



METRO

Agenda

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

Meeting: **METRO COUNCIL**
Date: **October 25, 1990**
Day: **Thursday**
Time: **5:30 p.m.**
Place: **Council Chambers**

Approx. Time* Presented By

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

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

2.1 **Letter from Les Ruark Regarding Purchase of Metro's
Central Office (No Action Requested)**

3. **EXECUTIVE OFFICER COMMUNICATIONS**

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

4.1 **Minutes of Special Meeting July 12 (Action Requested:
Motion to Approve the Minutes)**

REFERRED FROM FINANCE COMMITTEE

4.2 **Resolution No. 90-1334, For the Purpose of Approving
Metro's Participation in the National Red Ribbon Campaign
(Action Requested: Motion to Adopt the Resolution)**

REFERRED FROM THE INTERGOVERNMENTAL RELATIONS COMMITTEE

4.3 **Resolution No. 90-1336, Establishing the FY 1990-91 Metro
Legislative Task Force (Action Requested: Motion to
Adopt the Ordinance)**

5. **ORDINANCES, FIRST READINGS**

5:40 5.1 **Ordinance No. 90-369, An Ordinance Establishing an Office
of Government Relations to Provide Government Relation
Services to the Metropolitan Service District (Referred
to Intergovernmental Relations Committee)**

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

6. ORDINANCES, SECOND READINGS

REFERRED FROM THE FINANCE COMMITTEE

- 5:45 6.1 Ordinance No. 90-365, For the Purpose of Devlin
(5 min.) Amending Metro code Section 2.06 to Update the
Investment Policy (PUBLIC HEARING) (Action
Requested: Motion to Adopt the Ordinance)

REFERRED FROM THE INTERGOVERNMENTAL RELATIONS COMMITTEE

- 5:50 6.2 Ordinance No. 90-361, For the Purpose of Amending Devlin
(10 min.) Metro Code Chapter 3.02, Amending the Regional
Wastewater Management Plan and Submitting it for
Recertification (PUBLIC HEARING) (Action Request-
ed: Motion to Adopt the Ordinance)

REFERRED FROM THE SOLID WASTE COMMITTEE

- 6:00 6.3 Ordinance No. 90-331A, For the Purpose of Buchanan
(10 min.) Adding Chapter 5.06 to the Metro Code to
Provide for a Composter Community Enhance-
ment Program and Creating a Composter Com-
munity Enhancement Committee (PUBLIC
HEARING) (Action Requested: Motion to Adopt
the Ordinance)

7. RESOLUTIONS

REFERRED FROM THE INTERGOVERNMENTAL RELATIONS COMMITTEE

- 6:10 7.1 Resolution No. 90-1339, Transmitting House- Gardner
(5 min.) keeping Legislation to the Oregon State
Legislature for Introduction to the 1991
Legislative Session (Action Requested:
Motion to Adopt the Resolution)

REFERRED FROM THE SOLID WASTE COMMITTEE

- 6:15 7.2 Resolution No. 90-1314, For the Purpose of DeJardin
(20 min.) Approving an Intergovernmental Agreement
to Assume Custody of Certain Monies and
Ownership at the St. Johns Landfill and
Certain Adjacent Land from the City of
Portland (Action Requested: Motion to
Adopt the Resolution)

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

7. RESOLUTIONS

BEFORE THE CONTRACT REVIEW BOARD OF THE METROPOLITAN SERVICE DISTRICT

REFERRED FROM THE ZOO COMMITTEE

6:35 (5 min.) 7.3 Resolution No. 90-1328, For the Purpose of McFarland
Authorizing an Exemption from Requirements
of Metro Code Section 2.04.054(a) for Amendment
No. 10 to the Contract with GSA Partnership,
P.C. to Perform Additional Design Services for
the Africa Rain Forest Exhibit (Action Requested:
Motion to Adopt the Resolution)

6:40 (5 min.) 7.4 Resolution No. 90-1342, For the Purpose of McFarland
Expressing Opposition to Ballot Measure #5
(Action Requested: Motion to Adopt the
Resolution)

6:45 8. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS

8.1 Tri-Met Merger Gardner

8.2 Intergovernmental Relations Committee Report Gardner
--RLIS Marketing Services RFP

8.3 Legislative Task Force Collier

7:00 ADJOURN

Agenda Item No. 2.1
Meeting Date: October 25, 1990

Citizen Communication on Non-Agenda Items

RECEIVED OCT 17 1990

Les Ruark

Rock Creek/Star Route Box 58
Arlington, Oregon 97812
(503) 454-2511

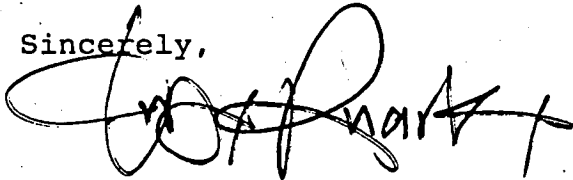
14 October 1990

Clerk of the Council
Portland Metropolitan Service District
2000 S.W. First Ave.
Portland, Oregon 97201

Re: Attached Letter to the Editor

Regardless of whether the attached Letter to the Editor is published by the Portland Oregonian, I respectfully request that it be made available to the council and made a part of council's record for its next regular meeting, under the order of "Citizen Communications on Non-Agenda Items". I also respectfully ask for written confirmation from your office that this request has been received and will be or has been honored. Thank you for your assistance in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read 'Les Ruark', written over a horizontal line.

Les Ruark

Les Ruark

Rock Creek/Star Route Box 58
Arlington, Oregon 97812
(503) 454-2511

14 October 1990

Letters to the Editor
The Oregonian
1320 S.W. Broadway
Portland, Oregon 97201

To the Editor:

A view from afar:

The Metro (Portland Metropolitan Service District) Council ought not to be able to select and purchase Metro's central offices (Metro's seat of government) without putting the matter to a vote of the people within Metro's boundaries.

To do otherwise (for instance, to follow the state's lead in the way it has circumvented due process to decide upon new state office buildings) is arbitrary and inequitable, especially when such action is taken only a few weeks before voters decide a ballot measure regarding Metro's future; it unnecessarily undermines citizen trust in regional government at a time when building (in Metro's case, restoring) such trust should be continually and carefully nurtured.

Other regional jurisdictions should think twice before excluding voters from such decision-making.

Sincerely,

/s/ Les Ruark

Les Ruark

c: Metro Council

Agenda Item No. 4.1
Meeting Date: October 25, 1990

Minutes

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

July 12, 1990
Special Meeting

Councilors Present: Tanya Collier (Presiding Officer), Gary Hansen (Deputy Presiding Officer), Roger Buchanan, Tom DeJardin, Richard Devlin, Jim Gardenr, Ruth McFarland, George Van Bergen and Judy Wyers

Councilors Absent: Lawrence Bauer and David Knowles

Presiding Officer Collier called the meeting to order at 3:05 p.m.

1. Consideration of a Candidate for the Vacant District 1 Council Position

- o Interviews of Candidates by the Council
 - 3:00 - Dale Chambers
 - 3:30 - Jack Orchard
 - 4:00 - David Saucy

The Presiding Officer explained the election process would be as follows:

1. The three candidates would be interviewed by the Council. All candidates would be asked the same questions. Councilors may then ask other questions of candidates. She announced that the order of interviews had been randomly determined by lot.
2. After all interviews, the Council would have discussion and vote. Printed ballots listing all candidates would be distributed to Councilors and Councilors would vote for one candidate and will sign their ballots. Staff would tally the votes. To be elected, a candidate would have to receive at least six votes. She announced that if no candidate received six votes, a second ballot would be held between the two candidates receiving the most votes on the first ballot. In case of a tie for the first or second spots on the first ballot, all candidates in the first and second spots would be on the second ballot. The same procedure would follow for a third ballot.
3. The Presiding Officer said that once a Councilor was elected, the Council would adopt Resolution No. 90-1298, For the Purpose of Appointing a Candidate to Fill the Vacant District 1 Council Position.
4. The candidate elected would serve until January 7, 1991.

