection system shall be included in the construction certification report required by DEQ (Section 2.2.10).

2.3.6 Environmental Monitoring (TASK 7)

All monitoring wells should be identified with permanent markers.

- (a) Leachate Monitoring Wells. Determine where to drill five new interior wells, ~~one in each subarea,~~ to penetrate the bottom of the solid waste (and contact the underlying silts), and suitable for collection and analysis of representative leachate samples (including priority pollutants) from the landfill, as well as monitoring elevation of the leachate mound. Provide construction designs and specifications for the leachate monitoring wells. Also, drill the wells such that a final grading plan can be provided by ~~July 18, 1990,~~ August 1, 1990, as described in Section 2.3.1(c). The five new wells are assumed to require a maximum of 500 feet of actual drilling.
- (b) Construction and Abandonment of Groundwater Monitoring Wells. ~~By June 18, 1990, provide~~ Provide construction specifications and procedures for constructing and abandoning groundwater monitoring wells as specified by Metro. All procedures must conform with regulatory requirements. ~~Also provide Metro the construction plan, time schedule, and cost estimates described in Section 2.2.2 and incorporate the work into the technical specifications (as described in Section 3.1), no later than June 18, 1990.~~

2.3.7 O&M Plan (TASK 8)

The operations & maintenance (O&M) plan ensures the site is well-managed during the closure construction and after its completion.

- (a) Due Dates and Relationship to Post-closure Plan. The O&M plan shall be produced as a working document during the Design Development Services phase. It shall be due no later than ~~October 1, 1990~~ November 15, 1990. It shall be updated annually - no later than December 31 in the years 1991, 1992, 1993, 1994, and 1995 - to incorporate design changes, as-built drawings, and operational experience. The 1995 update shall be a final document, and shall become the post-closure plan.

(b) Components of the O&M Plan. The O&M plan shall be a single integrated document. It shall be for the entire landfill, as well as each of the design components and systems. It shall include those systems already in place (e.g., the leachate collection system in Subareas 4 and 5), as well as those to be constructed. Operations and preventative maintenance shall be described, as well as repairs. The O&M plan shall consist of, but not be limited to:

- i) Procedures and Frequency of Monitoring Activities. The O&M plan shall describe the procedures and frequency (as indicated in Table 2 of Metro's September 1989 Revised Closure and Financial Assurance Plan) for the following monitoring activities at the landfill, by which it can be determined whether repairs are required. A monitoring schedule shall be provided for each subarea based on its closure date. The schedule shall show all monitoring required for each subarea: (1) before closure, (2) during closure, and (3) 30 years after closure. All monitoring shall be consistent with Objective 4 of the "Smith and Bybee Lakes Plan": "Implement a monitoring program to assure early detection of potential environmental problems, and to quantify management programs." Provide detailed monitoring plans suitable for review and approval by the Oregon DEQ. If DEQ does not approve these monitoring plans, it is the contractor's responsibility to modify them until acceptable.
 - (aa) Inspecting the final cover for signs of failure (due to excessive settlement, erosion, geomembrane damage, etc.) by walking the landfill surface and checking for: (1) excessive and localized settlement, (2) erosion rills on the cover soil, (3) exposed geomembrane surfaces, and (4) evidence of vegetative stress on and around the landfill.
 - (bb) Monitoring landfill leachate discharged to the sewer system.
 - (cc) Metro shall provide monitoring plans, to be incorporated by the contractor, for sampling and testing groundwater and surface water to determine the integrity of the landfill environmental controls. Any modifications required by DEQ will also be provided by Metro.
 - (dd) Checking the landfill boundary with gas monitoring probes for methane concentrations in excess of 25% of the lower explosive limit.

(ee) Monitoring leachate levels and water quality in the landfill. These monitoring plans shall include water quality parameters similar to those generally required by DEQ for groundwater. The plans, as well as any modifications required by DEQ, shall be provided by Metro, to be incorporated by the contractor.

(ff) Monitoring the gas flare exhaust as required by a DEQ Air Quality permit.

(gg) Landfill gas monitoring plan, including the following as necessary:

- Drawings showing proposed monitoring well (probe) locations;
- Perimeter probes located around landfill and between the landfill perimeter and property boundary;
- Perimeter probes monitoring to base elevation of refuse;
- Probes located adjacent to all on-site structures;
- Individual probes not exceeding maximum monitoring depth of 30';
- Probes designed to permit field measurements for methane concentration, oxygen concentration, and static pressure;
- Description of installation and operation;
- Detailed procedures for operating landfill gas (LFG) monitoring system, and schedule for measuring methane concentration, oxygen concentration, and static pressure; and
- Copy of proposed reporting form.

ii) Maintenance and Equipment Replacement Schedule. The plan shall include a maintenance and equipment replacement schedule for equipment on site.

iii) Construction Procedures for Necessary Repairs. The plan shall include construction procedures for all necessary repairs.

iv) Data Sheets and Information for Operations. The plan shall include all data sheets and information necessary for operations

- v) Inspection and Maintenance Procedures and Schedule. The plan shall include all inspection and maintenance procedures and their frequency (including the gas collection and disposal system, the leachate collection and removal system, and the leachate seepage collection system);
- vi) Cleaning/Adjusting Procedures and Schedule. The plan shall indicate all equipment and system adjusting and cleaning procedures and their frequency (e.g., the leachate collection system detailed in Section 2.3.4e)
- vii) DEQ Submission. Contractor shall provide Metro DEQ submissions which address:
 - aa) Excessive or localized settlement is proposed to be repaired by merely filling with additional soil; and
 - bb) Polyethylene should be patched using welded seams, particularly if the patch is to be located in a depressed spot where water can pond. Reference the use of contact adhesives for polyethylene repairs.
- viii) Inspection Checklists and Reporting Forms. Plan should include copies of inspection checklists and reporting forms to be used by Metro.

3. CONSTRUCTION DOCUMENTS SERVICES (TASK 9)

~~3.1 TECHNICAL SPECIFICATIONS PROVIDED EARLY FOR 1990 CONSTRUCTION SEASON.~~

~~3.1.1 Early Products~~

~~By June 18, 1990 the contractor shall prepare for approval by Metro, as a single integrated document, technical specifications adequate to be used for construction during the 1990 season. No General Conditions will be required. Items required shall include:~~

- ~~• Final grades — Subareas 1, 4, and 5, and the powerline corridor~~
- ~~• Temporary sediment retention structures — wherever required for the 1990 construction season~~
- ~~• Good housekeeping methods~~
- ~~• Gas collection wells — Subarea 1 and the powerline corridor~~
- ~~• Abandon and construct groundwater monitoring wells~~

~~3.1.2 Independent Review of Technical Specifications~~

~~Metro shall provide an independent design review of the technical specifications before construction begins. (This is shown in Figure 1, Review Schedule Summary, at the end of the Scope of Work.)~~

3.2 3.1 PREPARATION OF CONSTRUCTION DOCUMENTS (RFB)

No later than ~~October 1, 1990~~ November 15, 1990 the contractor shall prepare for approval by Metro, as a single integrated document, construction documents based on the approved design development documents. The Construction Quality Assurance Plan shall be included in the construction documents. Metro will provide its "boiler plate" language to be used in the Request for Bids (RFB).

3.2.1 3.1.1 On-site Office.

Technical specifications shall include provision for: (1) a 4-wheel drive car equipped with a radio and (2) a trailer to be used as office space for a minimum of 4 people. (The four people will include the contractor's construction manager and one (1) special inspector, as described in the Construction Management section below.)

3.3 3.2 COMPLETION OF CONSTRUCTION DOCUMENTS.

Contractor shall ascertain, consistent with professional engineering standards and Metro contracting ordinances, that the construction documents are complete, accurate, and coordinated between the engineering work for the project, and that the contents of the drawings and specifications are internally consistent and consistent with the end of the Design Development Services phase approved by Metro. In particular, documents prepared during this phase shall provide a level of detail which minimizes additional interpretation. When Metro determines that revisions, amendments, or supplementary documents are required because of a mistake or omission on the part of the contractor, contractor shall prepare them at no additional expense to Metro.

3-4 3.3 METRO REVIEW AND APPROVAL.

The contractor shall present final construction documents to Metro for review and approval.

3-5 3.4 RECOMMENDATIONS FOR PROJECT BUDGET ADJUSTMENTS.

The contractor shall recommend to Metro any adjustments to the project budget indicated by changes in project scope, requirements, or general market conditions.

3-6 3.5 APPROVAL(S) AND PERMIT(S).

The contractor shall be responsible for supplying construction documentation as required for the approval of governmental authorities having jurisdiction over the project. Contractor shall also consult with Metro, the Oregon DEQ, the City of Portland, and any other bodies as necessary to obtain required permit(s). Contractor shall also prepare written and graphical explanatory materials and appear on Metro's behalf at the meetings relating to the required permit(s). Contractor shall submit completed applications for permits (not previously submitted pursuant to Section 2.2.6) at Metro's direction. Contractor shall make concerted and good faith effort to assure that permit(s) are issued so as not to delay the commencement of construction. Such permit(s) will be paid for by Metro.

3-7 3.6 PROJECT PROCEDURES MANUAL.

Contractor shall coordinate with Metro to prepare a project procedures manual outlining all procedures to be followed for the processing of change orders, reporting, and control of all shop drawings, transmittals, submittals, substitutions, catalogs, project reports, field orders, test reports, inspections, maintenance manuals, and other construction documentation. Contractor shall prepare for review by Metro a schedule of the time that will be required for the review of various shop drawings, samples, product data, and other items furnished by the contractor. At a minimum, such procedure shall require contractor to prepare and maintain detailed drawing logs and shop drawing logs for all revision drawings, instruction bulletins, change orders, contractor's submittals, and similar documentation produced, transmitted, or received during the course of work.

3-8 3.7 PREPARE CONSTRUCTION DOCUMENTS.

Contractor shall prepare a complete set of reproducible construction documents signed and stamped by a licensed engineer and approved by Metro that are suitable for use as bidding documents.

3-9 3.8 BIDDABILITY CONSTRUCTABILITY REVIEW AT COMPLETION OF DOCUMENTS SERVICES PHASE

Upon completion of the Construction Documents Services phase, Metro shall provide an independent evaluation of the biddability and constructability of the project's construction documents. This will entail a review of the contractor's construction plan, time schedule and cost estimate at a detail level similar to that of a potential bidder. The contractor must meet with the independent evaluator(s) until both parties can reasonably agree on a cost estimate for the construction of the project. If Metro concludes that contractor's estimated cost of construction is inaccurate, contractor shall revise cost estimate at no additional cost to Metro. The final figure agreed upon at the outcome of the biddability constructability review will establish a government estimate for Metro. (See Figure 1, Review Schedule Summary, at the end of the Scope of Work.)

4. BIDDING (TASK 10)

The Bidding phase will take place after the Construction Documents Services phase has been completed. The contractor's responsibilities shall include: assisting Metro in presenting the RFB to the Metro Council for approval (approximately 2 months), soliciting bids and selecting a vendor (approximately 2 months), and returning to our Council for contract approval (approximately 1 month).

4.1 BID SOLICITATION.

The contractor shall assist Metro with respect to the following matters regarding solicitation and obtaining bids from contractors:

4.1.1 Bidding Schedules and Procedures

Establish bidding schedules and procedures.

4.1.2 Pre-Bid Conference

Conduct pre-bid conference with prospective bidders to familiarize bidders with the bidding documents and management techniques and with any special systems, materials, or methods called for by the documents.

4.1.3 Other Responsibilities

Answer questions, evaluate substitution requests, and issue bid document addenda.

4.2 FORMAL BRIEFINGS

Contractor shall provide no more than six (6) formal briefings to the Metro Council, upon request by Metro.

4.3 QUANTITY OF DOCUMENTS TO BE PROVIDED.

As part of the project cost, contractor shall provide 55 sets of bid documents, issue addenda, and print and distribute plans and specifications for bid. If Metro requests additional sets beyond the 55 to be provided by contractor, the contractor shall provide such additional sets and Metro shall pay the contractor its actual costs for producing such sets plus a reasonable handling fee, delivery charge, etc.

4.4 REVIEW AND ANALYSIS OF THE BIDS.

Contractor shall assist in Metro's review and analysis of the bids in determining the successful bidder.

4.5 ADDENDA.

If addenda are issued during the Bidding phase and/or changes are made prior to execution of the construction contract for any respective bid package, such drawings and specifications as required shall be conformed to the required construction condition and re-issued by contractor, at the contractor's expense, as part of the complete reproducible set of conformed construction documents.

4.6 BID EXCEEDS BUDGET.

In the event that the lowest responsive responsible bid shall exceed the final construction cost estimate reviewed and agreed upon by Metro (the government estimate in Section 3.9) by more than ten (10) percent, contractor shall, at Metro's option and contractor's expense, redraw and revise the plans and specifications and re-bid the project, so that a responsive responsible bid within said project budget may be obtained.

4.7 PERMIT(S).

Contractor shall consult with Metro, the Oregon DEQ, the City of Portland, and any other bodies as necessary to obtain required permit(s). Contractor shall also prepare written and graphical explanatory materials and appear on Metro's behalf at the meetings relating to the required permit(s). Contractor shall submit completed applications for permits (not previously submitted pursuant to Sections 2.2.6 or 3.5) at Metro's direction. Contractor shall make concerted and good faith effort to assure that permit(s) are issued so as not to delay the commencement of construction. Such permit(s) will be paid for by Metro.

5. CONSTRUCTION MANAGEMENT (TASK 11)

The Construction Management phase shall implement the Construction Quality Assurance Plan from Section 2.2.4.

5.1 CONSTRUCTION MANAGEMENT PHASE COMMENCEMENT

5.1.1 Primary Construction Management Work

The primary Construction Management work will commence with the award of the construction contract and will terminate when final payment to the construction contractor is due, or in the absence of a final certificate of payment or of such due date, sixty (60) days after the date of substantial completion of the work.

~~5.1.2 Early Construction Management Work~~

~~The early construction management will commence during the 1990 construction season, following the June 18, 1990 delivery of technical specifications based on the early work. (Note: this is concurrent with the Design Development Services phase and prior to award of the construction contract.) It is anticipated that the construction management services shall be provided as needed during the 1990 construction season, and that the time commitment would be substantially less than in the following years. During this construction season only, rather than designating a single construction coordinator (as described in Section 5.2) Metro may choose to supply a number of representatives from the engineering section of the Solid Waste Department to perform its construction coordinator tasks. Metro's contact person, in lieu of a designated construction coordinator, shall be the project manager.~~

~~As indicated in Section 1.2.1, the 1990 construction work will be done by Browning Ferris Industries (BFI), the current operations contractor at St. Johns Landfill. This work includes: final grading of Subareas 1, 4, and 5, and the powerline corridor; gas well construction in Subarea 1 and the powerline corridor; abandonment and construction of groundwater monitoring wells; use of temporary sediment retention structures and good housekeeping methods during construction.~~

~~Cost submittals (for the early work with BFI only) will be reviewed by an outside evaluator hired by Metro. This does not lessen any of the construction management responsibilities of the contractor, as described below.~~

~~5.1.3~~ 5.1.2 Permit(s).

Contractor shall consult with Metro, the Oregon DEQ, the City of Portland, and any other bodies as necessary to obtain required permit(s). Contractor shall also prepare written and graphical explanatory materials and appear on Metro's behalf at the meetings relating to the required permit(s). Contractor shall submit completed applications for permits (not previously submitted pursuant to Sections 2.2.6, ~~3.6~~ 3.5, or 4.7) at Metro's direction. Contractor shall make concerted and good faith effort to assure that permit(s) are issued so as not to delay the commencement of construction. Such permit(s) will be paid for by Metro.