Before each candidate was interviewed, the Presiding Officer repeated the same set of instructions that each candidate would have 20 minutes to respond to the six prepared interview questions

questions have been answered. If desired, candidates could have two minutes for closing statements.

The interview questions were:

1. Why would you like to be a Metro councilor?
2. What services do you think Metro should provide?
3. How should Metro relate with other governments in the region?
4. Metro councilors are responsible for setting regional policy and for fiscal oversight of the Metropolitan Service District. Explain how your background would enhance the council's ability to perform these tasks.
5. By assuming this position, you would be appointed to represent a district of approximately 80,000 people. Please share with us your knowledge of the needs and concerns of your district. What experience do you have in working with community organizations as well as with individuals in your district? How would you balance the needs of District 1 with the needs of the region?
6. What, if anything, do you believe ought to be changed about Metro?

Dale Chambers was the first candidate interviewed. At 3:30 p.m., the Council recessed; and at 3:32 the Council reconvened at which time Jack Orchard was interviewed. David Saucy was then interviewed. The Council cast a written ballot resulting in Councilors Buchanan, Wyers, Collier, DeJardin, McFarland, Gardner, Van Bergen and Devlin voting for David Saucy. Councilor Hansen voted for Jack Orchard. Councilors Bauer and Knowles were absent.

2. Resolution No. 90-1298, For the Purpose of Appointing a Candidate to Fill the Vacant District 1 Council Position

Motion: Councilor Gardner moved, seconded by Councilor DeJardin to adopt Resolution No. 90-1298 appointing David Saucy, Jr. to fill the vacant district 1 Council position.

Vote: The nine councilors present voted in favor of the motion. Councilors Bauer and Knowles were absent.

The motion carried.

3. Administration of Oath of Office

Metro General Counsel Dan Cooper administered the oath of office to Mr. Saucy, Jr.

Special Council Meeting
July 12, 1990
Page 3

There was no other business, and the meeting was adjourned at 4:55
p.m.

Respectfully submitted,

Gwen Ware-Barrett
Gwen Ware-Barrett
Clerk of the Council

gpwb

a:cn0712S.min

Agenda Item No. 4.2
Meeting Date: October 25, 1990

Resolution No. 90-1334

**For the Purpose of Approving Metro's Participation in the National
Red Ribbon Campaign**

The Finance Committee considered Resolution No. 90-1334 at their meeting October 18 and unanimously voted in favor of recommending Council adoption. The Committee's full report will be distributed at the Council meeting.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING) RESOLUTION NO. 90-1334
METRO'S PARTICIPATION IN THE)
NATIONAL RED RIBBON CAMPAIGN) Introduced by Rena Cusma
) Executive Officer

WHEREAS, The Metropolitan Service District supports and encourages initiatives that strengthen the region's workforce and contribute to the productivity and health of individuals, and

WHEREAS, Drug abuse is detrimental to these objectives and destructive to communities and the lives of families and individuals, and

WHEREAS, The National Red Ribbon Community Plan campaign is designed to heighten community interest and commitment to a drug-free lifestyle, and

WHEREAS, The Oregon Federation of Parents for Drug Free Youth is the Oregon campaign coordinator, and

WHEREAS, The Metropolitan Service District is supportive of the Red Ribbon Community Plan concept and goals; now, therefore,

BE IT RESOLVED,

That the Metropolitan Service District join the National Red Ribbon Community Plan effort proclaiming October 21-28 to be Red Ribbon Week, by displaying the Red Ribbon symbol on Metropolitan Service District facilities and by providing red ribbons to employees wishing to support the campaign by voluntarily wearing a red ribbon.

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

Tanya Collier, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1334 FOR THE
PURPOSE OF APPROVING METRO'S PARTICIPATION IN THE
NATIONAL RED RIBBON CAMPAIGN

Date: September 27, 1990

Presented by: Don Rocks

FACTUAL BACKGROUND

Adaption of Resolution 90-1334 publically establishes Metro's support for a drug-free workplace and lifestyle.

The vehicle for enunciating this position is the National Red Ribbon Campaign organized by the National Federation of Parents for Drug Free Youth, Honorary Chairs, President and Mrs. Bush. Governor Neil Goldschmidt is Oregon's Honorary Chair.

The National Red Ribbon Campaign is an annual event of fairly recent invention that is growing in participation each year.

In addition to Metro the agency supporting the campaign by displaying red ribbons on and at facilities operated by Metro, it is proposed that Metro employees who may wish to wear red ribbons to show their own support during the campaign week may do so. Metro would make red ribbons available for this purpose. Ribbons for facilities and employees would entail some expense. Amount to be determined.

Proposed Metro participation departs from the recommended program in that it is not proposed that Metro employees be encouraged to sign a pledge attesting to a commitment that reads "No use of illegal drugs-no illegal use of legal drugs".

That difference makes it logistically easier to participate and presumably defuses reactions to the pledge aspect as some how coercive or an invasion of privacy.

The National Red Ribbon Campaign is a national community level endorsement of a healthy and productive lifestyle. It is fitting and appropriate that governments lead by example and participate.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of this resolution.

Agenda Item No. 4.3
Meeting Date: October 25, 1990

Resolution No. 90-1336

Establishing the FY 1990-91 Metro Legislative Task Force

INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT

RESOLUTION NO. 90-1336, ESTABLISHING THE FY90-91 METRO LEGISLATIVE TASK FORCE

Date: October 11, 1990

Presented by: Councilor Gardner

COMMITTEE RECOMMENDATION: At the October 9, 1990, Intergovernmental Relations Committee meeting, Councilors Devlin, Hansen, McFarland and myself voted unanimously to recommend Council adopt Resolution No. 90-1336. Councilor Bauer was excused.

COMMITTEE DISCUSSION/ISSUES: Resolution No. 90-1336 establishes Metro's legislative task force to monitor and guide Metro lobbying efforts during the 1991 State legislative session. Task Force members, totalling 6, will be the Council Presiding Officer, Council Committee Vice-Chairs, and the Metro Executive Officer. Resolution No. 90-1336 outlines clear roles and responsibilities for the task force, similar to the authorities outlined by the Council for its 1987 legislative task force.

In discussing the resolution, it was noted Committee Vice-Chairs will be called upon to keep their Committees well informed of legislative actions or issues which will require quick lobbyist response, but for which the Council has not adopted specific policy guidelines.

A technical correction was made to the resolution to fill in the blank in the first "Whereas" indicating the 1991 State Legislature will convene on January 14, 1991.

Committee members also noted the need for all Council Committees to prepare their legislative concepts or bill proposals by November 5, for IGR Committee action via resolution on November 13, 1990. No additional issues or points were raised regarding the resolution.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)
THE FY90-91 METROPOLITAN SERVICE)
DISTRICT LEGISLATIVE TASK FORCE)

RESOLUTION NO. 90-1336

) Introduced by the
) Intergovernmental Relations
) Committee

WHEREAS, The 1991 Oregon State Legislature will convene on
January 14, 1991; and

WHEREAS, The Metropolitan Service District intends to submit
and actively support legislation as deemed necessary to further
District interest areas, including but not limited to solid waste
management and waste reduction, land use and transportation planning,
business licenses, regional governance and regional development; and

WHEREAS, The Council recognizes the need to exercise its
legislative policy oversight responsibilities in an expeditious and
coordinated manner; now, therefore,

BE IT RESOLVED,

1. That a Legislative Task Force is created whose membership shall consist of the Council Presiding Officer, the Metro Executive Officer Rena Cusma, and current Council Committee Vice Chairs as follows: Councilor Roger Buchanan, Convention and Visitor Facilities Committee; Councilor Tom DeJardin, Zoo Committee; Councilor Richard Devlin, Intergovernmental Relations Committee; Councilor Judy Wyers, Finance and Solid Waste Committees.
2. That the purpose of the Task Force shall be to:
 - A. Assist with the development of a legislative strategy.
 - B. Receive regular information from the Metro Government Relations Manager, Metro Staff and other sources which

will facilitate the development of the legislative program consistent with principles adopted by the Council.

- C. Report to the Council as needed to discuss legislation (new bills, amendments, etc.) which is outside the Council-approved legislative principles.
- D. Introduce resolutions to the full Metro Council as necessary, and legislative process time permitting, to take positions on new legislation, new issues and any amendments to Metro bills which may fall outside the Council-approved legislative principles: If time is not available for full Council action, review and approve new legislation, new issues and any amendments to Metro bills which may fall outside the Council-approved legislative principles.
- E. Monitor progress of the Metro legislative program during the session to ensure consistency with Council adopted principles.

3. That the Legislative Task Force shall be terminated upon completion of the 1991 legislative session.

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

Tanya Collier, Presiding Officer

COUNCIL STAFF REPORT

RESOLUTION NO. 90-1336, FOR THE PURPOSE OF ESTABLISHING THE FY90-91 METRO LEGISLATIVE TASK FORCE

Date: October 2, 1990

Presented by: J. Marlitt

BACKGROUND AND ANALYSIS

At the September 8, 1990 Council policy retreat, Councilors attending requested staff draft a resolution establishing a 1991 Legislative Task Force whose membership would include the Council Presiding Officer, Metro Executive Officer and the Council Committee Vice-Chairs. For the 1987 and 1989 Oregon legislative sessions, the Council created similar task force/subcommittee structures although by different means.

For the 1987 legislative session, the Council established by resolution a short-term Legislative Committee comprised of five Councilors. Proposed Resolution No. 90-1336 outlines FY90-91 Legislative Task Force responsibilities and authorities which are modeled after the 1987 resolution (Resolution No. 86-707, Attachment A hereto). For the 1989 session, then Presiding Officer Mike Ragsdale appointed a legislative task force to the full Metro Council (per Metro Code authorities for the Presiding Officer outlined in Section 2.01.160). Task force membership was expanded to include the Metro Executive Officer to ensure internal coordination and consistency of legislative efforts on behalf of the District.

Resolution No. 90-1336 includes the following points for the 1991 legislative session:

- o The Task Force will report directly to the Council and will have authority to introduce resolutions directly to the Council.
- o The Task Force will rely on Council adopted legislative concepts and principles, in addition to endorsements of specific bills, for guidance in reviewing and approving legislative amendments, new issues or bills which, due to time constraints, cannot be processed through the full Council for a formal position.
- o The Task Force will function only for the duration of the 1991 Oregon legislative session.
- o The Task Force will report regularly to the full Council to provide updates on legislation and progress on Metro's legislative program and to receive guidance or clarification as needed in enacting Metro legislative principles.

ATTACHMENT A

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF CREATING) RESOLUTION NO. 86-707
THE LEGISLATIVE COMMITTEE)
) Introduced by
) Presiding Officer Waker

WHEREAS, The 1987 Legislature will convene on January 12,
1987; and

WHEREAS, The Metropolitan Service District intends to seek
additional authority to accomplish its responsibilities; and

WHEREAS, It is anticipated that other parties will seek
legislation which will directly and indirectly affect the ability of
the Metropolitan Service District to accomplish its responsibilities;
and

WHEREAS, The activities of the District during the
coming months will be very demanding on the time and energy of the
Council including: construction of the convention center and
implementation of the CTS Master Plan; developing and implementing a
legislative program; planning for and implementing solid waste
disposal facilities, financial policies and rates; and updating the
Zoo Master Plan and developing a Zoo tax levy proposal; and

WHEREAS, The Council recognizes the need to exercise its
policy oversight responsibilities in an expeditious and organized
manner; now, therefore

BE IT RESOLVED,

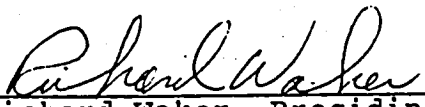
1. That a Legislative Committee is created consisting of
the following Councilors: Tanya Collier, Chair; Jim Gardner;

Corky Kirkpatrick; Mike Ragsdale and Richard Waker.

2. That the purpose of the Committee shall be to:
 - a. Receive regular information from the Executive Officer, Government Relations Manager, and Metro staff which will facilitate the development of the legislative program consistent with principles adopted by the Council.
 - b. Assist with the development of a legislative strategy.
 - c. Review and approve new legislation, new issues and any amendments to Metropolitan Service District bills which may fall outside the Council-approved legislative principles.
 - d. Review initial bill drafts of the Metropolitan Service District legislative program.
 - e. Monitor progress of the program during the session to assure consistency with Council adopted principles.
 - f. Report to the Council as needed to discuss legislation (new bills, amendments, etc.) which are outside the Council approved legislative principles.

3. That the Committee shall be terminated upon completion of the 1987 legislative session.

ADOPTED by the Council of the Metropolitan Service District
this 20th day of November, 1986.


Richard Waker, Presiding Officer

DEC/gl
6590C/485-2
11/20/86

Agenda Item No. 5.1
Meeting Date: October 25, 1990

Ordinance No. 90-369

An Ordinance Establishing an Office of Government Relations to
Provide Government Relation Services to the Metropolitan Service
District

COUNCIL STAFF REPORT

ORDINANCE NO. 90-369, ESTABLISHING AN OFFICE OF GOVERNMENT RELATIONS TO PROVIDE GOVERNMENT RELATION SERVICES TO THE METROPOLITAN SERVICE DISTRICT

Date: October 18, 1990

Presented by: J. Marlitt

BACKGROUND

Ordinance No. 90-369 responds to Council discussion and requested "next steps" of the September 8, 1990 policy retreat. At the retreat, Councilors reviewed issues related to the 1991 State legislative session and reached consensus the Metro lobbyist position should be jointly responsible to the Administration and the Metro Council, similar to the General Counsel position.

The Intergovernmental Relations Committee (IGR) received the ordinance in draft form October 9 and asked the Government Relations Manager to prepare any written comments for discussion at the meeting October 23. IGR will consider Ordinance No. 90-369 formally and conduct a public hearing at its meeting November 13, 1990.

SUMMARY & ANALYSIS

Ordinance No. 90-369 adds a new chapter to the Metro Code creating an Office of Government Relations with the following provisions:

- o The position will provide services to the Council, Executive Officer and any Metro commissions;
- o The Executive Officer shall appoint the Government Relations Officer subject to the Council confirmation of the appointment;
- o Either the Executive Officer or the Council may remove the Government Relations Officer;
- o The Office's duties shall include managing the District's State legislative program; communicating District programs and policies to other local, state and federal government bodies and representatives and appropriate special interest groups; and monitoring and keeping the Council and Executive Officer abreast of programs and policies of other local, state and federal government bodies and special interest groups;
- o The Office will only advocate or represent issues on behalf of Metro as a whole and will only advocate or represent issues or legislative concepts which have been approved or adopted by the Council or a designated task force/subcommittee; and
- o If the Council and Executive Officer disagree on a separation of powers issue, the Office shall not represent or advocate for either body.

Issues which the Council may want to consider regarding this ordinance include:

- o the Office's position within Metro's organizational structure;
- o the ability of the Government Relations Officer to respond quickly to legislative issues (what level of Metro approval is adequate?);
- o Office representation of issues, other than separation of powers, on which the Council, the Executive Officer or any commissions may not have agreement.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ESTABLISHING AN)
OFFICE OF GOVERNMENT RELATIONS)
TO PROVIDE GOVERNMENT RELATION)
SERVICES TO THE METROPOLITAN)
SERVICE DISTRICT)

ORDINANCE NO. 90-369

Introduced by Councilor
Gardner

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The following Chapter is added to the Code of
the Metropolitan Service District:

CHAPTER 2.11

OFFICE OF GOVERNMENT RELATIONS

2.11.010 Purpose: The purpose of this Chapter is to establish
an Office of Government Relations to provide government relations
services to the District and its Council, Executive Officer and
any Metro commissions.