5.2 STAFF TO BE SUPPLIED BY CONTRACTOR

Contractor shall supply a construction manager and appropriate support staff who will work with Metro's construction coordinator to oversee construction of the project.

5.3 RESPONSIBILITIES OF THE CONSTRUCTION MANAGER.

Contractor shall perform the following construction-related services, all of which shall be carried out in conformance with the construction contracts entered into between Metro and the construction contractor(s) ~~(i.e., BFI in 1990 and the one to be selected for the 1991-1995 construction seasons, through the bid process described in Section 4):~~

5.3.1 Time Commitment

It is anticipated that the construction manager's time commitment to this project shall be 75% of their annual work time (i.e., full-time during the construction season) for the 1991 and 1992 construction seasons, and 50% of their annual work time (i.e., less than full-time during the construction season) during subsequent construction seasons. It is expected that the construction manager will be on-site as needed, or as directed by Metro.

5.3.2 Extent of Construction Manager's Duties and Responsibilities.

The extent of the duties, responsibilities, and limitations of authority of the construction manager as a representative of Metro during construction shall not be modified or extended without written consent of Metro.

5.3.3 Authority of Contractor's Construction Manager

Instructions by construction manager to the construction contractor shall be forwarded through Metro's construction coordinator, except as may be required in the event of an emergency. Construction manager shall have authority to act on behalf of Metro only to the extent provided in the contract documents, unless otherwise modified in writing by Metro.

5.3.4 Promptness of Contractor's Activities.

Construction manager shall review and become knowledgeable of the construction contractor's construction schedule as accepted by Metro. Construction manager's reviews, approvals, investigations, clarifications, interpretations, and all other activities needed shall be carried out in a prompt manner so as not to delay the project in any way, except if authorized in advance, in writing, by Metro.

5.3.5 Monthly Progress Report.

Prepare a monthly progress report.

5.3.6 Advise Metro of Problems.

The construction manager shall immediately advise Metro of problems, such as strikes, delays, and receipt of materials, etc., which may affect the construction schedule and recommend solutions where applicable.

5.3.7 Meetings and Discussions Resulting in Decisions or Actions.

Construction manager shall immediately inform Metro in writing of any meetings and discussions with the construction contractor or subcontractors that result in decisions or actions by the construction manager which affect the project.

5.3.8 Review of the Construction Contractor's Initial Costs

The construction manager shall review and provide written responses to the construction contractor's initial cost breakdown which will be used as the basis for the construction contractor's progress payments.

5.3.9 Shop Drawings and Construction Material Samples

Construction manager shall establish and implement procedures for expediting the processing, review, and acceptance of shop drawings and construction material samples.

5.3.10 Review of Construction Contractor's Requests

The construction manager shall carefully review the construction contractor's written requests for substitutions for specific products, materials, equipment, or systems, and other departures from the construction documents. The construction manager shall promptly complete the review within five (5) working days of receipt of documents. The construction manager shall provide to Metro's construction coordinator a written response on the subject request, with a recommendation for its disposition and the reasons therefore within the above-described time period. The construction coordinator or Metro will make a final decision and will, in writing, instruct the construction manager to inform the construction contractor(s).

5.3.11 Preparations of Drawings, Specifications, and Supporting Data

The construction manager shall prepare construction-ready drawings, details, specifications, procedures, plans, and supporting data and provide other services in connection with change orders to include technical analyses of the construction contractor's claims.

5.3.12 Review of the Testing and Inspection Reports

The construction manager shall review the testing and inspection reports of independent testing agencies and make written recommendations as the evaluation of the report data dictates. The contractor shall be responsible to hire any independent testing agencies required by the Construction Quality Assurance Plan, as described in Section 2.2.3.

5.3.13 Verification

The construction manager shall verify the construction contractor's statement of quantities of materials priced on a unit cost basis; reimbursable field costs of the construction contractor, if any, for authorized overtime and time and material work; and amount of construction "work in place" completed each month for the purpose of the construction contractor's application for payment.

5.3.14 Verification and Approval at the Time of Payment

At the time that the construction contractor applies for payment, the construction manager shall verify (with the observations of 5.3.13) and approve quantities of work put in place during the preceding month.

5.3.15 Up-to-Date Set of Drawings

The construction manager shall ensure that the construction contractor maintains an up-to-date set of drawings reflecting "as-built" conditions of the work at all times, as well as a complete set of operation and maintenance manuals.

5.3.16 Construction Safety Measures

The construction manager shall observe construction contractor's safety measures for protection of persons and property and notify Metro if there are apparent violations of state and federal regulations.

5.3.17 Changes in Applicable Codes and Regulations

The construction manager shall advise Metro of changes in applicable codes and regulations that have taken place after the construction permit(s) are issued as the construction manager becomes aware of them.

5.3.18 Conformance with Contract Documents

Construction manager shall at all times have access to the work. Construction manager shall prepare and submit to Metro a written report or daily log detailing observations at the project site to be included with the monthly progress report described in Section 5.3.5. Construction manager shall keep Metro informed of the progress and quality of the work and shall advise Metro if the work in general is not proceeding in conformance with the construction contract documents. Construction manager shall guard Metro against defects and deficiencies in the work of the construction contractor.

5.3.19 Interpretation of Contract Documents

Construction manager shall be the interpreter of the requirements of the construction contract documents as regards the compliance and workmanship in accordance with the design documents. Construction manager shall render interpretations necessary for the proper execution or progress of the work upon written request of Metro. Unless a longer period is agreed to by Metro, construction manager shall render written decisions within five (5) working days of receipt thereof on all claims, disputes, and other matters in question between Metro and the construction contractor relating to the compliance with design of the work or the interpretation of the contract documents.

5.3.20 Construction Manager's Review

In accordance with professional practice the construction manager shall review and note any exceptions or errors or take other appropriate action on the construction contractor's submittals - such as shop drawings, product data, samples, or other written or graphic material - for conformance with the design concept of the work. Such review shall include whether or not the construction contractor(s) has conformed with the project design concept and with the construction documents. Such action shall be taken by the construction manager and his/her consultants consistent with the scheduling and progress of the project, and within the priority assigned to the requirement for such information by the construction contractor. The construction manager's approval of a specific item shall not indicate approval of an assembly or system of which the item is a component. The construction manager's review will not relieve the construction contractor(s) of any of its obligations under the contract documents.

5.3.21 Certificates of Completion

The construction manager shall issue certificates of completion, attesting to the fact that the construction has been completed in accordance with plans and specifications, and in accordance with all applicable laws, regulations, ordinances, and requirements of government authorities and agencies having jurisdiction. The construction contractor shall submit construction certification reports in accordance with OAR 340-61-036, using the format developed in Section 2.2.10.

5.3.22 Non-conformance and Rejection of Work

The construction manager shall notify Metro in a timely manner of any work which is observed not to conform with the contract documents and, upon instruction from Metro, may reject such work on Metro's behalf.

5.3.23 Testing Criteria for Equipment and Systems and Review of Testing Reports.

The construction manager shall provide testing criteria for all equipment and systems and shall review testing reports and advise Metro whether the equipment and systems meet design criteria. If systems and equipment do not meet design criteria, construction manager shall advise of appropriate remedial action to be taken by the construction contractor(s).

5.3.24 Occurrence of the Date of Substantial Completion.

The construction manager shall review the work to determine the occurrence of the date of substantial completion of a portion of the work done by the construction contractor(s) and the date on which such portion is finally completed. The construction manager shall also determine the occurrence of the date of substantial completion of all portions of the work and the date of final completion of the work. The construction manager shall, based on his/her observations and investigation, compile a list of incomplete and unsatisfactory items to be forwarded to the construction contractor(s) and shall obtain from the construction contractor(s) a schedule for the completion of such items. The construction manager shall review all written warranties, "as-builts", operation and maintenance manuals, and related documents required by the contract, as assembled by the construction contractor(s).

5.3.25 Final Inspections

Additionally, at the time of substantial completion of each portion of the project, as well as during the project close-out, the construction manager shall have a fully authorized and knowledgeable representative on site as necessary to prepare punchlists and accomplish other final inspections as required.

5.4 SUPPORT STAFF (SPECIALTY INSPECTORS).

Support staff shall include specialty inspectors for each of the specific construction components (i.e. final grades, stormwater management, final cover, leachate control, gas control, etc.). The final cover specialty inspector must be highly experienced using geosynthetics.

5.4.1 Approval of Field Tests.

The specialty inspectors shall witness and approve field tests and equipment performance tests, and supervise the start-up and check-out of major and specialized systems. Summary reports shall be submitted to Metro's construction coordinator no later than five (5) working days following the inspection.

5.4.2 Final Inspections

The specialty inspectors shall prepare punchlists and accomplish other final inspections as required.

5.4.3 Walk-through Seminar Explaining Equipment and Systems

The contractor's specialty inspectors, in conjunction with the construction contractor's specified training sessions, will conduct a walk-through seminar of appropriate length and detail to explain to Metro personnel, and other personnel as designated by Metro, the specific operation of equipment and systems.

5.4.4 Landfill Gas Monitoring Wells (Probes)

The contractor's specialty inspectors will be responsible for inspecting the installation of a maximum of six landfill gas monitoring wells (probes) as described in Section 2.3.7(b)1(qg).

5.5 MEETINGS

5.5.1 Weekly Pre-construction Meetings.

Construction manager shall participate in weekly pre-construction and progress meetings at which Metro, construction manager, and the construction contractor(s) will discuss jointly such matters as procedure, progress, problems, and scheduling. Construction manager will prepare minutes of the weekly meetings.

5.5.2 Weekly Review Meetings.

Construction manager shall meet, advise, and consult with Metro, Metro's construction coordinator, and the construction contractor weekly during the construction season, and as needed, to review design compliance, work quality, and acceptability of the Construction contractor's performance and final product. Construction manager will prepare minutes of the weekly meetings.

5.5.3 Weekly Metro Meeting.

Construction manager shall assist in the administration of the construction contract as set forth in the General Conditions of the construction contract. Construction manager shall meet with and advise Metro weekly during the construction season, and as needed, to facilitate prompt, economical, and satisfactory completion of construction. Construction manager will prepare minutes of the weekly meetings.

5.6 COORDINATION

The contractor shall coordinate with local agencies and Metro as may be required, for the tie-in of new facilities.

5.7 OPERATIONS AND ACCESSIBILITY OF ST. JOHNS LANDFILL

St. Johns Landfill shall be kept operational and accessible during normal business hours.

5.8 O&M PLAN

Contractor shall annually update the O&M plan as described in Section 2.3.7.

6. POST-CONSTRUCTION (TASK 12)

6.1 "As Constructed" Record Drawings and/or Specifications

Based on information provided by the construction contractor(s), the construction manager shall provide Metro with reproducible full-size "as constructed" record drawings and/or specifications with required revision. The final record drawings and specifications shall be delivered to Metro within sixty (60) calendar days after receipt of all necessary written information.

6.2 Project Review

Contractor will provide project review for six months after closure is completed including at least three meetings with Metro.

7. REGULATORY CONTINGENCY (TASK 13)

If requested by Metro staff, the contractor shall perform additional work as required by the Oregon DEQ, Metro Council, or any other local, state, or federal regulations. The cost for this task shall not exceed \$100,000 over the life of this agreement.

Figure 1. REVIEW SCHEDULE SUMMARY

CD	ECC2 & CDOC vs BCR	
100%	RD	RD
90%	RD	RD, ECC2 vs ICR
75%	RD	RD, ECC2 vs ICR
50%	RD	RD, ECC1 vs PB
35%		
0%	COMPLETED BY SWEET-EDWARDS/EMCON, MAY & JULY 1989	

EARLY DESIGN WORK FOR 1990 CONSTRUCTION SEASON (GRADING PLAN) (50% due July 1, 1990, 100% due August 1, 1990)
 REMAINING DESIGN WORK (due October 1/November 15, 1990)

LEGEND

CD: CONSTRUCTION DOCUMENTS PHASE COMPLETION
 100%: 100% COMPLETION OF DESIGN
 90%: 90% COMPLETION OF DESIGN
 75%: 75% COMPLETION OF DESIGN
 50%: 50% COMPLETION OF DESIGN
 35%: CONCEPTUAL DESIGN BY SWEET-EDWARDS/EMCON, INC. (APPROXIMATELY 35% COMPLETION OF DESIGN)
 0%: NO DESIGN
 RD: REVIEW OF DESIGN PROCESS WITH METRO (INCLUDING CONSTRUCTION PLAN, TIME SCHEDULE AND COST ESTIMATES)
 IR: INDEPENDENT REVIEW (OF TECHNICAL SPECIFICATIONS)
 ICR: INDEPENDENT COST REVIEW
 ECC1: CONTRACTOR'S ESTIMATED COST OF CONSTRUCTION (INCLUDES DESIGN FOR 1990 CONSTRUCTION WORK)
 ECC2: CONTRACTOR'S ESTIMATED COST OF CONSTRUCTION (DOES NOT INCLUDE DESIGN FOR 1990 CONSTRUCTION WORK)
 CDOC: CONSTRUCTION DOCUMENTS
 PB: PROJECT BUDGET
 BCR: BIDDABILITY CONSTRUCTABILITY REVIEW

Figure 2. SUMMARY SCHEDULE

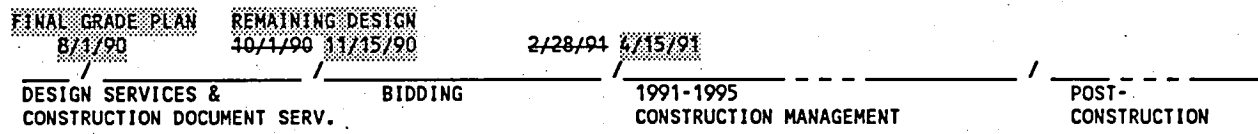


EXHIBIT A
Compensation to Contractor

A. Contractor shall be paid by Metro for work and services defined in the Scope of Work of this Agreement as provided hereinafter. Such payment shall be full compensation for work performed and services rendered and for all labor, materials, supplies, equipment and incidentals necessary to perform the work.

B. Total Cost

The total cost of the services provided under this Agreement during all phases shall not exceed \$ 2,301,692.

C. Contractor's Compensation

Contractor's Lump Sum Fees shall include all work performed by Contractor to fulfill his/her responsibilities, as set forth in this Agreement except for the Regulatory Contingency as described below. Compensation per phase, as listed below, shall not exceed the following amounts:

\$ <u>622,744</u>	for completion of Design Development phase
\$ <u>43,118</u>	for completion of Construction Documents phase
\$ <u>33,775</u>	for completion of Bidding phase
\$ <u>1,404,254</u>	for completion of Construction Management phase
\$ <u>53,801</u>	for completion of Post-Construction phase

Metro agrees to pay contractor the regulatory contingency in the maximum sum of \$ 144,000 for services performed and materials delivered. Drilling costs associated with construction of the landfill's interior leachate monitoring wells shall be included in the Regulatory Contingency and shall be billed to Metro based on \$88/completed foot and \$68/uncompleted foot.

\$100,000-144,000 maximum for Regulatory Contingency

Manner and Time of Payment

1. On the 20th day of each month, Contractor may invoice Metro, using the attached invoice form, for the percentage of completion mutually agreed upon by Contractor and the Solid Waste Engineering and Analysis Manager. Each invoice shall be supported by a general description of work progress or such other evidence of Contractor's right to payment as Metro may direct.