2.11.020 Government Relations Office Created: There is hereby
created an Office of Government Relations consisting of the
Government Relations Officer and such subordinate employees as
the Council may provide. The Government Relations Officer and
any subordinate employees shall be employed by the District
subject to Personnel Rules adopted by the Council. The
Government Relations Officer shall be appointed by the Executive
Officer subject to the confirmation of a majority of the members
of the Council. The Government Relations Officer may be removed
by the Executive Officer or by a vote of a majority of the
members of the Council. The Office of Government Relations is
not a department of the District. All contracts authorized for

Government Relations Services shall be managed through the Office of Governmental Relations.

2.11.030 Duties: The Government Relations Officer shall have the following duties:

(a) Responsibility for managing the District's State Legislative Program including:

(1) Assembling the District's legislative program for review and approval by the Council following a process established by the Council;

(2) Insure District representation before legislative committees with individual legislators both during a legislative session and in interim periods and with other interested persons;

(3) Development and implementation of a system to monitor and inform the Council and Executive Officer of District related-legislation; and

(4) Preparation of a final legislative report analyzing District related legislation.

(b) Responsibility for communicating District programs and policies to local, state and federal governmental officials, and task forces, commissions, and rule making bodies.

(c) Responsibility to monitor and communicate to the Council and Executive Officer programs and policies of other governments and special interest groups which affect or impact functions or activities of the District.

2.11.040 Advocate for District Policies: In carrying out the duties of the Office, the Government Relations Officer or

subordinate employees shall not represent or advocate the position of any single Metro elected official or group of elected officials. The Government Relations Officer or subordinate employees shall advocate only on matters which have been approved or adopted by the Metro Council or any task force or committee authorized by the Council to represent the District on legislative matters. For any matter relating to the separation of powers and authority between the Metro Council and Executive Officer in which the Council and Executive Officer disagree, the Government Relations Officer and subordinate employees shall not represent or advocate for either the Metro Council or Executive Officer.

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

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

90-369.ORD/aeb
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Agenda Item No. 6.1
Meeting Date: October 25, 1990

Ordinance No. 90-365

For the Purpose of Amending Metro Code Section 2.06 to Update the
Investment Policy

The Council Finance Committee considered Ordinance No. 90-365 at
their meeting October 18 and recommended the Council adopt the
ordinance. The Committee's full report and recommendations will
be distributed at the Council meeting.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING METRO) Ordinance No. 90-365
CODE SECTION 2.06 TO UPDATE THE)
INVESTMENT POLICY) Introduced by Rena Cusma,
) Executive Officer

WHEREAS, The Metropolitan Service District's "Investment Procedures" have been established by ordinance in Metro Code 2.06; and

WHEREAS, it is desirable to include additional policy elements such as scope, objectives, controls, and performance evaluation; and

WHEREAS, it is desirable to modify the Investment Limitations to provide an opportunity for increased portfolio yield while staying within the Local Government Investment Policy Guidelines; now therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Metro Code Section 2.06 is amended to read as follows:

CHAPTER 2.06

INVESTMENT PROCEDURES POLICY

SECTIONS

~~2.06.020 Investment Officer~~
~~2.06.030 Investment Advisory Board~~
~~2.06.040 Investment Diversification~~
~~2.06.045 Investment Maturity~~
~~2.06.050 Investment Limitations~~
~~2.06.055 Politico/Socio Limitations~~
~~2.06.060 Selection of Securities~~
~~2.06.070 Delivery of Securities~~
~~2.06.080 Collateralization~~
~~2.06.090 Reporting Requirements~~
~~2.06.100 Indemnity Clause~~

2.06.010 Scope
2.06.020 Objectives
2.06.030 Responsibility

- 2.06.040 Prudence
- 2.06.050 Diversification
 - (a) by Instrument type
 - (b) by Financial Institution
 - (c) by Maturity
- 2.06.060 Competitive Selection of Investment Instruments
- 2.06.070 Qualified Institutions
- 2.06.080 Banking Services
- 2.06.090 Safekeeping and Collateralization
- 2.06.100 Indemnity Clause
- 2.06.110 Controls
- 2.06.120 Accounting Method
- 2.06.130 Reporting Requirements
- 2.06.140 Performance Evaluation
- 2.06.150 Policy Adoption
- 2.06.160 Policy Readoption

2.06.010 Scope: These investment policies apply to all cash-related assets included within the scope of the Metropolitan Service District's (Metro) audited financial statements and held directly by Metro. Funds held and invested by trustees or fiscal agents are excluded from these policies; however, such funds are subject to the regulations established by the State of Oregon.

Funds of Metro will be invested in compliance with the provisions of ORS 294.035 through 294.048; ORS 294.125 through 294.155; ORS 294.810; and other applicable statutes. Investments will be in accordance with these policies and written administrative procedures. Investment of any tax exempt borrowing proceeds and of any debt service funds will comply with the 1986 Tax Reform Bill provisions and any subsequent amendments thereto.

2.06.020 Objectives:

(a) Safety: Investments shall be undertaken in a manner that seeks to ensure the preservation of principal in the overall portfolio and security of funds and investments. For securities not backed by the full faith and credit of the federal government, diversification is required in order that potential losses on individual securities would not exceed the income generated from the remainder of the portfolio.

(b) Liquidity: The Investment Officer shall assure that funds are constantly available to meet immediate payment requirements including payroll, accounts payable and debt service.

(3) Duties: The IAB shall meet at least quarterly. The IAB will serve as a forum for discussion and act in an advisory capacity for investment strategies, banking relationships, the legality and probity of investment activities, and the establishment of written procedures for the investment operations.

(c) Quarterly Reports: At each quarterly meeting, the IAB shall review investment reports submitted by the Investment Officer reflecting investment activity for each of the immediately preceding three months. Acceptance of the report must be by at least two members of the IAB. Should the reports not be accepted, the reports shall be revised accordingly by the Investment Officer and resubmitted to the IAB at its next regularly scheduled meeting or sooner if requested.

~~(Ordinance No. 87-228, Sec. 1)~~

2.06.040 ~~Investment Diversification~~ Prudence:

~~(a) Diversification by Investment~~

	Percent of Portfolio (Maximum)
(1) U.S. Treasury Bills, Notes, Bonds, Strips and/or State and Local Government Series (SLGS)	100%
(2) U.S. Government Agencies	100%
(3) Certificates of Deposit Commercial Banks	100%
(4) Certificates of Deposit Savings and Loan Associations	30%
(5) Repurchase Agreements	25%
(6) Banker's Acceptances	100%
(7) Commercial Paper	0%
(8) State and Municipal Bonds	100%

~~(9) State of Oregon Investment Pool Varies~~

~~Note: The Investment Officer shall comply with the requirements of ORS 294.810 and limit the investment in the State of Oregon Investment Pool at any time to a maximum of \$20,000,000; \$10,000,000 in each of two accounts. (Moved to 2.06.050 (a) with changes.)~~

The standard of prudence to be applied by the Investment Officer shall be the "prudent investor" rule: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall portfolio.

~~(Ordinance No. 87-228, Sec. 1)~~

~~2.06.045 Investment Maturity: Only investments which can be held to maturity shall be purchased. Investments shall not be planned or made predicated upon selling the security prior to maturity.~~

~~Maturity limitations shall depend upon whether the funds being invested are considered short term or long term funds. All funds shall be considered short term except those reserved for capital projects (e.g., bond sale proceeds).~~

~~(a) Short Term Funds:~~

~~(1) Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs.~~

~~(2) Except for special situations, as identified by the Investment Advisory Board and directed by the Investment Officer, investments shall be limited to maturities not exceeding 18 months.~~

~~(3) Bond reserve funds shall be limited to investment in securities up to 18 months. The maturity of the investment may extend to 18 months only if the debt service account is properly funded and provision has been made in amount and maturity for the first possible draw upon the reserve account. If these conditions are not met, the investment maturity must match the expected draws upon the reserve funds.~~

~~(b) Long Term Funds:~~

~~(1) Maturity scheduling shall be timed according to anticipated need. ORS 294.135 permits investment beyond 18 months for any bond proceeds or funds accumulated for any purpose which the District is permitted by State law to accumulate and hold funds for a period exceeding one year. The maturities may be made to coincide as nearly as practicable with the expected use of the funds.~~

~~(2) Investment of capital project funds shall be timed to meet projected contractor payments. The drawdown schedule used to guide the investment of the funds shall evidence the approval of the Investment Officer and review of the Director of Finance & Administration and the Manager of Accounting. (Moved to 2.06.050(c) with changes.)~~

~~(Ordinance No. 87-228, Sec. 1)~~

2.06.050 ~~Investment Limitations~~ Investment Diversification:
(Definitions of terms and applicable authorizing Statutes are listed in the "summary of Investments Available to Municipalities" provided by the State Treasurer.) The Investment Officer will diversify the portfolio to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions, or maturities.

(a) Diversification by Investment

	<u>Percent of Portfolio (Maximum)</u>
<u>(1) U.S. Treasury Bills, Notes, Bonds, Strips and/or State and Local Government Series (SLGS)</u>	<u>100%</u>
<u>(2) U.S. Government Agencies Securities and Instrumentalities of Government Sponsored Corporations</u>	<u>100%</u>
<u>(3) Certificates of Deposit (CD) Commercial Banks in Oregon insured by FDIC</u>	<u>100%</u>
<u>(4) Certificates of Deposit</u>	<u>25%</u>

Savings and Loan Associations in Oregon which meet Federal capital requirements and are insured by the FDIC

- | | | |
|------|---|------|
| (5) | <u>Repurchase Agreements (Repo's)</u> | 50% |
| (6) | <u>Banker's Acceptances (BA)</u> | 100% |
| (7) | <u>Commercial Paper (CP)</u>
<u>Financial institution, holding company or business enterprise headquartered in Oregon; A-1 and P-1 only; maximum 60-day maturity</u> | 25% |
| | <u>Corporate, publicly held U.S. corporations outside Oregon; A-1 and P-1 only; maximum 60-day maturity</u> | 10% |
| (8) | <u>State of Oregon and Local Government Securities with A ratings or better</u> | 100% |
| (9) | <u>State of Oregon Investment Pool</u> | 100% |
| (10) | <u>State of Oregon Arbitrage Pool</u>
<u>Bond Proceeds Subject to Arbitrage</u> | |
| (10) | <u>Market Interest Accounts and Checking Accounts Minimum necessary for daily cash management efficiency</u> | |

(b) Diversification by Financial Institution

(1) Qualified Institutions: The Investment Officer shall maintain a listing of financial institutions and securities dealers recommended by the IAB. Any financial institution and/or securities dealers is eligible to make an application to the Investment Officer and upon due consideration and approval hold available funds.

A listing of the eligible institutions shall be held by the Investment Officer and provided any fiduciary agent or trustee.

(2) Diversification Requirements: The combination of investments in Certificates of Deposit and Banker's Acceptances as outlined individually at 2.06.050(b)(2)(A), (B) and (D) invested with any one

institution shall not exceed 30 percent of the total available funds or 15 percent of the equity of the institution.

(A) Certificates of Deposit - Commercial Banks

No more than the lesser of 30 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.

(B) Certificates of Deposit - Savings and Loan Association

No more than the lesser of 25 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.

(C) Repurchase Agreements

May be purchased from any qualified institution provided the master repurchase agreement is effective and the safekeeping requirements are met. All repurchase agreements will be fully collateralized by U.S. Government and U.S. Agency obligations marked to market.

The Investment Officer shall not enter into any reverse repurchase agreements.

(D) Banker's Acceptances

No more than the lesser of 30 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution. All banker's acceptances will be purchased from an ORS Chapter 294.035(11) qualified Oregon financial institution.

(E) Commercial Paper

Business in Oregon - No more than 10 percent of the total portfolio with any one corporate entity.

Publicly Held Corporation not in Oregon - No more than 5 percent of the total portfolio with any one corporate entity.

(F) State and Local Government Securities

No more than 15 percent of the total portfolio in any one local entity.

(G) State of Oregon Investment Pool

Not to exceed \$20 million in accordance with ORS 294.810 (\$10 million maximum per account) with the exception of pass-through funds (in and out within 10 days).

(H) State of Oregon Arbitrage Pool

Any bond proceeds subject to arbitrage.

(I) U.S. Government Agencies

Limited to obligations of government-sponsored corporations which are eligible as collateral for Treasury Tax and Loan as determined by the Board of Governors of the Federal Reserve System and also appear on the Oregon State Treasury list of U.S. Government and Agency Securities for Local Government Investment under ORS 294.035 and/or 294.040. No more than 40 percent of the total portfolio in any one agency.

(J) U.S. Government Treasuries

No limitations

(c) Diversification by Maturity: Only investments which can be held to maturity shall be purchased. Investments shall not be planned or made predicated upon selling the security prior to maturity. This restriction does not prohibit the use of Repurchase Agreements under ORS 294.135(2). This policy shall not preclude the sale of securities prior to their maturity in order to improve the quality, net yield, or maturity characteristic of the portfolio.

Maturity limitations shall depend upon whether the funds being invested are considered short-term or long-term funds. All funds shall be considered short-term except those reserved for capital projects (e.g., bond sale proceeds).

(1) Short-Term Funds:

(A) Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs.

(B) Except for special situations, as identified by the Investment Advisory Board and directed by the Investment Officer, investments shall be limited to maturities not exceeding 18 months.

(C) Generally, bond reserve funds shall be limited to investment in securities up to 18 months. The maturity of the investment may extend to 18 months, or more, only if the debt service account is properly funded and provision has been made in amount and maturity for the first possible draw upon the reserve account. In any event, the investment maturity must not exceed the expected draws upon the reserve funds.

(2) Long-Term Funds:

(A) Maturity scheduling shall be timed according to anticipated need. ORS 294.135 permits investment beyond 18 months for any bond proceeds or funds accumulated for any purpose which the District is permitted by State law to accumulate and hold funds for a period exceeding one year. The maturities should be made to coincide as nearly as practicable with the expected use of the funds.

(B) Investment of capital project funds shall be timed to meet projected contractor payments. The drawdown schedule used to guide the investment of the funds shall evidence the approval of the Investment Officer and review of the Director of Finance & Administration.

(d) Politico/Socio Limitations: The Investment Officer may not purchase any Banker's Acceptances which involve goods which derive from South Africa. A certificate warranting this shall be obtained from the financial institution from which the Banker's Acceptance was purchased.

~~The Investment Officer shall comply with the following limitations:~~

~~(a) (e)~~ Total Prohibitions: Purchase of standby or forward commitments of any sort are specifically prohibited.