Each invoice shall be approved in writing by the Solid Waste Engineering and Analysis Manager prior to payment. In the event the Solid Waste Engineering and Analysis Manager does not agree upon the invoice, he/she shall approve that

portion of the invoice on which he/she does agree and shall submit in writing his/her objections to Contractor on the unapproved portion within seven (7) days of the date of the invoice. Contractor shall be paid for the unapproved portion if no written objection is provided as required herein. If written objections are provided, Contractor shall attempt to resolve such objections with the Solid Waste Engineering and Analysis Manager within five (5) working days and if there is not resolution, such objections shall be referred to the Executive Officer for final resolution. Said portion of the invoice shall not be paid until approved by the Metro Executive Officer.

2. Metro shall pay Contractor the amount of all approved invoices within thirty (30) days after receipt of same.
3. Contractor shall notify Metro in writing when all services are completed and all terms of this Agreement are satisfied by Contractor. If Metro agrees, it shall acknowledge in writing within five (5) working days that the services are accepted. If Metro disagrees, it shall so notify Contractor in writing within five (5) working days and advise of alleged deficiencies. Thereupon, Contractor shall take or cause a subcontractor to take corrective measures, upon the conclusion of which Metro shall then issue its acceptance of the services.
4. The Contractor shall certify the accuracy of its own and all subconsultants' invoices.
5. Metro reserves and shall have the right to terminate any and all of the services set forth in this Agreement as provided in Article VII, B. Termination.
6. Contractor agrees to accept payments by Metro in full and complete satisfaction for all services rendered under the terms of this Agreement.

INVOICE FOR DESIGN SERVICES

TO: Jim Watkins , Engineering & Analysis Mgr. FROM:
Metro Solid Waste
2000 S.W. First
Portland, OR 97201

Contractor's Invoice No. _____ Project _____

Invoice Date _____ Billing Period From _____ to _____

DESCRIPTION OF CHARGES - THIS INVOICE

<u>Description</u>	<u>Fee</u>
Total Due This Invoice	\$ _____

NOTE: Fees for the Regulatory Contingency (Section 7 in the attached Scope of Work) should be invoiced separately.

Fees for services or reimbursable expenses not covered under this project contract should be invoiced separately. Attach to this invoice copies of receipts and vouchers for reimbursable expenses related to the project contract.

INVOICE FOR DESIGN/CONSTRUCTION MANAGEMENT SERVICES

Engineer's Invoice No. _____ Project: St. Johns Landfill Closure
Final Design & Construction Mngmt.

Contract Service	Percentage of Completion	Current Contract Sum	Less Amount Invoiced to Date Including This Invoice	Equals Current Contract Balance
<u>Design Development</u>				
<u>Construction Documents</u>				
<u>Bidding</u>				
<u>Construction Management</u>				
<u>Post-construction</u>				
<u>Regulatory Contingency</u>	N/A			
Totals				

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 90-1266 FOR THE
PURPOSE OF APPROVING A CONTRACT WITH PARAMETRIX, INC.
FOR ENGINEERING SERVICES RELATED TO THE CLOSURE OF THE
ST. JOHNS LANDFILL

Date: May 2, 1990

Presented by: Bob Martin
Dennis O'Neil

PROPOSED ACTION

Pass Resolution No. 90-1266 approving a contract with Parametrix, Inc. for design engineering and construction management services related to the closure of St. Johns Landfill.

FACTUAL BACKGROUND AND ANALYSIS

This contract retains the services of an engineering consultant to prepare final plans and specifications suitable for construction during the 1990-95 construction period and also be responsible to ensure the construction quality of closure improvements during that period. Therefore, services under the contract will extend into 1996.

After the Metro Council approved the Request for Proposal document (RFP), the RFP was issued on February 23, 1990 to a list of 63 interested parties. On March 12, Metro staff issued a technical addendum which did not materially alter the RFP. Parametrix, Inc. and Sweet-Edwards/EMCON, Inc. submitted proposals with costs of \$2,260,343 and \$3,739,000 respectively on March 20, 1990.

The proposal by Parametrix, Inc. met the DBE/WBE goals of 7% and 5% respectively. The Sweet/Edwards/EMCON, Inc. proposal stated that it met the Disadvantaged Business Enterprise (DBE) and Women Owned Enterprise (WBE) goals of 7% and 5% respectively. However, two of the DBE's were not Oregon certified prior to proposal submission as required by Metro Code 2.04.140 (B).

A technical committee was formed to evaluate and score the two proposals according to the criteria (project work plan/approach - 30 points maximum, project staffing experience - 35 points maximum, cost - 35 points maximum) stated in the RFP. The committee consisted of four Solid Waste Department staff members, the Metro Construction Projects Manager, a Department of Environmental Quality Solid Waste staff member, and a staff member from the City of Portland Bureau of Environmental Services. Six of the seven committee members were engineers.

The committee faced a situation in which the two proposals had a \$1.48 million difference in cost. Of this difference \$1.28 million was for different levels or philosophies for construction management services to be provided during construction of the closure improvements.

The committee members concentrated on the differences in construction management philosophies proposed by the two vendors. Sweet-Edwards/EMCON, Inc. proposed the traditional construction management philosophy in which the designer performs construction quality control. Parametrix, Inc. proposed a Quality Assurance/Quality Control (QA/QC) program, where the designer provided construction quality assurance and the construction contractor provides the quality control. In essence Parametrix, Inc. would provide spot checks on a statistical sampling basis to verify the construction contractor's quality control.

The evaluation committee met two times to score the proposals. For project work plan/approach Sweet-Edward/EMCON, Inc. received scores ranging from 26 to 28 points while Parametrix, Inc. received scores ranging from 19 to 26 points of 35 maximum points. For project staffing experience Sweet-Edward/EMCON, Inc. received 30 points and Parametrix, Inc. received individual scores ranging from 24 to 30 points of 30 maximum points.

Regarding costs the committee noted that the Sweet-Edwards/EMCON, Inc. proposal presented costs based on almost twice as many hours for construction inspectors and testing technicians as the Parametrix, Inc. proposal due to the differences in construction management philosophy. Both methods were considered acceptable and it was noted that Parametrix, Inc. QA/QC proposal was similar to the construction management program currently issued on the convention center project. After discussion the committee decided to score the proposers costs based on actual contract amounts and evaluating potential risk to Metro.

	PARAMETRIX	SWEET-EDWARDS/EMCON
COST PROPOSAL	34	23.7
WORK PLAN	22	27
EXPERIENCE	<u>27</u>	<u>30</u>
TOTAL	83	80.7

Metro staff then began negotiations with Parametrix, Inc. based on a work scope modified slightly to include more detailed specifications recently required by the Department of Environmental Quality. Staff added an additional task to drill five interior wells to comply with recent requirements from the Department of Environmental Quality. The additional cost for this task added two percent to the contract maximum sum proposed by Parametrix, Inc.

Metro Council approval of this contract will allow Parametrix, Inc., to begin as early as May 25, 1990 and try to drill wells, estimate settlement, and prepare a grading plan needed by our Operations Contractor, BFI, when it has to begin to refill a part of the landfill in early July.

BUDGET IMPACTS

\$350,000 is budgeted for these services during fiscal year 1989-90. \$1,060,000 is budgeted for these services during fiscal year 1990-91. It is not expected that these amounts will be exceeded during FY1989-91.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 90-1266.

DMO:ae
STAF0502.RPT
May 3, 1990

Agenda Item No. 6.5
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1225A

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 90-1225A, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE REQUIREMENT OF COMPETITIVE BIDDING, AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS AND EXECUTION OF A CONTRACT FOR THE SECOND COMPACTOR SYSTEM AT METRO SOUTH STATION

Date: May 15, 1990

Presented by: Councilor
Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 4 to 0 to recommend Council adoption of Resolution No. 90-1225A.

Voting: Councilors Hansen, Bauer, Buchanan and DeJardin.

Absent: Councilor Wyers. This action was taken May 14, 1990.

Committee Discussion/Issues: The staff report was presented by Chuck Geyer of the Solid Waste staff. The Solid Waste Department recommends the use of a Request for Proposals (RFP) process to procure a second compaction system for the Metro South Station. A second system is required since failure of the existing system would close the facility.

The proposed RFP process was used for the existing compaction system. Compactors proposed for the first system varied in both capability and operational experience. The evaluation criteria proposed for the second compaction system has been changed to increase the emphasis on cost and has added criteria to evaluate the compatibility of a compaction system with the proposed modifications and method of transport.

The Committee held a public hearing on May 14, 1990. Mr. Doug DeVries of Jack Gray Transport, Inc. expressed concern that the use of a multi-bale or two-bale compaction system would create excessive wear and cause possible damage to their trailers.

Mr. Dan Saltzman of Shredding Systems, Inc. requested guidance regarding the proposal evaluation criteria, i.e., what each criterion means and how it will be applied.

Mr. Karl Wynens of AMFAB testified that a two-bale compaction system will cause damage to transport trailers. He stated that an AMFAB system will cost less to operate.

Trans Industries representative Jim Shoemake stated that they have decided to use both AMFAB and other compaction equipment at the Metro East Transfer Station. He recommended that the Council allow other companies besides AMFAB to compete.

Staff pointed out that Metro specified a single bale system in the Waste Transport Services contract. Nevertheless, multiple bale systems may be proposed in response to this RFP. Metro will, however, evaluate the long-term liability risk exposure, with regard to trailer damage, of all proposed systems. The

SOLID WASTE COMMITTEE REPORT
Resolution No. 90-1255A
May 15, 1990
Page 2

analysis shall assess the potential liability to Metro in addition to any measures (such as indemnification, insurance, etc.) proposed by the vendor to mitigate such risk.

The Committee asked the following questions:

1. Which system will likely cost the least? Staff said the two-bale system.
2. Is there a two-bale system in operation that would indicate the impact on trailers? Staff said there was not.
3. Will there be a pre-bid conference? Staff said there would be.

The Committee asked staff to report back to the Committee the results of the pre-bid conference.

The major issue discussed by the Committee was the potential damage to solid waste transport trailers.

The Committee stressed that they wanted to see a spirit of cooperation and sharing of information between Metro, Jack Gray Transport, Inc., Trans Industries, AMFAB and Shredding Systems, Inc.. Because there will be compaction systems at Metro East and in Washington County, it is important that the right decisions are made now.

The resolution proposed by staff authorizes execution by the Executive Officer of a contract for the compaction system with the highest-ranked proposer in order to speed up the procurement process. The Committee, however, amended the resolution to require this item come back to the Solid Waste Committee after the proposals are evaluated.

GH:RRB:pa

RRB:186

Council
5/24/90
Item # 6.5

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN	)	RESOLUTION NO. 90-1225B
EXEMPTION TO THE REQUIREMENT OF)	
COMPETITIVE BIDDING AND AUTHORIZING	)	Introduced by Rena Cusma,
ISSUANCE OF A REQUEST FOR PROPOSALS	)	Executive Officer
FOR THE SECOND COMPACTION SYSTEM AT)	
METRO SOUTH STATION)	

WHEREAS, Operation of the Metro South Station requires use of a compaction system; and

WHEREAS, One compaction system has been acquired for and is in operation at the Metro South Station; and

WHEREAS, A second compaction system is needed for operational efficiency and to provide a back-up system in the event of a breakdown of the primary compaction system; and

WHEREAS, ORS 279.015 authorizes the exemption of certain contracts from the competitive bidding requirement; and

WHEREAS, Metro Code Section 2.04.010, as amended, requires an exemption for contracts obtained through a Request For Proposals (RFP) process; and

WHEREAS, Metro Code Section 2.04.041(c) authorizes, where appropriate, the use of alternative contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods which are consistent with the public policy of encouraging competition; and

WHEREAS, The RFP solicitation process described in the Staff Report is in accordance with Metro Code 2.04.041(c) such that the compaction system will be selected on the basis of the most

competitive offer considering quality and cost where the term "cost" refers to costs related to quality as well as the product price; and

WHEREAS, Pursuant to Code Section 2.04.033(a)(1) Council approval is required because the contract commits the District to expend sums from next fiscal year's budget; and

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

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District finds that:

- a) It is unlikely that exempting the solicitation of a compacting system for the Metro South Station will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
- b) The contract, if awarded pursuant to the exemption, will result in substantial cost savings to the Metropolitan Service District.

2. That based on these findings, the Council of the Metropolitan Service District directs that the contract (Exhibit A) for the procurement of the second compaction system at the Metro South Station be exempted from the competitive bid process and that staff is authorized to use a Request For Proposals solicitation process.

ADOPTED by the Council of the Metropolitan Service District
this ____ day of _____ , 1990.

Tanya Collier, Presiding Officer

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May 14, 1990
CG:cg

STAFF REPORT

Agenda Item No. _____

Meeting Date _____

CONSIDERATION OF RESOLUTION NO. 90-1225A FOR THE
PURPOSE OF AUTHORIZING AN EXEMPTION TO THE REQUIREMENT
OF COMPETITIVE BIDDING, AUTHORIZING ISSUANCE OF A
REQUEST FOR PROPOSALS AND EXECUTION OF A CONTRACT FOR
THE SECOND COMPACTION SYSTEM AT METRO SOUTH STATION

Date: May 3, 1990

Presented by: Bob Martin
Jim Watkins

FACTUAL BACKGROUND AND ANALYSIS

For the reasons summarized below, the Solid Waste Department wishes to use a request for proposals (RFP) solicitation process to procure a second compaction system for the Metro South Station, and to authorize the Executive Officer to enter in a contract with the highest ranked proposer.

On January 1, 1990, Metro began transporting waste from the Metro South Station to the Oregon Waste Systems' Columbia Ridge Landfill, approximately 150 miles away. To achieve maximum payloads and be more cost-effective, waste to be landfilled is first compacted at the Metro South Station, then loaded into containers and transported to Gilliam County. Compaction is achieved through the use of a compactor, acquired during phase one of the compaction project described in the staff report of April 11, 1989. This compaction system was installed in November of 1989.

Phase two of the compaction project calls for the installation of a second compaction system at the Metro South Station. A second system is required since failure of the existing system would close the facility. The second system will be located at the northeast end of the facility which will be modified to accommodate the system during the Summer of 1990.

During acquisition of the first compaction system, Metro utilized a request for proposal process rather than a bid process due to concern over the reliability of the system. Staff again wishes to utilize the proposal process for acquisition of the second system, based on the fact that systems proposed during phase one varied in both capability and operational experience. The evaluation criteria proposed in the phase two RFP has been changed to increase emphasis on the compatibility of a compaction system with the proposed modifications and method of transport.

Resolution No. 90-1225A replaces Resolution No. 90-1225 submitted to the Council Solid Waste Committee on March 12, 1990. Resolution No. 90-1225A differs from Resolution No. 90-1225 in that the attached RFP (Exhibit A) has an additional evaluation criterion entitled "Long-term Liability Risk Assessment." This change has been made in response to concerns raised by the transport contractor regarding the potential for increased trailer damage caused by multiple bale system.

The Metro Code requires use of the bid process for the procurement of goods and services, unless an exemption is granted. Resolution No. 90-1225A exempts the procurement of the Metro South Station compaction system from the competitive bidding requirement.

The Resolution also requests authorization for the Executive Officer to enter into a contract with the highest ranked proposer. This request is made for two reasons. First, as stated above, the Metro South Station currently relies on a single compaction system. Any extended failure of this system will result in closure of the facility. Therefore, it is imperative that Metro acquire a backup system as soon as the facility has been modified to receive the system. Secondly, the current demand for compaction systems is likely to increase the lead time for acquisition of the second system. Waiver of the requirement of Council approval of the contract provides the flexibility to coordinate acquisition and installation of the system with facility modifications and provide the lead time desired to ensure multiple proposals. Attachment #1 illustrates the impact of the waiver on the project schedule.

BUDGET IMPACTS

Adequate funds exist in the FY 1989-90 budget for initial payments. \$700,000 will be budgeted in FY 1990-91.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution 90-1225A which authorizes the issuance of an RFP for solicitation of a compaction system at the Metro South Station, and execution of the resulting contract.