~~(b) Limitations by Type of Security:~~

~~(1) U.S. Government and U.S. Agency Securities Authorized for Purchase~~

- ~~(a) U.S. Treasury Bills~~
- ~~(b) U.S. Treasury Notes~~
- ~~(c) U.S. Treasury Bonds~~
- ~~(d) U.S. Treasury Strips~~
- ~~(e) U.S. Treasury State and Local Government Series~~
- ~~(f) Federal National Mortgage Association Notes, Debentures and Discount Notes~~

~~(2) U.S. Government Securities not Authorized for Purchase~~

- ~~(a) Banks for Cooperatives~~
- ~~(b) Sallie Mae Discount Notes~~
- ~~(c) Sallie Mae Floating Rate Notes~~
- ~~(d) Federal Intermediate Credit Banks~~
- ~~(e) Federal Farm Credit Banks Bonds and Discounts Notes~~
- ~~(f) Federal Home Loan Mortgage Corporation Mortgage Certificates~~
- ~~(g) Federal Land Banks~~
- ~~(h) Farm Credit Consolidated System-wide Discount Notes~~
- ~~(i) Federal Housing Administration Debentures~~
- ~~(j) Department of Housing and Urban Development:
New Communities Debentures
Project Notes
Local Authority Bonds~~
- ~~(k) Export-Import Bank of United States Debentures~~
- ~~(l) Farmers Home Administration Certificates of Beneficial Ownership~~
- ~~(m) General Services Administration Participation Certificates~~
- ~~(n) Government National Mortgage Association:
Participation Certificates
Pass-Through Securities
Mortgage-Backed Bonds~~
- ~~(o) Small Business Administration Debentures~~
- ~~(p) Tennessee Valley Authority Bonds~~

~~(3) Certificates of Deposit: As required by ORS chapter 295, the Manager of Accounting will be responsible to ensure that a Certificate of Collateral Participation has been issued by the institution to cover outstanding time Certificates of Deposit. Under ORS 294.035(7), the financial institutions may be:~~

~~"banks, mutual savings banks and savings and loan associations which maintain a head office or a branch in this state in a capacity of a bank, mutual savings bank or savings and loan association."~~

~~(4) Repurchase Agreements: All repurchase agreements will be fully collateralized by U.S. Government and U.S. Agency obligations marked to market.~~

~~The Investment Officer shall not enter into any reverse repurchase agreements.~~

~~(5) Banker's Acceptances: Under ORS 294.035 the Banker's Acceptance must be guaranteed by a "qualified Oregon financial institution" and must be eligible for discount by the Federal Reserve System. ORS 294.035(11) provides:~~

~~"'a qualified financial institution' means a financial institution that is located in the State of Oregon, licensed to do a banking business and not required under ORS chapter 295.018 to maintain a reserved deposit of collateral having a value not less than 110 percent of its public fund deposits. When an issuing financial institution becomes unqualified, all of its outstanding bankers' acceptances held by political subdivisions must be collateralized at 110 percent through the pool manager as required under ORS chapter 295.018."~~

~~(6) States and Municipalities: In addition to the requirements stated ORS 294.035, (1) through (6), the Investment Officer will further limit purchases of securities to municipalities which have obtained an A rating or better on Revenue Bonds and a Baa-1 rating or better on General Obligation bonds. The rating may be from either Moodys' Investors Service or Standard & Poor's Corporation. If the rating is split, the lower rating will prevail. The Investment Officer may purchase securities from unrated Oregon municipalities~~

~~upon recommendation from the Investment Advisory Board.~~

~~(Ordinance No. 87-228, Sec. 1)~~

~~2.06.055 Politico/Socio Limitations:~~

~~(a) South Africa: The Investment Officer may not purchase any Banker's Acceptances which involve goods which derive from South Africa. A certificate warranting this shall be obtained from the financial institution from which the Banker's Acceptance was purchased. (Moved to 2.06.050(d) changed.)~~

~~(Ordinance No. 87-228, Sec. 1)~~

~~2.06.060 Section of Securities Competitive Selection of Investment Instruments: Before the Investment Officer invests any surplus funds, a competitive bid process offering solicitation shall be conducted orally. Bids Offerings will be requested from financial institutions for various options with regards to term and instrument. The Investment Officer will accept the bid offering which provides the highest rate of return within the maturity required and within the prudent investor rule. Records will be kept of the bids offered, the bids offerings which are accepted and a brief explanation of the decision made regarding the investment.~~

~~(Ordinance No. 87-228, Sec. 1)~~

~~2.06.070 Delivery of Securities: All securities purchased pursuant to this Investment Policy will be delivered by either book entry or physical delivery to a third party for safekeeping by a bank designated as primary agent. Purchase and sale of all securities will be on a payment versus delivery basis. The trust department of the bank designated as primary agent will be considered to be a third party for the purposes of safekeeping of securities purchased from that bank. The primary agent shall issue a safekeeping receipt to the District listing the specific instrument, rate, maturity and other pertinent information.~~

~~Repurchase agreements will not be subject to the safekeeping requirements if purchased from First Interstate Bank of Oregon or from U.S. National Bank of Oregon; repurchase agreements from all other financial institutions shall require safekeeping. In all cases, a master repurchase agreement is required. (Moved to 2.06.090 with changes.)~~

~~Qualifying Institutions: The Investment Officer shall maintain a listing of all authorized dealers and financial institutions which are approved for investment purposes. Written procedures and criteria for~~

selection of financial institutions will be established by the Investment Officer. Financial institutions must have a branch in Oregon. Any firm is eligible to apply to provide investment services to Metro and will be added to the list if the selection criteria are met. Additions or deletions to the list will be made by the Investment Officer and reviewed by the IAB. At the request of the Investment Officer, the firms performing investment services for Metro shall provide their most recent financial statements or Consolidated Report of Condition (call report) for review. At minimum, the Investment Officer and the IAB shall conduct an annual evaluation of each firm's qualifications to determine whether it should be on the authorized list.

Securities dealers not affiliated with a bank shall be required to have an office located in Oregon and be classified as reporting dealers affiliated with the New York Federal Reserve Bank as primary dealers, or meet the criteria for financial institutions.

~~(Ordinance No. 87-228, Sec. 1)~~

~~2.06.080 Collateralization: Deposit-type securities (i.e., Certificates of Deposit) shall be collateralized through the State collateral pool as required by Oregon Revised Statutes for any amount exceeding FDIC or FSLIC coverage. Other investments shall be collateralized by the actual security held in safekeeping by the primary agent. (Moved to 2.06.090 with changes).~~

~~(a) Diversification by Financial Institution~~

~~(1) Qualified Institutions: The Investment Officer shall maintain a listing of financial institutions and securities dealers recommended by the Investment Advisory Board. Any financial institution and/or securities dealers is eligible to make an application to the Investment Officer and upon due consideration and approval hold available funds.~~

~~A listing of the eligible institutions shall be held by the Manager of Accounting and provided any fiduciary agent or trustee.~~

~~(2) Diversification Requirements: The combination of investments in Certificates of Deposit and Banker's Acceptances as outlined individually at 2.06.080(a) (2) A, B and D shall not exceed the 30 percent limitation in any one financial institution.~~

~~(A) Certificates of Deposit - Commercial Banks~~

~~No more than the lesser of 30 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.~~

~~(B) Certificates of Deposit Savings and Loan Association~~

~~No more than the lesser of 30 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.~~

~~(C) Repurchase Agreements~~

~~May be purchased from any qualified institution provided the master repurchase agreement is effective and the safekeeping requirements are met.~~

~~(D) Banker's Acceptances~~

~~No more than the lesser of 30 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution. All banker's acceptances will be purchased from a qualified Oregon financial institution. Under ORS chapter 294.035(11):~~

~~"'a qualified financial institution' means a financial institution that is located in the State of Oregon, licensed to do a banking business and not required under ORS chapter 295.018 to maintain a reserved deposit of collateral having a value not less than 110 percent of its public fund deposits. When an issuing financial institution becomes unqualified, all of its outstanding banker's acceptances held by political subdivisions must be collateralized at 110 percent through the pool manager as required under ORS chapter 295.018." (Moved to 2.06.050(b) with changes.)~~

Banking Services: Every three years the Investment Officer will solicit competitive bids from commercial banks operating in the District to provide Metro's banking services. The Investment Officer

may select a trustee bank to perform activities related to investments. In this case, the activities of the trustee shall be set forth in a trustee agreement consistent with this Code. Trustee services for a bond issue need not be rebid during the life of the issue.