Attachment #1

**SECOND COMPACTOR ACQUISITION SCHEDULE
for Metro South Station**

<u>Task</u>	<u>Date</u>
1. CSWC approval to release RFP	May 14, 1990
2. Council approval to release RFP	May 24, 1990
3. Release second compact RFP	May 25, 1990
4. Proposals received	June 15, 1990
5. Evaluation Complete	June 22, 1990
6. Negotiate final contract/award	June 29, 1990
7. Compactor fabrication completed	October 27, 1990
8. Begin installation at Metro South'	October 29, 1990
 Changes to the above schedule if Council approval is required	
6. Negotiate contract/recommend award	June 29, 1990
7. CSWC recommends final contract award	July 17, 1990
8. Council awards compactor contract	July 26, 1990
9. Compactor fabrication completed	November 23, 1990
10. Begin installation at Metro South	November 26, 1990

'The current construction schedule for modifications project's completion of compactor bay during the first half of September.

BEFORE THE CONTRACT REVIEW BOARD OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN	)	RESOLUTION NO. 90-1225A
EXEMPTION TO THE REQUIREMENT OF)	
COMPETITIVE BIDDING AND AUTHORIZING	)	Introduced by Rena Cusma,
ISSUANCE OF A REQUEST FOR PROPOSALS	)	Executive Officer
FOR THE SECOND COMPACTION SYSTEM AT)	
METRO SOUTH STATION)	

WHEREAS, Operation of the Metro South Station requires use of a compaction system; and

WHEREAS, One compaction system has been acquired for and is in operation at the Metro South Station; and

WHEREAS, A second compaction system is needed for operational efficiency and to provide a back-up system in the event of a breakdown of the primary compaction system; and

WHEREAS, ORS 279.015 authorizes the exemption of certain contracts from the competitive bidding requirement; and

WHEREAS, Metro Code Section 2.04.010, as amended, requires an exemption for contracts obtained through a Request For Proposals (RFP) process; and

WHEREAS, Metro Code Section 2.04.041(c) authorizes, where appropriate, the use of alternative contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods which are consistent with the public policy of encouraging competition; and

WHEREAS, The RFP solicitation process described in the Staff Report is in accordance with Metro Code 2.04.041(c) such that the compaction system will be selected on the basis of the most

competitive offer considering quality and cost where the term "cost" refers to costs related to quality as well as the product price; and

WHEREAS, Pursuant to Code Section 2.04.033(a)(1) Council approval is required because the contract commits the District to expend sums from next fiscal year's budget; and

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

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District finds that:

- a) It is unlikely that exempting the solicitation of a compacting system for the Metro South Station will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and
- b) The contract, if awarded pursuant to the exemption, will result in substantial cost savings to the Metropolitan Service District.

2. That based on these findings, the Council of the Metropolitan Service District directs that the contract (Exhibit A) for the procurement of the second compaction system at the Metro South Station be exempted from the competitive bid process and that staff is authorized to use a Request For Proposals solicitation process.

ADOPTED by the Council of the Metropolitan Service District
this ____ day of _____ , 1990.

Tanya Collier, Presiding Officer

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May 14, 1990
CG:cg

Exhibit A

**METRO SOUTH STATION COMPACTION SYSTEM
REQUEST FOR PROPOSAL**

May 1990

**METRO SOUTH STATION COMPACTION SYSTEM
REQUEST FOR PROPOSAL**

The Solid Waste Department of the Metropolitan Service District is requesting proposals for design, manufacture, installation and warranty of a compaction system at the Metro South Station. Proposals will be due at 4:00 p.m. PDT, Friday, June 15, 1990 in Metro's Solid Waste Department, 3rd floor, 2000 S. W. First Avenue, Portland, OR 97201 to the attention of Chuck Geyer. Proposals will not be considered if received after this time. Details concerning the project are contained in this document.

This Request For Proposals (RFP) represents the most definitive statement Metro will make concerning information upon which proposals are to be based. Any verbal information which is not contained in this RFP will not be considered by Metro in evaluating the proposal. All questions or comments relating to the RFP, or the project must be submitted in writing to Chuck Geyer at the address above. Any questions which in the opinion of Metro warrant a written reply or RFP amendment will be furnished to all parties receiving a copy of this RFP. Metro will not respond to questions received after 5:00 p.m., PDT, June 8, 1990.

Proposals must identify a single person as project manager to work with Metro. The successful Contractor must assure responsibility for any subcontractor work and shall be responsible for the day-to-day direction and internal management of the project. The prime contractor shall have, or be capable of obtaining insurance in the amount and of the type as specified herein. Metro shall be named as an additional insured.

The successful Proposer shall execute and deliver to Metro a Performance Bond and a Labor and Materials Bond, on a form acceptable to Metro. The Performance and Labor and Materials Bonds shall each be in the amount of 100% of the amount of the Contract, and shall be delivered to Metro with three copies of the signed Contract within 10 days of Notice of Conditional Award.

The Surety furnishing these Bonds shall have a rating of at least "A" and be of the appropriate class for the relevant bond amount according to Best's Key Rating System and shall otherwise have a sound financial standing and a record of service satisfactory to Metro and shall be authorized to do business in the state of Oregon. The Attorney-in-Fact (Resident Agent) who executes these Bonds on behalf of the Surety must attach a notarized copy of his/her Power of Attorney as evidence of his/her authority to bind the Surety on the date of execution of each Bond. The successful Contractor may substitute cash, a cashier's check or certified check in lieu of bonds.

DISADVANTAGED BUSINESS PROGRAM

Metro's Disadvantaged Business Program contains subcontracting goals for Disadvantaged Business Enterprise (DBE) and Women-Owned Business Enterprise (WBE) participation in that portion of the work which is subcontracted. A subcontractor is any person (who is not an employee of the prime) or firm proposed to work for the prime contractor on this project. The successful Proposer will be required to meet Metro's Disadvantaged Business Program goals or clearly demonstrate that good faith efforts, per Metro Code Chapter 2.04., have been made to meet the goals. The goals for this Contract are: Disadvantaged Business Enterprises (DBEs) -- seven (7) percent, and Women-Owned Business Enterprises (WBEs) -- five (5) percent of total contract amount. Metro does not wish any DBE/WBE subcontractor be placed under exclusive contract prior to contract award.

Typical actions which constitute good faith efforts are set forth in Metro's Disadvantaged Business Program. Relevant sections of the Metro Code concerning the Disadvantaged Business Program are attached and by this reference incorporated herein. Special attention is called to sections 2.04.155, 2.04.160, and 2.04.175.

A directory of certified DBE/WBE firms is issued by the State of Oregon Executive Department, 155 Cottage St., N.E., Salem, OR 97310, (503) 378-5651. Copies of the directory are available for inspection at Metro. Contact Amha Hazen, Contracts Specialist, for more information concerning this requirement (503-221-1646).

BACKGROUND

"Metro" is the Metropolitan Service District, organized and existing under the laws of the state of Oregon, formed as a governing body consisting of 12 directly elected Councilors and a directly elected Executive Officer. It is responsible for the disposal of solid waste in the metropolitan Portland area.

Metro owns the Metro South Station located at 2001 Washington St. in Oregon City, Oregon, and contracts its operation. The facility includes a push pit where both public and commercial waste is dumped.

On January 1, 1990, Metro began transporting waste from the Metro South Station to the Gilliam Co. Landfill, a distance of approximately 150 miles. To achieve maximum payloads and be more cost-effective, waste to be landfilled is first compacted at the transfer station and then loaded into transport vehicles for shipment to Gilliam Co., Oregon.

Metro is currently modifying the facility to accommodate both the compaction system solicited herein, as well as relocation of the facility's current Amfab Transpak 500 compaction system.

Detailed drawings of these modifications are available as part of this RFP.

SCOPE OF WORK

1.0 GENERAL. Metro is seeking proposals from qualified firms to perform the following services and to deliver the products described. The work consists of the design, manufacture, installation, shakedown, and warranty for a compaction system for the Metro South Station. The system will be located at the Northeast end of the pit floor, and be compatible with the proposed design (see drawings for more detail), proposed method of operation (i.e. a pit-type operation with conveyor loading system) and current mode of waste transport. The work included under this RFP is seen by Metro as occurring in the following parts.

1.1 Technical Specifications. Contractor will be responsible for the design and manufacture of the compaction system. The system shall consist of a programmable compactor, an associated loading hopper system to receive waste from a conveyor that bridges the two compactor loading chambers, trailer securing device and a system to transmit the weight and corresponding length of a load to a computer located in the compactor control room. The compaction system shall meet or exceed the following specifications:

- A. Capable of being loaded by a conveyor which will be located at the Northeast end of the current pit, as well as direct loading by the CAT/loader in the event of conveyor failure;
- B. Compact and load into transfer vehicles 100 tons per hour (1200 tons per day in a 12 hour period);
- C. Achieve a road legal average payload of 30 tons, and a maximum payload of 32 tons in the transfer vehicles, without damaging the transfer vehicles;
- D. Produce a load (of either one or more bales) which is compatible with designated transport equipment (see drawing in appendix), and place it inside the transfer vehicle such that no compaction (such as sidewall/ceiling or front and rear wall damage) will occur within trailers, and such that overloading will not occur. Contractor will be responsible for costs incurred due to improper loading or overloading and damage until final acceptance by Metro;
- E. Ability to extrude the load any distance in the range of zero to seven feet into the trailer.

- F. Payloads shall be achieved using waste received at the facility and the transfer vehicles currently under contract with Metro. Proposers are responsible for determining the pertinent waste and transfer vehicle characteristics (additional information is provided in the Appendix);
- G. Compactor should have the ability to automatically compact waste to maximum payloads (at least 30 tons) through a programmable series of compaction and clear strokes which occur as waste is loaded into the system, as well as determining/displaying and executing the optimum extrusion distance into the trailer. When in the automatic mode, optimum extrusion distance should be the limit during extrusion. The automatic pattern should be programmable (i.e. capable of achieving maximum payloads by varying densities within a load in combination with extrusion distance through software modifications).

Proposers shall include in their proposals a per hour cost for reprogramming of the automatic pattern after successful completion of acceptance testing. Contractor is responsible for programming costs necessary to complete acceptance testing, and shall include such costs in the total proposal costs.

In addition, the compactor should have the ability to vary the compaction/clear stroke pattern and pressure of compaction strokes in the manual mode from the 3 control points described in item H. Extrusion distance should be able to be varied from control room and dozer ramp control points, with extrusion displays which monitor distance during extrusion.

- H. Capable of operation by the CAT operator in the pit as well as by an operator located in the compactor control room, with an additional control panel located under the dozer ramp indicated on the drawings.
- I. Provide visual display of length and weight of bale during compaction at all three control points. A display board(s) visible to the CAT operator is required as one of the three visual displays. Transmission of weight and length data to computer system located in control room. Weight data should include separate information for front and rear load cells, as well as

transmission of a total net weight for each load. If multiple bales are produced, individual bale information must be transmitted as above, as well as a total net weight for the combined bales.

Metro will provide an IBM compatible PC and software for conversion of the data for manifesting and data storage purposes (software/hardware specifications are contained in the Appendix).

- J. Front and rear load cells which produce weights certifiable by the State of Oregon as legal for trade (level of accuracy plus or minus 0.1%) and NTEP approved.
- K. A hydraulic hitch which connects directly from the compactor to the transfer vehicle, capable of operation from the control panel located under the dozer ramp. The hitch shall be secured directly to the compactor, and be compatible with the transfer vehicle.
- L. Accept the wide variety of material contained in the waste stream delivered to the facility, while minimizing jamming or breakdown. Proposer should indicate materials requiring special treatment.
- M. Minimize dust, odor, litter/spillage through the loading design;
- N. Conform with all applicable federal, state and local laws.
- O. Capable of being installed and operated as per the above specifications, in the space and in the general configuration as shown in the drawings.

2.0 Installation. Contractor is responsible for the installation of the system and all associated costs. Contractor shall obtain from Metro a Notice to Proceed prior to installation of the system. Contractor shall not be entitled to any reimbursement for standby costs incurred between the completion of manufacture and Metro's issuance of the Notice to Proceed with installation. The installation must be accomplished to minimize disruptions to the facility operations. Ideally the installation should be accomplished during a weekend. Installation shall not exceed 5 calendar days. Installation is complete once the system has successfully prepared at least one load. Contractor is responsible for obtaining necessary permits/regulatory approvals, and for specifying interface

requirements with Metro or Metro Contractor's such as the manifest system contractor.

Installation must be completed within 120 calendar days after signing of a contract. Metro reserves the right to withhold payments (as well as other remedies as determined in the final contract) for failure to complete the work in a timely manner. Metro reserves the right to extend the time limits stated above, and will do so if Metro determines such an extension is in Metro's best interest and/or an extension is required due to a delay caused by Metro.

- 3.0 Shakedown. After installation, the Contractor shall conduct a shakedown of the system. Shakedown procedures shall be presented to Metro for approval, prior to the start of shakedown. Shakedown procedures shall include, but not be limited to, scheduling and testing procedures for interfacing with the onsite computer manifesting and data storage procedures. The shakedown period is the Contractor's opportunity to test the system and correct any deficiencies found, prior to performance of the acceptance test. The Contractor shall be responsible for operation of the system during this period, and shall minimize interference in the daily operations. The transfer station operator will be responsible for loading waste into the system under the Contractor's direction with approval from Metro. The transport contractor will be responsible for providing transport vehicles for receiving loads under the Contractor's direction with approval from Metro. Contractor shall pay for any extraordinary costs incurred by the transfer station operator or transport contractor incurred due to the shakedown period. Contractor shall be responsible for all maintenance and repairs during this period.

4.0 Acceptance Testing

Contractor shall indicate in writing to Metro that the shakedown is complete and that the system is ready for acceptance testing. All permanent system components must be in place before requesting the acceptance test, including successful shakedown of the computerized manifesting/data retrieval system. Any exceptions to this requirement are contingent upon the prior approval of Metro. Metro shall conduct the acceptance test of the system to determine whether it meets the specifications contained herein. Contractor shall be responsible for providing the equipment operators for the test, with the exception of the CAT/loader operator and shuttle drivers. It is the responsibility of the Contractor to provide adequate training to the CAT/loader operator and shuttle drivers. Metro reserves the right to determine the specific date and time of the test in order to ensure sufficient waste, equipment and personnel.

Specifically, the test parameters for acceptance are as follows:

- A. Compact and load into transfer vehicles an average of 100 tons per hour over a continuous 6 hour period. Metro shall ensure that a transfer trailer is in position to receive a load once ready for extrusion. Any delay in the provision of a trailer shall act as an extension of the six hour time period.
- B. The average payload during this period shall be 30 tons.
- C. Overloads shall not be counted for either item A or B, nor will an extension of time be granted to compensate for overloads. Both A and B shall be determined at the onsite scale.
- D. The bail must maintain its integrity and not abrade or bulge against the sides or the top of the trailer during or after extrusion into the trailer, without excessive sloughing out the rear of the trailer. Compliance with this standard will be determined by a visual inspection by the onsite Metro representative.
- E. Achieve the parameters in items A through D while producing road legal weights for the transfer vehicle.
- F. Metro shall conduct a visual inspection of the system prior to, and at the conclusion of the testing with the Contractor, noting any obvious leaks, equipment failure/damage or abnormal wear and tear, as determined at the sole discretion of Metro. Contractor shall repair such leaks, damage or wear as a precondition to both the acceptance test and final payment if test parameters in items A through E are successfully accomplished. If Metro concludes that such leaks, equipment failure/damage or wear are of a reoccurring nature, Metro, in its sole discretion, may declare that the system has failed the acceptance test.