~~(Ordinance No. 87-228, Sec. 1)~~

2.06.090 Reporting Requirements:

~~(a) A transaction report shall be prepared by the District's Department of Finance & Administration not later than one business day after the transaction, unless a trustee, operating under a trust agreement, has executed the transaction. The trustee agreement shall provide for a report of transactions to be submitted by the trustee on a monthly basis.~~

~~(b) Monthly reports prepared by the District's Department of Finance & Administration shall report on the entire portfolio and be submitted to the Investment Officer, Investment Advisory Board and the Council in a timely manner.~~

~~(c) Quarterly Reports will be prepared for each regular meeting of the Investment Advisory Board to present historical investment information for the past 12-month period. Copies shall be provided to the Executive Officer and the Metro Council. (Moved to 2.06.130 with changes.)~~

Safekeeping and Collateralization: All securities purchased pursuant to this Investment Policy will be delivered by either book entry or physical delivery to a third party for safekeeping by a bank designated as primary agent. Purchase and sale of all securities will be on a payment versus delivery basis. The trust department of the bank designated as primary agent will be considered to be a third party for the purposes of safekeeping of securities purchased from that bank. The primary agent shall issue a safekeeping receipt to the District listing the specific instrument, rate, maturity and other pertinent information.

Repurchase agreements will not be subject to the safekeeping requirements if purchased from First Interstate Bank of Oregon, The Bank of California or from U.S. National Bank of Oregon; repurchase agreements from all other financial institutions shall require safekeeping. In all cases, a master repurchase agreement is required.

Deposit-type securities (i.e., Certificates of Deposit) shall be collateralized through the State collateral pool as required by ORS 295.015 and ORS 295.018 for any amount exceeding FDIC coverage, recognizing that ORS 295.015 requires only 25% collateralization and

ORS 295.018 requires 110% collateralization when the institution is notified by the State Treasurer.

~~(Ordinance No. 87-228, Sec. 1)~~

2.06.100 Indemnity Clause: Metro shall indemnify the Investment Officer, staff and the Investment Advisory Board members from personal liability for losses that might occur pursuant to administering this investment policy.
(Ordinance No. 87-228, Sec. 1)

2.06.110 Controls: The Investment Officer shall maintain a system of written internal controls, which shall be reviewed annually by the IAB and the independent auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation or imprudent actions.

Metro's independent auditor at least annually shall audit investments according to generally accepted auditing standards and this Ordinance.

2.06.120 Accounting Method: Investments will be carried at cost. Gains or losses from investments will be credited or charged to investment income at the time of sale or maturity. Metro shall comply with Government Accounting Standards Board (GASB) requirements.

2.06.130 Reporting Requirements:

(a) A transaction report shall be prepared by the District's Department of Finance & Administration not later than one business day after the transaction, unless a trustee, operating under a trust agreement, has executed the transaction. The trustee agreement shall provide for a report of transactions to be submitted by the trustee on a monthly basis.

(b) Quarterly reports shall be prepared for each regular meeting of the Investment Advisory Board to present historical investment information for the past 12-month period. Copies shall be provided to the Executive Officer and the Metro Council.

2.06.140 Performance Evaluation: The overall performance of Metro's investment program shall be evaluated annually by the IAB using the objectives outlined in this policy.

The performance of Metro's portfolio shall be measured by comparing the average yield of the portfolio at month-end against the performance of the 90-day U.S. Treasury Bill issue maturing closest to 90 days from month-end and the Local Government Investment Pool's monthly average yield. The IAB will periodically determine the target rate of return for the investment portfolio.

2.06.150 Policy Adoption: This investment policy may be reviewed by the IAB and the Oregon Short-Term Fund Board prior to adoption by the Metro Council. Adoption of this policy supersedes any other previous Council action or policy regarding Metro's investment management practices.

2.06.160 Policy Readoption: This policy shall be subject to review and readoption annually by the Metro Council in accordance with ORS 294.135(b).

ADOPTED by the Council of the Metropolitan Service

District this _____ day of _____, 1990.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

RSR
\DOC\INVEST\ORDMOD
10/02/90

~~(c) Prudence:~~

~~(1) The standard of prudence to be applied by the Investment Officer shall be the "prudent investor" rule: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall portfolio. (Moved to 2.06.040.)~~

~~(2) The Investment Officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported to the Council as soon as practicable. (Moved to 2.06.100(b).)~~

~~(Ordinance No. 87-228, Sec. 1)~~

2.06.030 ~~Investment Advisory Board~~ Responsibility:

(a) Investment Officer: The Executive Officer is the Investment Officer of the District. The authority for investing Metro funds is vested with the Investment Officer, who, in turn, may designate staff to manage the day-to-day operations of Metro's investment portfolio, place purchase orders and sell orders with dealers and financial institutions, and prepare reports as required.

(b) Investment Advisory Board (IAB): There shall be an Investment Advisory Board composed of three members ~~who will propose, review, discuss and advise, at least quarterly, the Investment Officer on investment policy and procedures.~~

~~(a) (1) Terms of Service:~~ The term of service for citizens appointed to the ~~Investment Advisory Board~~ IAB shall be three calendar years. The term of appointment shall be staggered so that only one members' term expires in any calendar year.

~~(b) (2) Appointment:~~ The Executive Officer shall appoint the members of the IAB subject to confirmation by the Council.

(c) Yield: The investment portfolio shall be designed with the objective of regularly exceeding the average return on 90-day U.S. Treasury Bills. The investment program shall seek to augment returns above this level, consistent with risk limitations described in this policy and prudent investment principles.

Due to Metro's fiduciary responsibility, safety of capital and availability of funds to meet payment requirements are the overriding objectives of the investment program. Investment yield targets are secondary.

(d) Legality: Funds will be deposited and invested in accordance with statutes, ordinances and policies governing Metro.

~~2.06.020 Investment Officer:~~

~~(a) Investment Officer: The Executive Officer is the Investment Officer of the District.~~

~~(b) Responsibilities of the Investment Officer:~~

~~(1) The Investment Officer is responsible for investment decisions and activities of the District. This Officer shall comply with ORS 294.035 through 294.048 and ORS 294.125 through 294.155 and other applicable provisions of law as mandated by the State of Oregon in meeting this responsibility.~~

~~(2) The Investment Officer shall comply with all applicable federal and state tax law requirements for the investment of any tax exempt borrowing proceeds and of any debt service funds or accounts.~~

~~(3) The Investment Officer shall comply with ordinances adopted by the Council for the investment of surplus cash.~~

~~(4) The Investment Officer shall recommend to the Council for confirmation, the names of persons for appointment to an Investment Advisory Board.~~

~~(5) The Investment Officer may select a trustee bank to perform activities related to investments. In this case, the activities of the trustee shall be set forth in a trustee agreement consistent with this Code.~~

CLEAN COPY OF MODIFIED POLICY

CHAPTER 2.06

INVESTMENT POLICY

SECTIONS

- 2.06.010 Scope
- 2.06.020 Objectives
- 2.06.030 Responsibility
- 2.06.040 Prudence
- 2.06.050 Diversification
 - (a) by Instrument type
 - (b) by Financial Institution
 - (c) by Maturity
- 2.06.060 Competitive Selection of Investment Instruments
- 2.06.070 Qualified Institutions
- 2.06.080 Banking Services
- 2.06.090 Safekeeping and Collateralization
- 2.06.100 Indemnity Clause
- 2.06.110 Controls
- 2.06.120 Accounting Method
- 2.06.130 Reporting Requirements
- 2.06.140 Performance Evaluation
- 2.06.150 Policy Adoption
- 2.06.160 Policy Readoption

2.06.010 Scope: These investment policies apply to all cash-related assets included within the scope of the Metropolitan Service District's (Metro) audited financial statements and held directly by Metro. Funds held and invested by trustees or fiscal agents are excluded from these policies; however, such funds are subject to the regulations established by the State of Oregon.