In the event that Metro declares that the equipment has failed to pass the acceptance test, Contractor shall remove the compaction system within 7 calendar days of notification of such failure, and refund to Metro all payments made to date, less reasonable costs for installation and removal, and facility modification costs if applicable. Only these costs (installation/removal/modification) shall qualify for purposes of payments by Metro to Contractor under Article V

of the Contract. Metro reserves the right to allow the Contractor to retake the acceptance test at a later date, or to waive any minor irregularity which occurs during the test. Metro will not unreasonably deny the Contractor's request for a second acceptance test. Metro also reserves the right, in its sole discretion, to exercise the remedies set forth in Article 13 of the Contract.

- 5.0 Demonstrated reliability. The proposer shall describe the reliability of the compaction method proposed. To establish reliability, the proposer shall indicate the number of hours of operation and downtime. The quantity of waste being received at the reference site should be comparable to the situation at the Metro South Station (approximately 250,000 tons per year). Proposers should supply a contact name, phone number and address for each reference site. Metro will verify the information submitted, and evaluate this criteria as it relates to the technical specifications contained herein.

- 6.0 General Warranty. Proposers shall propose a warranty for all major components, and a general warranty for the system. Proposers shall list those parts which cannot be obtained within 8 hours and shall propose inventory costs for these items. Evaluation of the proposed warranty will be based on consideration of the following factors, and/or additional factors proposed:

- warranty of nonconsumables vs consumables (wear items)
- length
- parts and/or labor
- onsite response time/shipment requirements
- Contractor manufactured parts vs third party
- provision of maintenance as part of the warranty
- assessment of liquidated damages/partial refund for failure to achieve maximum payloads and/or delay of transfer station and transport contractors due to equipment malfunction
- compliance with warranty conditions of Article X of the Contract

- 7.0 Long-term Liability Risk Assessment. Metro specified a single bale system in the Waste Transport Services Contract. Nevertheless, multiple bale systems may be proposed in response to this RFP. Metro will, however, evaluate the long-term liability risk exposure, with regard to trailer damage, of all proposed systems. The analysis shall assess the potential liability to Metro in relation to any measures (such as indemnification, insurance, etc.) proposed by the vendor to mitigate such risk.

- 8.0 Operational Compatibility. Metro will relocate its existing compaction system and construct a space for the compaction

system acquired through this RFP. Metro will evaluate the proposed system for compatibility with facility operations and the existing compaction system. Proposers should describe the operational compatibility of their proposed system (i.e. similar loading, compaction and extrusion procedures and controls in relation to the existing compaction system).

- 9.0 Maintenance. Contractor shall be responsible for all maintenance and repair costs to the system prior to acceptance by Metro. Proposers shall describe routine, periodic, and annual maintenance requirements for the system in number of hours per year, as well as associated costs for each level of service if provided by Proposer. Contractor shall supply a schedule for maintenance. Contractor shall provide 5 sets of maintenance manuals. Contractor shall thoroughly train transfer station personnel in routine and periodic maintenance procedures to the satisfaction of Metro.

Proposer shall propose an emergency service agreement for a two (2) hour response time, 24 hours a day, 7 days a week. Metro shall decide which level of service agreement (if any) to purchase from the successful Proposer, based on the information submitted.

- 10.0 Training, Manuals, Drawings. Contractor shall provide training to the transfer station operator in the operation and maintenance of the system and general training to Metro personnel prior to final payment, including 5 sets of training and maintenance manuals. Contractor shall provide two (2) sets of as-built drawings of the equipment in sufficient detail to identify all components of the system.

- 11.0 Bonds/Insurance. Contractor shall provide Performance and Labor and Materials Bonds on the enclosed forms, or substitutes acceptable to Metro, in amounts equal to 100% of the contract amount. Said bonds shall be submitted with an executed Contract and have a term of one year. Before commencing the work, Contractor shall provide certificates of insurance as described in Article VII of the Contract.

PROPOSAL FORMAT

To facilitate evaluation of proposals, Metro requires that all responding proposers adhere to the format below.

Six copies of each submittal shall include:

1. Transmittal letter. Include one or more paragraphs which summarize the approach and methods to be used. Indicate that the proposal will be valid for 90 days. State the ability of the proposer to complete the

project within the budget and to comply with the deadlines.

2. Detailed description of methods (work plan) to accomplish each task of the Scope of Work. The work plan shall also include (but not be limited to):
 - A. Description of equipment and service to be provided in each task
 - B. Schedule showing date of installation or provision of equipment or service for each task
 - C. Description of subcontractors roles by task
3. The following cost information:
 - A. Total project cost
 - B. Subcontracting cost
 - C. Costs for each level of service described in Item #8 of the Scope of Work
 - D. A separate maximum total cost for building permits and any other required regulatory approvals.
 - E. A per hour programming cost for the automatic compaction pattern (Metro may include up to \$5,000 in the final contract for this service provided after final acceptance of the system)
 - F. Metro reserves the right to require additional, detailed cost information.
4. Project team's and firm's experience.
 - A. Staffing/Project Manager Designation -- Identify specific personnel assigned to major project tasks, their experience in similar projects, their roles in relation to the work required, and percent of their time on the project. Also identify subcontractor roles.
 - B. Statement of firm's experience with similar projects.
5. Describe in detail how information will be transmitted to computer system and control panels. Provide separate costs for transmission system and control panels.

6. Completely filled out Disadvantaged Business Program Compliance Form and Disadvantaged/Women-Owned Business Enterprise Utilization Forms.
7. Statement of insurance coverage which includes summary of coverage, coverage limit, and deductibles for business automobile, and workers compensation insurance.
8. Description of proposed warranty and long term risk exposure indemnity.
9. Exceptions and comments, if any. Firms wishing to take exception to, or comment on, any specific part of this RFP shall document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized; should reference the specific part in question and propose alternative language.

Selection Process

An evaluation committee will:

- Review the proposals submitted by organizations
- Conduct an interview with each organization which submits a proposal
- Rank the proposals for recommendation to the Executive Officer according to the criteria below.

Proposal Evaluation Criteria

- Compliance with Technical Specifications
(noncompliance will result in rejection of the proposal)
- Operational Reliability 20%
- Warranty 20%
- Compatibility with existing Metro South Station configuration and equipment 15%
- Project team experience 5%
- Cost 20%
- Long-term Liability Risk Assessment 20%

- Compliance with Disadvantaged Business Program (noncompliance will result in rejection of the proposal)

GENERAL PROPOSAL/CONTRACT CONDITIONS

1. Limitations and Award -- This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to accept or reject, to negotiate with all qualified sources, or to cancel all or part of this RFP. Metro also reserves the right to terminate negotiations with any sources if it is determined inadequate progress is being made.
2. Contract type -- Metro intends to award a labor and materials contract with the selected firm for this project. A copy of the contract which the successful proposer will be required to execute is attached. The final shall incorporate this RFP by reference.
3. Billing Procedures -- Proposers are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Payments will be made to the successful Contractor on the following basis:
 - 30% upon contract signing
 - 20% upon certification the compactor is ready for delivery
 - 25% upon completion of installation
 - 25% upon acceptance by Metro

Payments made prior to final acceptance shall not be interpreted as an acceptance by Metro of any part of the work. Contractor shall be required to refund any amount deemed appropriate by Metro paid prior to final acceptance.
4. Validity Period and Authority -- The proposal shall be considered valid for a period of at least ninety (90) days and shall contain a statement to that effect. The proposal shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind the Proposer during the period in which Metro is evaluating the proposal.
5. If requested by the Proposer, information submitted in the Proposal may be treated as confidential, as permitted under Oregon Public Records laws (ORS Chapter 192). If you wish to have information in your proposal treated as confidential, please so indicate in the

Transmittal Letter of your proposal. Please specify the portions of your proposal which you believe should not be subject to public disclosure and the reasons these portions should be exempt from disclosure.

OTHER INFORMATION

The following information is attached or available under separate cover:

- Metro Labor and Materials Agreement
- Metro Disadvantaged Business Program
- Metro Disadvantaged Business Program Compliance Form
- Metro Disadvantaged Business Utilization Form
- Metro Women's Business Utilization Form
- Performance and Labor & Materials Bond Forms
- Drawing of Transporter's vehicle configuration.
- Waste Characterization Study section of the "Solid Waste Management Plan Inventory"
- Drawings labelled "Metro South Station Modifications"
- Software/Hardware specifications for Manifest System

PROJECT MANAGER AND CONTACT

Chuck Geyer, Senior Analyst
Metropolitan Service District
2000 S. W. First Avenue
Portland, Oregon 97201
(503) 221-1646
(503) 241-7417 (FAX)

APPENDICES
Consisting of:

- Metro Labor and Materials Agreement
- Metro Disadvantaged Business Program
- Metro Disadvantaged Business Program Compliance Form
- Metro Disadvantaged Business Utilization Form
- Metro Women's Business Utilization Form
- Performance and Labor & Materials Bond Forms
- Drawing of Transporter's vehicle configuration.
- Waste Characterization Study section of the "Solid Waste Management Plan Inventory"
- Drawings labelled "Metro South Station Modifications"
- Software/Hardware specifications for Manifest System

**Metro Labor and Materials Agreement
(Public Contract)**

Contract No. _____

PUBLIC CONTRACT

THIS CONTRACT dated this _____ day of _____, 1990, is entered into between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, whose address is 2000 S.W. First Avenue, Portland, Oregon 97201-5398, hereinafter referred to as "METRO," and _____, whose address is _____, hereinafter referred to as the "CONTRACTOR."

BOTH PARTIES AGREE AS FOLLOWS:

ARTICLE I

SCOPE OF WORK

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

ARTICLE II

TERM OF CONTRACT

The term of this Contract shall be for a period commencing _____ through and including _____.

ARTICLE III

CONTRACT SUM AND TERMS OF PAYMENT

METRO shall compensate the CONTRACTOR for work performed and/or goods supplied as described in Attachment "A." METRO shall not be responsible for payment of any materials, expenses or costs other than those which are specifically included in Attachment "A," or additional work authorized pursuant to Article VI, CHANGES.

ARTICLE IV

LIABILITY AND INDEMNITY

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

any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Contract. CONTRACTOR is solely responsible for paying CONTRACTOR's subcontractors. Nothing in this Contract shall create any contractual relationship between any subcontractor and METRO.

ARTICLE V

TERMINATION

METRO may terminate this Contract upon giving CONTRACTOR fourteen (14) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for all actual and reasonable costs for work performed to the date of termination including direct labor (direct labor cost reimbursement shall be limited to a rate of \$35.00/hr. for skilled labor, \$50.00/hr. for engineering, and \$27.50/hr for drafting services), materials and expenses, plus fifteen (15) percent. A claim shall be presented by the CONTRACTOR within fifteen (15) days of the date of termination, and shall include all documentation to justify the claimed costs. Subject to its right to withhold payments pursuant to Article XIII, METRO shall make payment to CONTRACTOR within thirty (30) days from receipt of such claim, provided that all costs are justified and verified. METRO shall not be liable for indirect or consequential damages resulting from termination of the Contract. Termination by METRO shall not waive any claim or remedies it may have against the CONTRACTOR.

ARTICLE VI

CHANGES

A. METRO Change Orders. METRO may, at any time, without notice to the CONTRACTOR'S surety, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract

B. Payment or Credit for Additional Work. All requests for payment for additional work shall be made only under the conditions and procedures set forth in this Article. For purposes of this Article, the term "additional work" means work which is in addition to the work required to be performed under the original Contract or any amendments thereof, but does not include any work required to comply with any changes in law, statutes, rules, regulations, ordinances, permit(s) or permit conditions.

C. Request for Proposal for Additional Work.

1. In the event METRO issues a written change order requesting additional work, it shall

also send the CONTRACTOR a Request for Proposal (RFP). Within fourteen (14) calendar days after receipt of an RFP for additional work from METRO, the CONTRACTOR shall submit to METRO an itemized proposal stating the actual and reasonable costs to the CONTRACTOR for performing such additional work, a schedule for performing such work, and the effect, if any, on the CONTRACTOR'S performance of the existing Contract work by reason of the additional work. The CONTRACTOR'S proposal shall be based on the least costly method for performing the additional work in accordance with all provisions of the Contract. The parties hereby agree that the profit margin on all work performed pursuant to this section of Article VI shall be deemed to be ten percent (10%) of the actual cost of performing the work.

2. No request for proposals by METRO shall be construed as authorization for the CONTRACTOR to perform the additional work covered by such RFP. To obtain authorization to perform any additional work, the CONTRACTOR must be notified in writing by METRO that the CONTRACTOR is ordered to proceed with the relevant additional work. In any such written notification METRO shall indicate whether it accepts or rejects the CONTRACTOR'S proposal. If Metro rejects the CONTRACTOR'S proposal but orders the additional work to be performed, the CONTRACTOR shall perform the additional work as force account work as provided in Section D of this Article. If Metro does not order the CONTRACTOR to perform the relevant work, the CONTRACTOR shall not be entitled to any reimbursement for the work in the CONTRACTOR'S proposal or the costs of developing the proposal.

D. Force Account Work. If the amount of payment cannot be agreed upon prior to the beginning of the work, Metro may issue a written Notice to Proceed pursuant to Section C of this Article directing that the work be done on a force account basis. If this occurs, the CONTRACTOR shall furnish labor, equipment, and materials necessary to complete the work in a satisfactory manner and within a reasonable period of time. For the work performed, payment will be made for the documented actual cost of the following:

1. Labor, including forepersons who are directly assigned to the force account work (actual payroll cost, including wages, customary fringe benefits, labor insurance, and labor taxes as established by law). No other fixed labor burdens will be considered, unless approved in writing by METRO in advance of performance of the force account work.
2. Material delivered and used on the designated work, including sales tax, if paid for by the CONTRACTOR or its subcontractor.
3. Rental, or equivalent rental cost of equipment, including necessary transportation for items having a value in excess of \$100.
4. Additional bonds, as required and approved by METRO.
5. Additional insurance (other than labor insurance, as required and approved by METRO).

To the costs above there shall be added a fixed fee of ten percent (10%) of the cost of Items 1, 2, and 3 and a fixed fee of five percent (5%) to the cost of Items 4 and 5. An additional fixed fee of ten percent (10%) shall be allowed the CONTRACTOR for the administrative handling of portions of the work that are required to be performed by an approved subcontractor. No additional fixed fee will be allowed for the administrative handling of work performed by a subcontractor of a subcontractor. The added fixed fees shall be considered to be full compensation, covering the cost of general supervision, overhead, profit, and any other general expense. For equipment under Item 3 above, rental or equivalent rental cost will be allowed for only those days or hours during which the equipment is in actual use. Rental and transportation allowances shall not exceed the current rental rates prevailing in the locality. The rentals allowed for equipment will, in all cases, be understood to cover all fuel, supplies, repairs, and renewals, and no further allowances will be made for those items.

E. METRO Furnished Materials and Equipment. METRO reserves the right to furnish such materials and equipment as it deems expedient for work undertaken pursuant to this Article, and the CONTRACTOR shall have no claims for profit or added fees on the cost of such materials and equipment.

F. CONTRACTOR Records.

1. The CONTRACTOR shall maintain its records in such a manner as to provide a clear distinction between the direct costs of work paid for on a force account basis and the costs of other operations. The CONTRACTOR shall furnish METRO with report sheets in duplicate of each day's force account work no later than the working day following the performance of said work. The daily report sheets shall itemize the materials used, and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the CONTRACTOR, sub-contractor, or other forces. The daily report sheets shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type and identification number of equipment and hours operated.
2. Material charges shall be substantiated by valid copies of vendors' invoices. Such invoices shall be submitted with the daily report sheets, or, if not available, they shall be submitted with subsequent daily report sheets. Said daily report sheets shall be signed by the CONTRACTOR or its authorized agent.
3. To receive partial payments and final payment for force account work, the CONTRACTOR shall submit in a manner approved by METRO, detailed and completed documented verification of the CONTRACTOR'S and any of its subcontractors' actual current costs involved in the force account work pursuant to the issuance of an approved Change Order. Such costs shall be submitted within thirty (30) days after said work has been performed.
4. No payment will be made for work billed and submitted to METRO after the 30-day period has expired. No extra or additional work shall be performed by the CONTRACTOR, except in an emergency endangering life or property, unless in pursuance of a written Change Order and Notice to Proceed as described in this Article.

G. Deductions from Payments for Deleted Work. All deductions from payment for deleted work shall be made under the conditions and procedures of this Article. For purposes of this Article, the term "deleted work" means work which is deleted from the work required to be performed under the original Contract, but does not include any work which need not be performed due to any changes in law, statutes, rules, regulations, ordinances, permit(s), permit conditions, or regulatory policies.

H. Request for Proposal for Deleted Work.

1. In the event METRO issues a written change order deleting work, it shall also send the CONTRACTOR a Request for Proposal (RFP). Within fourteen (14) calendar days after receipt of an RFP for deleted work, the CONTRACTOR shall submit an itemized proposal stating the actual and reasonable costs which would be avoided by deleting work called for in the Contract, a schedule for deleting the relevant work, and the effect, if any, on the CONTRACTOR'S performance of the remaining Contract work by reason of the deleted work. The CONTRACTOR'S proposal shall be based on all current and future avoided costs to the CONTRACTOR for deleting the work and any profit margins or markups which the CONTRACTOR'S proposal includes for such work.
2. No Request for Proposals by METRO shall be construed as authorization for the CONTRACTOR to delete the work covered by an RFP for deleted work. The CONTRACTOR shall not delete any work unless and until an order from METRO authorizing such deletion is served upon the CONTRACTOR. In any such written notification METRO shall indicate whether it accepts or rejects the CONTRACTOR'S proposal.
3. If METRO rejects the CONTRACTOR'S proposal but orders the work to be deleted, the CONTRACTOR shall delete the work. METRO may make all appropriate deductions from payments, according to the formula below, if METRO has ordered the CONTRACTOR to delete work, regardless of whether the CONTRACTOR has complied with such order.

I. Amount of Deductions for Deleted Work. The amount of any deductions from payments for deleted work shall be equal to all current and future avoided costs resulting from the

deleted work plus any profit margin or markups which the CONTRACTOR'S proposal includes for such work. If the latter profit margin or markup figures are unavailable, the parties hereby agree that the CONTRACTOR'S profit margin on all work shall be deemed to be ten percent (10%) of the actual cost of performing the work. The CONTRACTOR shall submit complete records of materials and labor usage to METRO for review.

ARTICLE VII

INSURANCE

CONTRACTOR shall maintain such insurance as will protect CONTRACTOR from claims under Workers' Compensation Acts and other employee benefits acts covering all of CONTRACTOR'S employees engaged in performing the work under this Contract; and from claims for damages due to bodily injury, including death and damages to property, all with coverage limits as specified within this Article. This insurance must cover CONTRACTOR'S operations under this Contract, whether such operations be by CONTRACTOR or by any subcontractor or anyone directly or indirectly employed by either of them. CONTRACTOR is expressly and wholly responsible for insuring damage to any equipment during execution of this Contract.

Before commencing work on this Contract, CONTRACTOR shall provide METRO with a copy of the insurance endorsement(s) showing METRO as an additional insured. CONTRACTOR shall also furnish METRO with certificate(s) of insurance specified herein naming METRO as an additional insured and showing the type, amount, class of operations covered, effective dates and date of expiration of policies, and containing substantially the following statements:

A. This/These policy(ies) shall be considered as primary insurance and exclusive of any insurance carried by METRO and the insurance endorsed by this certificate shall be exhausted first, notwithstanding the fact that METRO may have other valid and collectible insurance covering the same risk.

B. This/These policy(ies) shall not be cancelled, reduced in coverage, nor materially altered until after sixty (60) days' written notice of such cancellation, reduction or alteration in coverage shall have been received by METRO.

C. No act on the part of the insured shall affect the coverage afforded to METRO under the insurance covered by this/these certificate(s).

D. This/These policy(ies) consist only of insurance on an occurrence basis, not on a claims made basis.

DESIGNATED INSURANCE REQUIREMENTS

Maintenance of insurance by CONTRACTOR as specified in this Article shall constitute the minimum coverage required.

Designated Insurance Requirements

Limits

- (1) (a) Workers' Compensation covering all employees who are engaged in any work under the Contract (including subcontractors' employees).

Statutory
(State/Federal)

The Contractor shall require its Workers' Compensation carrier to provide Metro with an endorsement for waiver of subrogation.

- (b) Employers' Liability including bodily injury caused by disease.
Not less than

\$1,000,000

- (2) Comprehensive General Liability, and Protection and Indemnity.

Contractors' Public Liability and Contractual Liability Coverage:

- (i) Bodily injury (inc. death) and Personal Injury

(ii) Broad Form Property Damage and Broad Form Property Damage including Completed Operations, and shall include coverage for Explosion, Collapse and Underground.

- (i and ii coverage)

\$1,000,000 per occurrence/
\$1,000,000 aggregate
bodily injury and
property damage

- (3) Comprehensive Automobile Liability including Owned, Nonowned and Hired Vehicles:

- (i) Bodily injury (inc. death)

- (ii) Property damage

(i and ii coverage)

\$1,000,000 per
occurrence/aggregate
combined single
limit bodily injury
and property damage

(4) Umbrella Coverage

to achieve a total
coverage of
\$3,000,000 per
occurrence/
\$3,000,000 aggregate

(i) Bodily injury (inc. death)
and Personal Injury

(ii) Broad Form Property Damage
and Broad Form Property
Damage including Completed
Operations, and shall
include coverage for
Explosion, Collapse and
Underground.

(i and ii coverage)

\$1,000,000 per
occurrence/
\$1,000,000 aggregate
bodily injury and
property damage

A. When activities of the CONTRACTOR are to be accomplished within a public or private right-of-way requiring special insurance coverage, the CONTRACTOR shall conform to the particular requirements and provide the required insurance.

The CONTRACTOR shall include in its liability policy all endorsements that the said authority may require for the protection of the authority, its officers, agents, and employees. Insurance coverage for special conditions, when required, shall be provided by the CONTRACTOR at its own expense at no additional cost to METRO.

B. The CONTRACTOR shall maintain the above insurance at all times until completion of the Contract or until the termination date of the Contract, whichever is later.

C. Maintenance of insurance by the CONTRACTOR as specified in this Article shall constitute the minimum coverage required and shall in no way lessen or limit the liability or responsibility of CONTRACTOR under this Contract and the CONTRACTOR may carry, at its own expense, such additional insurance as it deems necessary.

D. METRO shall have the right, at its sole option, to require the CONTRACTOR to place all of the aforementioned insurance coverages through such Master Policy as METRO may obtain if such would reduce the premiums for such coverages. The CONTRACTOR agrees that METRO may deduct from the Contract Sum the amount of the premiums payable on any policy obtained through a Master Policy, or, at METRO'S discretion, pay the same directly to the insurance carrier. The CONTRACTOR further agrees to comply with such regulations as METRO may issue from time to time to improve the administration of the Master Policy.

ARTICLE VIII

PUBLIC CONTRACTS

The provisions set out in Oregon Revised Statutes, Chapters 187 and 279, as amended or superseded, including the latest additions and revisions, and Chapter 2.04 of the Metro Code, are incorporated by reference as part of these Contract Documents.

ARTICLE IX

ATTORNEYS' FEES

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

ARTICLE X

QUALITY OF GOODS

Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trades. All guarantees and warranties of goods furnished to CONTRACTOR or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of METRO. CONTRACTOR shall provide warranties as attached hereto as Attachment "B."

ARTICLE XI

OWNERSHIP OF DOCUMENTS

All documents produced by CONTRACTOR pursuant to this agreement are the property of METRO and it is agreed by the parties hereto that such documents are work made for hire. CONTRACTOR does hereby convey, transfer and grant to METRO all rights of reproduction to all such documents.

ARTICLE XII

SUBCONTRACTORS; DISADVANTAGED BUSINESS PROGRAM

CONTRACTOR shall contact METRO prior to negotiating any subcontracts and CONTRACTOR shall obtain approval from METRO before entering into any subcontracts for the performance of any of the services and/or supply of any of the goods covered by this Contract. METRO reserves the right to reasonably reject any subcontractor or supplier and no increase in the CONTRACTOR'S compensation shall result thereby. All subcontracts related to this Contract shall include the terms and conditions of this agreement. CONTRACTOR shall be fully responsible for all of its subcontractors as provided in Article IV.

CONTRACTOR agrees to make a good faith effort, as that term is defined in METRO'S Disadvantaged Business Program (Section 2.04.160 of the Metro Code) to reach the goals of subcontracting seven (7) percent of that portion of the work that is subcontracted to Disadvantaged Business Enterprise and five (5) percent of that portion of the work that is subcontracted to Women-Owned Business Enterprise. METRO reserves the right, at all times during the period of this agreement, to monitor compliance with the terms of this paragraph and METRO'S Disadvantaged Business Program.

ARTICLE XIII

RIGHT TO WITHHOLD PAYMENTS

METRO shall have the right to withhold from payments due CONTRACTOR such sums as necessary, in METRO'S sole opinion, to protect METRO against any loss, damage or claim which may result from CONTRACTOR'S performance or failure to perform under this agreement. Upon completion of the Scope of Work the Parties shall cause the compaction system to be tested according to the procedures set out in the Scope of Work to determine their conformance to this contract. METRO shall make the payments due CONTRACTOR in association therewith, as contemplated by this contract if the following conditions are met: (i) the compaction system perform substantially as required and (ii) if CONTRACTOR has otherwise performed the work required of in hereunder. If the foregoing conditions are not met, METRO shall at its option either (i) accept and make full payment for the compaction system without waiver of any claims for damages or other remedies it may have against the CONTRACTOR, (ii) accept and make payment based on the percentage of the actual throughput as it relates to the specifications, (iii) immediately notify CONTRACTOR thereof and CONTRACTOR shall promptly cause such conditions to be met, at which time the compaction system shall be retested, or (iv) notify CONTRACTOR that the compaction system is being rejected. If METRO accepts the compaction system pursuant to (i) or (ii),

such acceptance shall not constitute a waiver of METRO'S rights under any warranty provided for in this Contract. In the event METRO rejects the compaction system pursuant to (iv), CONTRACTOR shall remove the compaction system as specified in Item 4 of Attachment "A" -- Scope of Work. Prior to acceptance METRO may make use of the compaction system, and will make the compaction system fully available to CONTRACTOR to perform any necessary remedial work.

ARTICLE XIV

SAFETY

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

ARTICLE XV

INTEGRATION OF CONTRACT DOCUMENTS

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

ARTICLE XVI

PRECEDENCE OF CONTRACT DOCUMENTS

All determination of the precedence of or discrepancy in the Contract Documents shall be made by METRO, but in general, precedence will be in accordance with the following list with the highest precedence item at the top:

1. Specifications and Drawings
2. Signed Public Contract (including Attachments)
3. Requests For Proposals
4. Proposals

Addenda, Clarifications and all Change Orders to the Contract Documents take the same order of precedence as the specific sections that they are amending.

ARTICLE XVII

ASSIGNMENT

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

ARTICLE XVIII

METRO'S REMEDIES IN THE EVENT OF CONTRACTOR INSOLVENCY, DISSOLUTION, BANKRUPTCY OR GENERAL ASSIGNMENT FOR CREDITORS

The parties agree that if the CONTRACTOR becomes insolvent, is dissolved, files for Bankruptcy, is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, such events could impair or frustrate the CONTRACTOR'S performance of this Agreement. Accordingly, it is agreed that upon the occurrence of any such event, METRO shall be entitled to request of the CONTRACTOR or its successor in interest, adequate assurance of future performance in accordance with the terms and conditions hereof. Failure of the CONTRACTOR and Surety to comply with such request within ten (10) calendar days of service upon both the CONTRACTOR and Surety of a written request from METRO for such assurances shall entitle METRO to terminate the CONTRACTOR right to perform Contract pursuant to Article V. METRO shall not be bound to the Contract by an insolvent CONTRACTOR'S trustee or receiver.

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

MML/gl

1018

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1225A FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE REQUIREMENT OF COMPETITIVE BIDDING, AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS AND EXECUTION OF A CONTRACT FOR THE SECOND COMPACTION SYSTEM AT METRO SOUTH STATION

Date: May 3, 1990

Presented by: Bob Martin
Jim Watkins

FACTUAL BACKGROUND AND ANALYSIS

For the reasons summarized below, the Solid Waste Department wishes to use a request for proposals (RFP) solicitation process to procure a second compaction system for the Metro South Station, and to authorize the Executive Officer to enter in a contract with the highest ranked proposer.

On January 1, 1990, Metro began transporting waste from the Metro South Station to the Oregon Waste Systems' Columbia Ridge Landfill, approximately 150 miles away. To achieve maximum payloads and be more cost-effective, waste to be landfilled is first compacted at the Metro South Station, then loaded into containers and transported to Gilliam County. Compaction is achieved through the use of a compactor, acquired during phase one of the compaction project described in the staff report of April 11, 1989. This compaction system was installed in November of 1989.

Phase two of the compaction project calls for the installation of a second compaction system at the Metro South Station. A second system is required since failure of the existing system would close the facility. The second system will be located at the northeast end of the facility which will be modified to accommodate the system during the Summer of 1990.

During acquisition of the first compaction system, Metro utilized a request for proposal process rather than a bid process due to concern over the reliability of the system. Staff again wishes to utilize the proposal process for acquisition of the second system, based on the fact that systems proposed during phase one varied in both capability and operational experience. The evaluation criteria proposed in the phase two RFP has been changed to increase emphasis on cost and has added criteria to evaluate the compatibility of a compaction system with the proposed modifications and method of transport.

Resolution No. 90-1225A replaces Resolution No. 90-1225 submitted to the Council Solid Waste Committee on March 12, 1990. Resolution No. 90-1225A differs from Resolution No. 90-1225 in that the attached RFP (Exhibit A) has an additional evaluation criterion entitled "Long-term Liability Risk Assessment." This change has been made in response to concerns raised by the transport contractor regarding the potential for increased trailer damage caused by multiple bale system.

The Metro Code requires use of the bid process for the procurement of goods and services, unless an exemption is granted. Resolution No. 90-1225A exempts the procurement of the Metro South Station compaction system from the competitive bidding requirement.

The Resolution also requests authorization for the Executive Officer to enter into a contract with the highest ranked proposer. This request is made for two reasons. First, as stated above, the Metro South Station currently relies on a single compaction system. Any extended failure of this system will result in closure of the facility. Therefore, it is imperative that Metro acquire a backup system as soon as the facility has been modified to receive the system. Secondly, the current demand for compaction systems is likely to increase the lead time for acquisition of the second system. Waiver of the requirement of Council approval of the contract provides the flexibility to coordinate acquisition and installation of the system with facility modifications and provide the lead time desired to ensure multiple proposals. Attachment #1 illustrates the impact of the waiver on the project schedule.

BUDGET IMPACTS

Adequate funds exist in the FY 1989-90 budget for initial payments. \$700,000 will be budgeted in FY 1990-91.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution 90-1225A which authorizes the issuance of an RFP for solicitation of a compaction system at the Metro South Station, and execution of the resulting contract.

Attachment #1

SECOND COMPACTOR ACQUISITION SCHEDULE
for Metro South Station

<u>Task</u>	<u>Date</u>
1. CSWC approval to release RFP	May 14, 1990
2. Council approval to release RFP	May 24, 1990
3. Release second compact RFP	May 25, 1990
4. Proposals received	June 15, 1990
5. Evaluation Complete	June 22, 1990
6. Negotiate final contract/award	June 29, 1990
7. Compactor fabrication completed	October 27, 1990
8. Begin installation at Metro South ¹	October 29, 1990

Changes to the above schedule if Council approval is required

6. Negotiate contract/recommend award	June 29, 1990
7. CSWC recommends final contract award	July 17, 1990
8. Council awards compactor contract	July 26, 1990
9. Compactor fabrication completed	November 23, 1990
10. Begin installation at Metro South	November 26, 1990

¹The current construction schedule for modifications project's completion of compactor bay during the first half of September.

Agenda Item No. 6.6
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1259

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 90-1259, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE REQUIREMENT OF COMPETITIVE BIDDING, AUTHORIZING THE USE OF A REQUEST FOR PROPOSALS TO DESIGN, BUILD AND INSTALL A WASTE REDUCTION EXHIBIT AT THE METRO WASHINGTON PARK ZOO

Date: May 15, 1990

Presented by: Councilor
Gary Hansen

Committee Recommendation: The Solid Waste Committee voted 3 to 0 to recommend Council adoption of Resolution No. 90-1259. Voting: Councilors Hansen, Buchanan and DeJardin. Absent: Councilors Bauer and Wyers. This action was taken May 14, 1990.

Committee Discussion/Issues: The staff report was presented by Vickie Rucker, Public Affairs Director. The proposed waste reduction exhibit at the Metro Washington Park Zoo is a combined effort of the Solid Waste Department and the Zoo Education Division. The design component of the exhibit is a qualitative issue that is essential to the success of the project. A Request for Proposals (RFP) process is recommended because it will allow an evaluation and a selection of a contractor based on design capabilities, creativity and quality of proposed design.

The estimated cost of the project is \$20,000 and is provided for in the FY 1990-91 Budget.

The Solid Waste Committee commented that the idea of a waste reduction exhibit at the Zoo is a good one because there are about one million visitors to the Zoo each year. The idea was suggested two or three years ago by Councilor DeJardin.

The Committee asked what the artistic aspects of the project were that suggested the use of an RFP process. Staff stated that the project would include dimensional diorama, illustrations, and other creative aspects.

The Committee pointed out that this resolution is a companion resolution to Resolution No. 90-1960. This resolution authorizes an exemption to the competitive bidding requirements and the other resolution authorizes the issuance of an RFP.

There being no further questions, comments or issues, the Committee voted unanimously to recommend Council adoption of Resolution No. 90-1259.

GH:RRB:pa

RRB.183

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING)
AN EXEMPTION TO THE REQUIREMENT OF)
COMPETITIVE BIDDING, AUTHORIZING THE)
USE OF A REQUEST FOR PROPOSAL TO)
DESIGN, BUILD AND INSTALL A WASTE)
REDUCTION EXHIBIT AT THE ZOO.)

RESOLUTION NO. 90-1259

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District approved funding to the design, build and install a waste reduction exhibit at the Metro Washington Park Zoo; and

WHEREAS, The design of such a project is a qualitative issue and requires extensive work with a contractor to find solutions to design problems in creating an interactive exhibit; and

WHEREAS, The quality and design capability is the most important factor in creating an interactive exhibit and therefore the most important factor in hiring a contractor for the project; and

WHEREAS, ORS 279.015 authorizes the exemption of certain contracts from the competitive bidding requirement; and

WHEREAS, Metro Code 2.04.041 (c) authorizes, where appropriate, the use of alternative contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods which are consistent with the public policy of encouraging competition; and

WHEREAS, The RFP solicitation process described in the Staff Report is in accordance with Metro Code 2.04.041 (c) such that the contractor to design, produce and install the waste reduction exhibit will be selected on the basis of the most competitive offer considering quality and cost where the term "cost" refers to costs related to quality as well as the labor and materials costs; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District finds that:

a.) It is unlikely that exempting the solicitation to design, build and install a waste reduction exhibit at the zoo will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; and

b.) The contract, if awarded pursuant to the exemption, will result in substantial cost savings to the Metropolitan Service District.

2. That based on these findings, the Council of the Metropolitan Service District directs that the contract for the procurement of services to design, build and install a waste reduction exhibit at the zoo be exempted from the competitive bid process and that the staff is authorized to use a Request for Proposals solicitation process.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1990.

Tanya Collier, Presiding Officer

Staff Report

CONSIDERATION OF RESOLUTION NO. 90-1259 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE REQUIREMENT OF COMPETITIVE BIDDING, AUTHORIZING THE USE OF A REQUEST FOR PROPOSALS TO DESIGN, BUILD AND INSTALL A WASTE REDUCTION EXHIBIT AT THE METRO WASHINGTON PARK ZOO.

Date: April 24, 1990

Presented by: Vickie Rocker
Joan Saroka

FACTUAL BACKGROUND AND ANALYSIS

For the reasons summarized below, the Public Affairs Department wishes to use a request for proposals (RFP) solicitation process to design, build and install the waste reduction exhibit at the Metro Washington Park Zoo.

The waste reduction exhibit at the zoo is a combined effort of the solid waste department, public affairs department and the zoo education division. The exhibit is a combination of design, production and installation. Although many of the required features of the exhibit have been outlined, it is desirable to use a proposal process rather than a bid document because of the design component of the project.

The design component is a qualitative issue that is essential to the success of the overall project. The contractor is expected to complete the design detail and develop solutions to problems that exist in the overall exhibit design. The quality of the work is essential to the success of the exhibit.

The quality of the final design and the interpretive goals of the design play a major factor in the project. It is essential for public affairs and zoo education staff to work closely with the contractor on the display design in order to have a quality project and have it meet the goals set out by the staff.

The quality of the design is important for this exhibit to be successful. A review of a firm's design capability is important in selection of the best contractor and the ability of the contractor to develop creative solutions to some of the design problems is important.

An RFP process will allow the public affairs and zoo education division staff to evaluate and select a contractor based on design capabilities, creativity and quality of proposed design.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 90-1259 which authorizes an exemption to the requirement of competitive bidding, authorizing the use of a request for proposal solicitation process to design, build and install the waste reduction exhibit at the Metro Washington Park Zoo.

Agenda Item No. 6.7
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1264

CONVENTION & VISITOR FACILITIES
COMMITTEE REPORT

RESOLUTION NO. 90-1264, FOR THE PURPOSE OF AUTHORIZING
AN EXEMPTION FROM REQUIREMENTS OF METRO CODE SECTION
2.04.054(a)(3) FOR AMENDMENT NO. 6 TO THE CONTRACT WITH
DAMES & MOORE FOR RESEARCH AND ASSISTANCE WITH
LITIGATION

Date: May 9, 1990

Presented by: Councilor Knowles

COMMITTEE RECOMMENDATION: The Convention & Visitor Facilities Committee voted 4 to 0 to recommend Council adoption of Resolution No. 90-1264. Voting: Councilors Knowles, Buchanan, McFarland and Van Bergen. Absent: Councilor Hansen. This action was taken May 8, 1990.

COMMITTEE DISCUSSION/ISSUES: Neil McFarlane, Project Operations Manager, presented the staff report. He stated that Dames & Moore was hired in the Fall of 1987 to do an environmental assessment of the Convention Center site prior to construction. A remediation program was necessary for the Rose City Plating site which cost over \$700,000.

In March 1990, Metro filed suit in Federal District Court seeking to recover \$772,337 in response and remediation costs. Staff is recommending that the contract with Dames & Moore be amended to authorize an additional \$25,000 for contractor to perform the following work:

1. Provide assistance as requested by Metro Office of General Counsel regarding environmental assessment, testing and remediation of site formerly occupied by Rose City Plating Company. Assistance includes, but is not limited to, preparation of questions to be posed during discovery, response to questions asked during discovery, preparation for trial, assistance during trial and other assistance as needed.
2. Prepare final report describing location, status and disposition of underground storage tanks removed from the Oregon Convention Center site as required by Department of Environmental Quality.

The Convention and Visitor Facilities Committee met in executive session on May 8, 1990 to discuss the Metro suit prior to considering the Dames & Moore contract amendment in regular session. In regular session there were no further questions, comments or issues raised and the Committee voted unanimously to recommend Council approval of Resolution No. 90-1264.

RB:aeb
A:\RES1264.RPT

BEFORE THE CONTRACT REVIEW BOARD OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN	)	RESOLUTION NO. 90 - 1264
EXEMPTION FROM REQUIREMENTS OF METRO)	
CODE SECTION 2.04.054 (a) (3) FOR)	
AMENDMENT NO. 6 TO THE CONTRACT WITH)	
DAMES AND MOORE FOR RESEARCH AND	)	Introduced by Executive
ASSISTANCE WITH LITIGATION ON THE	)	Officer Rena Cusma
CONVENTION CENTER SITE)	

WHEREAS, Dames and Moore was selected in the fall of 1987 to perform an environmental assessment for the convention center project; and

WHEREAS, Dames and Moore served as Metro's agent throughout the assessment, analyses and extensive remediation programs that were required before construction could begin ; and

WHEREAS, the cost of remediation on the site formerly occupied by Rose City Plating exceeded \$700,000 and Metro has filed suit to recover those costs; and

WHEREAS, the assistance of Dames and Moore is required during legal proceedings and to prepare a report on the status of the underground tanks removed from the site; now, therefore,

BE IT RESOLVED,

That the Council hereby exempts the attached Contract Amendment No. 6 to the contract with Dames and Moore from the competitive procurement section of 2.04.054 (a) (3) of the Metro code for required assistance during litigation.

ADOPTED by the Council of the Metropolitan Service District this
_____ day of May, 1990.

Tanya Collier, Presiding Officer

CONTRACT AMENDMENT NO. 6
DAMES & MOORE
CONTRACT NO. 900-612

This amends the Agreement (Contract No. 900-612) between the Metropolitan Service District and Dames & Moore ("CONTRACTOR") executed April 29, 1988 as previously amended, ("original agreement" for the period April 25, 1988 through December 31, 1989.

WHEREAS, the parties agreed to the conditions set forth in the original agreement and desire to amend the agreement;

The following changes are made to the original agreement. CONTRACTOR agrees to complete all tasks in an expeditious a manner as possible and as necessary to accommodate the construction schedule of the Oregon Convention Center;

Additional Tasks:

CONTRACTOR agrees to perform the following work:

- (1) Provide assistance as requested by Metro office of General Counsel regarding environmental assessment, testing, and remediation of site formerly occupied by Rose City Plating Company. Assistance includes but is not limited to preparation of questions to be posed during discovery, response to questions asked during discovery, preparation for trial, assistance during trial and other assistance as needed.
- (2) Prepare final report describing location, status and disposition of underground storage tanks removed from the Oregon Convention Center site as required by Department of Environmental Quality.

Compensation Limits:

For the scope of work described above, Metro agrees to compensate CONTRACTOR for services performed and materials delivered the additional sum of TWENTY FIVE THOUSAND AND no/100ths DOLLARS (\$25,000.00)

Terms:

The term of the contract shall be extended through December 31, 1990.

WHEREAS, all other conditions and terms of the original agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this
Addendum to be executed by their duly authorized officers.

CONTRACTOR
DAMES & MOORE

METROPOLITAN
SERVICE DISTRICT

Title: _____

Title: _____

Date: _____

Date: _____

STAFF REPORT

CONSIDERATION RESOLUTION # 90-1264 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION FROM REQUIREMENTS OF METRO CODE SECTION 2.04.054 (a)(3) FOR AMENDMENT NO. 6 TO THE CONTRACT WITH DAMES & MOORE FOR RESEARCH AND ASSISTANCE WITH LITIGATION

Date: May 1, 1990

Presented by: McFarlane

BACKGROUND AND FACTUAL ANALYSIS:

In the fall of 1987, the convention center project issued a request for proposals for an environmental assessment of the convention center site. Dames and Moore was selected, and served as Metro's agent during the assessment, analyses and remediation programs required prior to construction.

The cost of the remediation program for the Rose City Plating site exceeded \$700,000. In early March, 1990, Metro filed suit in Federal District Court seeking to recover \$772,337 in response and remediation costs under CERCLA and ORS 466. Dames and Moore has assisted the Office of General Counsel in the preparation of questions for this litigation and will be assisting with further legal work.

In addition, Dames and Moore will be preparing a short report for DEQ on the status of the underground storage tanks that were removed from the convention center site.

This amendment authorizes an additional \$25,000 for the work described above, which will be billed on a time-and-materials basis.

EXECUTIVE OFFICER RECOMMENDATION:

The Executive Officer recommends approval of the amendment to the contract with Dames and Moore for assistance with litigation associated with the remediation on the convention center site.

Agenda Item No. 6.8
Meeting Date: May 24, 1990

RESOLUTION NO. 90-1252

ZOO COMMITTEE REPORT

RESOLUTION NO. 90-1252, APPROVING A SOLE SOURCE PURCHASE OF A COIN SORTER/COUNTER

Date: May 18, 1990

Presented by: Councilor Gardner

COMMITTEE RECOMMENDATION: At the May 17, 1990, Zoo Committee meeting, Councilors DeJardin, McFarland, Ragsdale and myself voted unanimously to recommend Council adopt Resolution No. 90-1252. Councilor Knowles was excused.

COMMITTEE DISCUSSION/ISSUES: Patricia Mueggler, Zoo Cash Room Supervisor, presented the resolution which approves the sole source purchase of a new coin counter machine for \$3,803. Under Metro Code Chapter 2.04.060, any sole source purchase exceeding \$2,500 requires Contract Review Board exemption to the competitive bidding process.

Ms. Mueggler explained the cash room has three Brandt machines which interface with each other. Unfortunately, no other type of machinery is compatible with the current equipment, requiring replacement of the 10 year old coin sorter with a Brandt model. There is only one vendor of Brandt equipment in the region.

Committee members expressed concern that in the future, when purchasing new equipment, staff should buy pieces which are compatible with more than one brand. If there is only one brand to meet Metro needs, then it should be available from more than one supplier. It was noted, however, there still remains Zoo equipment, such as the cash room machines, which were purchased by the City of Portland prior to Metro taking over the Zoo.

Committee members also noted Code sole source provisions should be re-examined so that small, "straight-forward", non-policy contracts such as this do not have to come before the Council.

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BEFORE THE CONTRACT REVIEW BOARD
OF THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 90-1252
EXEMPTION TO METRO CODE CHAPTER)	
2.04.060 COMPETITIVE BIDDING	)	Introduced by the Council
PROCEDURES AND AUTHORIZING A SOLE	)	Zoo Committee
SOURCE AGREEMENT WITH CPF MONEY)	
PROCESSING SYSTEMS FOR THE PURCHASE)	
OF A COIN SORTER/COUNTER FOR THE ZOO))	

WHEREAS, The ten year old coin sorter/counter in the Metro Washington Park Zoo Cash Vault provides inaccurate coin counts resulting in clerk inefficiency; and

WHEREAS, Zoo administration has budgeted in fiscal year 1990-91 to replace its current coin sorter/counter with a more technologically advanced and more accurate machine; and

WHEREAS, Brandt is the only brand of coin sorter/counter compatible with the Zoo's existing cash settlement machine; and

WHEREAS, The sole source of Brandt equipment is CPF Money Processing Systems; and

WHEREAS, A 20 percent discount (worth \$760.00) is available is a new coin sorter/counter is ordered by May 31, 1990; now, therefore,

BE IT RESOLVED,

That the Contract Review Board hereby exempts the purchase from CPF Processing Systems of a coin sorter/counter for the Metro Washington Park Zoo Cash Vault from the competitive bidding requirements under Metro Code Chapter 2.04.060.

ADOPTED by the Contract Review Board of the Metropolitan Service District this _____ day of _____, 1990.

Tanya Collier, Presiding Officer



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503 221-1646

Memorandum

DATE: May 30, 1990

TO: Metro Council
Executive Officer
Interested Staff

FROM: Ann Brunson, Committee Clerk

RE: COUNCIL ACTIONS OF MAY 24, 1990

Agenda Item

Action Taken

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Adoption of Resolution No. 90-1274 (DeJardin/Devlin; 12/0 vote)

3. EXECUTIVE OFFICER COMMUNICATIONS

4. CONSENT AGENDA

4.1 Resolution No. 90-1255, For the Purpose of Authorizing the Executive Officer and Other Designated Staff to Withdraw Deposits Upon the Check or Other Written Order of the District

Items 4.1 through 4.3 adopted
(DeJardin/Devlin; 12/0 vote).

4.2 Resolution No. 90-1254, Amending the Transportation Improvement Program for Tri- Met's Section 9, Interstate Transfer and Federal-Aid Urban Programs

4.3 Resolution No. 90-1260, For the Purpose of Authorizing Issuance of a Request for Proposal Document and the Contract to Design, Build and Install a Waste Reduction Exhibit at the Metro Washington Park Zoo

5. ORDINANCES, FIRST READING

- | | |
|---|---|
| 5.1 Ordinance No. 90-349 , An Ordinance Amending Ordinance No. 89-294A Revising the FY 1989-90 Budget and Appropriations Schedule for Additional Increases in Zoo Operations | First Reading; referred to Finance Committee for public hearing. |
| 5.2 Ordinance No. 90-350 , For the Purpose of Amending Metro Code Section 5.02.060 to Update the Credit Policy | First Reading; referred to Finance Committee for public hearing. |
| 5.3 Ordinance No. 90-351 , For the Purpose of Amending Metro Code Chapter 5.02, Section 5.02.045, Regarding User Fees for Self-Haulers | First Reading; referred to Solid Waste Committee for public hearing. |
| 5.4 Ordinance No. 90-352 , For the Purpose of Repealing Metro Ordinance No. 85-194 Restricting the Use of the St. Johns Landfill; Authorizing Limited Use of Metro Facilities for Disposal of Non-District Solid Waste; and Repeal of Section 5.02.055 of the Metro Code Relating to "Out of State Surcharges" | First Reading; referred to Solid Waste Committee for public hearing. |
| 5.5 Ordinance No. 90-353 , An Ordinance Authorizing the Issuance of Additional Bonds in Connection with the 1989 Compost Project Bonds | First Reading; referred to Solid Waste and Finance Committees for public hearing. |

6. RESOLUTIONS

- | | |
|---|--|
| 6.1 Resolution No. 90-1208 , For the Purpose of Confirming the Appointment of Richard Waker to the Metropolitan Exposition-Recreation Commission | Adopted (Knowles/DeJardin; 12/0 vote). |
|---|--|

- | | |
|---|---|
| 6.2 Resolution No. 90-1243 , For the Purpose of Authorizing a Study of Permanent Operations Funding for Metro ERC Facilities and the Feasibility of Constructing New Sports Facilities and Defining Study Objectives | Adopted as amended (Knowles/DeJardin; 11/1 vote). |
| 6.3 Resolution No. 90-1242A , For the Purpose of Including Metro Employees in the Public Employees Retirement System (PERS) | Adopted Van Bergen/Gardner; 12/0 vote). |
| 6.4 Resolution No. 90-1266 , For the Purpose of Approving a Contract with Parametrix, Inc. for Engineering Services Related to the Closure of the St. Johns Landfill | Adopted (Hansen/Bauer; 12/0 vote). |
| 6.5 Resolution No. 90-1225A , For the Purpose of Authorizing an Exemption to the Requirement of Competitive Bidding, Authorizing Issuance of a Request for Proposals and Execution of a Contract for the Second Compaction System at Metro South Station | Adopted (Hansen/Devlin; 12/0 vote). |
| 6.6 Resolution No. 90-1259 , For the Purpose of Authorizing an Exemption to the Requirement of Competitive Bidding, Authorizing the Use of a Request for Proposal to Design, Build and Install a Waste Reduction Exhibit at the Zoo | Adopted (Hansen/DeJardin; 12/0 vote). |
| 6.7 Resolution No. 90-1264 , For the Purpose of Authorizing an Exemption from Requirements of Metro Code Section 2.04.054(a)(3) for Amendment No. 6 to the Contract with Dames & Moore for Research & Assistance with Litigation | Adopted (Van Bergen/McFarland; 12/0 vote). |

6.8 Resolution No. 90-1252, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.060 Competitive Bidding Procedures and Authorizing a Sole Source Agreement with CPF Money Processing Systems for the Purchase of a Coin Sorter/Counter for the Zoo

Adopted (Gardner/McFarland; 12/0 vote).

7. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS

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Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

SEE REPORT ATTACHED

PAGES 3 & 4

GEORGE WARD

MAY 24, 1990

5/24/90

Item # 6.4

April 6, 1990

Mr. Bob Martin
Solid Waste Director
Metro Solid Waste Department
2000 S.W. First Avenue
Portland, OR 97201-5398

Re: St. Johns Landfill
Solid Waste Closure
Permit No. 116
Multnomah County

Dear Mr. Martin:

We have completed review of Metro's September 1989 "Closure and Financial Assurance Plan" (Closure Plan) transmitted by letter dated October 27, 1989.

Review of Metro's Closure Plan was guided by Solid Waste Closure Permit No. 116, Oregon's Solid Waste Management rules (OAR 340-61), Oregon's Groundwater Quality Protection rules (OAR 340-40), Oregon's Water Pollution rules (OAR 340-41), and the February 13, 1990 "Smith and Bybee Lakes Management Plan."

The financial assurance plan portion of Metro's Closure Plan is hereby approved as meeting the requirements of OAR 340-61-034, under the condition that Metro must obtain DEQ approval for any modification of Metro Ordinance No. 89-300.

The closure plan portion of Metro's Closure Plan presents concepts for closing the St. Johns landfill. Although we generally concur with and approve of Metro's closure concepts, DEQ cannot give final approval until Metro provides detailed plans and specifications as required by OAR 340-61-033(1)(a).

DEQ recognizes that closure of the St. Johns landfill is more complex than was envisioned at the time the closure permit was issued. Within the last year alone, Oregon has adopted new Groundwater Quality Protection rules, the City of Portland has completed a water quality study of the Columbia Slough, and closure of the St. Johns landfill has been integrated into the management plan for Smith and Bybee Lakes.

In light of the dynamics affecting closure, DEQ does not intend to take enforcement action against Metro for failing to submit a complete closure package. However, Metro must supplement its September 1989 Closure Plan with "detailed plans and

Mr. Bob Martin
Metro Solid Waste Department
April 6, 1990
Page 2

specifications" following the time schedule set out in Metro's February 1990 "Request For Proposals" (RFP), which solicits engineering design and construction management services for closing the landfill.

By July 1, 1990, Metro shall submit to DEQ for review and approval final grading plans, and construction plans for the 1990 construction season.

By November 1, 1990, Metro shall submit to DEQ for review and approval detailed plans and specifications for the remaining phases of closure, post-closure care, and environmental monitoring.

This summer, DEQ plans to hold a hearing to provide the public with an opportunity to review and comment on Metro's closure plan, and Metro's remedial action options developed to comply with Oregon's Groundwater Quality Protection rules.

DEQ's attached April 6, 1990 Plan Review Report and March 27, 1990 letter, provide comments on Metro's September 1989 Closure Plan and detail the information to be included in Metro's July 1, 1990 and November 1, 1990 submittals to DEQ.

If you have any questions about our review, please contact Joe Gingerich of my staff at 229-6844.

Sincerely,



Steve Greenwood, Manager
Solid Waste Section
Hazardous and Solid
Waste Division

SG:JG:k
SW\SK2711
Enclosure

cc: Joe Gingerich, Hazardous and Solid Waste Division, DEQ
Charles Gray, Northwest Region, DEQ
Bob Baumgartner, Water Quality Division, DEQ
Dennis O'Neil, Metro
John Lang, City of Portland

PLAN REVIEW REPORT

Site: St. Johns Landfill
Owner: City of Portland
Permit Holder: METRO
Operator: BFI
County: Multnomah
SW Disposal Site Closure Permit No. 116
Joe Gingerich
April 6, 1990

In response to permit Condition 2 of Schedule C, Metro submitted a "Closure and Financial Assurance Plan" (Closure Plan) dated September 1989. To support presented closure concepts, the Closure Plan references a three-volume "St. Johns Water Quality Impact Investigation and Environmental Management Options Report" dated May 31, 1989 and a one-volume addendum to the report dated July 1989.

My review of Metro's Closure Plan was guided by Solid Waste Closure Permit No. 116, Oregon's Solid Waste Management rules (OAR 340-61), Oregon's Groundwater Quality Protection rules (OAR 340-40), Oregon's Water Pollution rules (OAR 340-41), and the February 13, 1990 "Smith and Bybee Lakes Management Plan."

In general, Metro's Closure Plan consists of concepts for closing the St. Johns landfill rather than "detailed plans and specifications" as required by OAR 340-61-033(1)(a). Although I concur with and approve of most of Metro's closure concepts, I cannot give final approval until Metro supplements its Closure Plan with "detailed plans and specifications" showing how landfill closure and post-closure care will achieve and monitor compliance with Oregon's Solid Waste Management, Water Pollution and Groundwater Quality Protection rules.

My following review is organized into four sections: (I) Solid Waste Management Rules; (II) Groundwater Quality Protection Rules; (III) Water Pollution Rules; and (IV) Smith and Bybee Lakes Management Plan. Each section follows the format of Metro's September 1989 Closure Plan.

SECTION I SOLID WASTE MANAGEMENT RULES

Oregon's Solid Waste Management rules (OAR 340-61) regulate solid waste management in Oregon, including closure of solid waste disposal facilities such as the St. Johns landfill.

DEQ has recently drafted "Landfill Permit Application Instructions" (instructions) which clarify DEQ's expectations for the level of informational detail needed to support a landfill permit application.

Since much of the information requested by the instructions is applicable to closure of the St. Johns landfill, Metro's detailed plans and specifications for closure should include relevant information requested by the instructions as detailed below following the format of Metro's September 1989 Closure Plan.

A. FINAL GRADING PLAN

Objectives for the final grading plan design should include: (1) achieving grades that will minimize cover maintenance; (2) sequencing and conducting grading to minimize differential settlement after installation of final cover; and (3) minimizing the volume of garbage needed to achieve the design grades.

Metro's final grading concepts are approved, provided that by July 1, 1990 Metro submits detailed grading plans based on a design rationale that includes the following elements:

1. Prior to designing final grades, conduct a ground survey to verify the accuracy of Metro's most recent aerial survey;
2. Prior to designing final grades, install interior wells to a depth where they contact the underlying silts. Knowledge of the top of silt elevations will provide useful information on the thickness of garbage, and perhaps some insight about how much settlement has occurred in the silt layer relative to its elevation in areas adjacent to the landfill;
3. Evaluate aerial photographs and other existing data, including information on historical fill sequence and practices, to estimate differential garbage settlement as a function of garbage compaction, depth and age;
4. Evaluate differential landfill settlement as a function of primary and secondary consolidation of underlying silts. Use representative consolidation test data in the evaluation, and attempt to account for the thickness distribution of underlying silts and the garbage loading dynamics (i.e. time of garbage placement, depth of garbage, and changes in garbage density based on compaction and age);
5. Design final grades which will use the minimum volume of garbage necessary achieve grades that will retain at least five percent slopes after compensating for differential settlement estimates from elements (3) and (4) above;
6. The sequence of final grading should account for projected waste flows and waste types; and
7. If the design of an effective grading plan is being constrained by the landfill height restriction, then Metro should seek permission from the City of Portland to allow grading to elevations necessary for effective closure.

B. FINAL COVER

At the heart of Metro's conceptual final cover design is a geomembrane sandwiched between two drainage layers. The primary purpose of the top drainage layer is to relieve pore water pressure build-up which could cause stability problems. The underlying geomembrane layer serves as a barrier to surface water infiltration, and the lower drainage layer functions to collect landfill gas. If properly designed, constructed and maintained, the conceptual final cover system would meet DEQ's performance requirements for minimizing surface water infiltration.

The final cover design also appears to be the focus of Metro's strategy to comply with DEQ's Groundwater Quality Protection rules by using "highest and best practicable" technology to control the source of leachate releases from the landfill.

Although I concur with design functions of the conceptual cover components, I have concerns about the process implemented by Metro to develop the final cover design. The scope of Metro's February 1990 "Request for Proposal" (RFP) seems to have effectively eliminated from consideration a number of viable final cover design options, potentially including the "highest and best practical" technology option for this particular closure. I say this because Metro's RFP seeks engineering proposals which will both develop final closure design plans, and manage closure construction activities. As a result, engineering proposals submitted to Metro are based on cost estimates for constructing the conceptual cover. Since construction management is a major cost factor, Metro can be assured that development of the final cover design will be limited to design options which do not exceed estimated construction management costs.

Hopefully, Metro has a clear understanding of it's long-term liabilities associated with the St. Johns landfill. The process for selecting a final cover design should not prematurely eliminate design options from consideration. I recommend that Metro review and modify, as necessary, their RFP to provide the design engineer the flexibility to consider and evaluate a complete range of final cover configurations including systems which use a clay barrier layer in addition to the geomembrane layer.

Again, Metro should not limit design options before detailed design analyses are completed to evaluate which cover configuration best serves Metro's objectives for closure. Metro may determine that the advantages of using a clay barrier in combination with a geomembrane outweigh the additional costs, particularly when considering post-closure care requirements.

➤ To help evaluate proposed final cover designs, I encourage Metro to obtain a copy of EPA's latest guidance on landfill covers; U.S. EPA (July 1989), Final Covers on Hazardous Waste Landfills and Surface Impoundments, EPA/530-SW-89-047.

With anticipated landfill closure taking as much as five construction seasons, the effectiveness of the existing cover to limit leachate infiltration becomes increasingly important. Therefore, by July 1, 1990, Metro should submit to DEQ: (1) a description of the interim cover construction equipment and procedure; (2) material properties of the soils used in the interim cover clay layer; and (3) quality control and quality assurance data to document the thickness and hydraulic conductivity of the clay layer.

By November 1, 1990, Metro should submit to DEQ detailed final cover plans and specifications which address the following comments and information requests:

1. Final cover construction should be sequenced to minimize differential settlement effects on the final cover. The landfill Subarea anticipating the least amount of differential settlement should be covered first followed by sequencing cover construction over Subareas according their estimated differential settlement rates. The last Subarea to be covered should be the one for which the greatest differential settlement is anticipated;
2. Include applicable design information on final cover system components as requested by Subsections IV.3.5. and IV.6. of DEQ's "Landfill Permit Application Instructions;"
3. If applicable, include low permeability soil barrier construction information requested by Subsection V.2. of DEQ's "Landfill Permit Application Instructions;"
4. Include installation information on geosynthetics as requested by Subsections V.3. of DEQ's "Landfill Permit Application Instructions;"
5. Include evaluation of very low density polyethylene (VLDPE) in selection of a geomembrane, since VLDPE appears to exhibit material properties more suitable for withstanding the stresses of closure than HDPE;
6. If a polyethylene geomembrane is selected as a component of the final cover then it should be at least 60 mil thick for greater survivability and to avoid seaming difficulties;
7. Include construction of final cover system components in the construction quality assurance plan requested by Subsection V.6 of DEQ's "Landfill Permit Application Instructions;" and