Funds of Metro will be invested in compliance with the provisions of ORS 294.035 through 294.048; ORS 294.125 through 294.155; ORS 294.810; and other applicable statutes. Investments will be in accordance with these policies and written administrative procedures. Investment of any tax exempt borrowing proceeds and of any debt service funds will comply with the 1986 Tax Reform Bill provisions and any subsequent amendments thereto.

2.06.020 Objectives:

(a) Safety: Investments shall be undertaken in a manner that seeks to ensure the preservation of principal in the overall portfolio and security of funds and investments. For securities not backed by the full faith and credit of the federal government,

diversification is required in order that potential losses on individual securities would not exceed the income generated from the remainder of the portfolio.

(b) Liquidity: The Investment Officer shall assure that funds are constantly available to meet immediate payment requirements including payroll, accounts payable and debt service.

(c) Yield: The investment portfolio shall be designed with the objective of regularly exceeding the average return on 90-day U.S. Treasury Bills. The investment program shall seek to augment returns above this level, consistent with risk limitations described in this policy and prudent investment principles.

Due to Metro's fiduciary responsibility, safety of capital and availability of funds to meet payment requirements are the overriding objectives of the investment program. Investment yield targets are secondary.

(d) Legality: Funds will be deposited and invested in accordance with statutes, ordinances and policies governing Metro.

2.06.030 Responsibility:

(a) Investment Officer: The Executive Officer is the Investment Officer of the District. The authority for investing Metro funds is vested with the Investment Officer, who, in turn, may designate staff to manage the day-to-day operations of Metro's investment portfolio, place purchase orders and sell orders with dealers and financial institutions, and prepare reports as required.

(b) Investment Advisory Board (IAB): There shall be an Investment Advisory Board composed of three members.

(1) Terms of Service: The term of service for citizens appointed to the IAB shall be three calendar years. The term of appointment shall be staggered so that only one members' term expires in any calendar year.

(2) Appointment: The Executive Officer shall appoint the members of the IAB subject to confirmation by the Council.

(3) Duties: The IAB shall meet at least quarterly. The IAB will serve as a forum for discussion and act in an advisory capacity for investment strategies, banking relationships, the legality and probity of investment activities, and the establishment of written procedures for the investment operations.

(c) Quarterly Reports: At each quarterly meeting, the IAB shall review investment reports submitted by the Investment Officer reflecting investment activity for each of the immediately preceding three months. Acceptance of the report must be by at least two members of the IAB. Should the reports not be accepted, the reports shall be revised accordingly by the Investment Officer and resubmitted to the IAB at its next regularly scheduled meeting or sooner if requested.

2.06.040 Prudence: The standard of prudence to be applied by the Investment Officer shall be the "prudent investor" rule: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall portfolio.

2.06.050 Investment Diversification: (Definitions of terms and applicable authorizing Statutes are listed in the "summary of Investments Available to Municipalities" provided by the State Treasurer.) The Investment Officer will diversify the portfolio to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions, or maturities.

(a) Diversification by Investment:

	Percent of Portfolio (Maximum)
(1) U.S. Treasury Bills, Notes, Bonds, Strips and/or State and Local Government Series (SLGS)	100%
(2) U.S. Government Agencies Securities and Instrumentalities of Government Sponsored Corporations	100%
(3) Certificates of Deposit (CD) Commercial Banks in Oregon insured by FDIC	100%
(4) Certificates of Deposit Savings and Loan Associations in Oregon which meet Federal capital requirements and are insured by the FDIC	25%
(5) Repurchase Agreements (Repo's)	50%

- | | | |
|------|--|------|
| (6) | Banker's Acceptances (BA) | 100% |
| (7) | Commercial Paper (CP)
Financial institution, holding company
or business enterprise headquartered
in Oregon; A-1 and P-1 only; maximum
60-day maturity | 25% |
| | Corporate, publicly held U.S.
corporations outside Oregon; A-1 and
P-1 only; maximum 60-day maturity | 10% |
| (8) | State of Oregon and Local Government
Securities with A ratings or better | 100% |
| (9) | State of Oregon Investment Pool | 100% |
| (10) | State of Oregon Arbitrage Pool
Bond Proceeds Subject to Arbitrage | |
| (10) | Market Interest Accounts and Checking
Accounts Minimum necessary for daily
cash management efficiency | |

(b) Diversification by Financial Institution:

(1) Qualified Institutions: The Investment Officer shall maintain a listing of financial institutions and securities dealers recommended by the IAB. Any financial institution and/or securities dealers is eligible to make an application to the Investment Officer and upon due consideration and approval hold available funds.

A listing of the eligible institutions shall be held by the Investment Officer and provided any fiduciary agent or trustee.

(2) Diversification Requirements: The combination of investments in Certificates of Deposit and Banker's Acceptances as outlined individually at 2.06.050(b)(2)(A), (B) and (D) invested with any one institution shall not exceed 30 percent of the total available funds or 15 percent of the equity of the institution.

(A) Certificates of Deposit - Commercial Banks

No more than the lesser of 30 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.

(B) Certificates of Deposit - Savings and Loan Association

No more than the lesser of 25 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution.

(C) Repurchase Agreements

May be purchased from any qualified institution provided the master repurchase agreement is effective and the safekeeping requirements are met. All repurchase agreements will be fully collateralized by U.S. Government and U.S. Agency obligations marked to market.

The Investment Officer shall not enter into any reverse repurchase agreements.

(D) Banker's Acceptances

No more than the lesser of 30 percent of the total available funds or 15 percent of the equity of the financial institution may be invested with any one institution. All banker's acceptances will be purchased from an ORS Chapter 294.035(11) qualified Oregon financial institution.

(E) Commercial Paper

Business in Oregon - No more than 10 percent of the total portfolio with any one corporate entity.

Publicly Held Corporation not in Oregon -
No more than 5 percent of the total portfolio with any one corporate entity.

(F) State and Local Government Securities

No more than 15 percent of the total portfolio in any one local entity.

(G) State of Oregon Investment Pool

Not to exceed \$20 million in accordance with ORS 294.810 (\$10 million maximum per account) with the exception of pass-through funds (in and out within 10 days).

(H) State of Oregon Arbitrage Pool

Any bond proceeds subject to arbitrage.

(I) U.S. Government Agencies

Limited to obligations of government-sponsored corporations which are eligible as collateral for Treasury Tax and Loan as determined by the Board of Governors of the Federal Reserve System and also appear on the Oregon State Treasury list of U.S. Government and Agency Securities for Local Government Investment under ORS 294.035 and/or 294.040. No more than 40 percent of the total portfolio in any one agency.

(J) U.S. Government Treasuries

No limitations

(c) Diversification by Maturity: Only investments which can be held to maturity shall be purchased. Investments shall not be planned or made predicated upon selling the security prior to maturity. This restriction does not prohibit the use of Repurchase Agreements under ORS 294.135(2). This policy shall not preclude the sale of securities prior to their maturity in order to improve the quality, net yield, or maturity characteristic of the portfolio.

Maturity limitations shall depend upon whether the funds being invested are considered short-term or long-term funds. All funds shall be considered short-term except those reserved for capital projects (e.g., bond sale proceeds).

(1) Short-Term Funds:

(A) Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs.

(B) Except for special situations, as identified by the Investment Advisory Board and directed by the Investment Officer, investments shall be limited to maturities not exceeding 18 months.

(C) Generally, bond reserve funds shall be limited to investment in securities up to 18 months. The maturity of the investment may extend to 18 months, or more, only if the debt service account is properly funded and provision has been made in amount and maturity for the first possible draw upon the reserve account. In any event, the investment maturity must not exceed the expected draws upon the reserve funds.

(2) Long-Term Funds:

(A) Maturity scheduling shall be timed according to anticipated need. ORS 294.135 permits investment beyond 18 months for any bond proceeds or funds accumulated for any purpose which the District is permitted by State law to accumulate and hold funds for a period exceeding one year. The maturities should be made to coincide as nearly as practicable with the expected use of the funds.

(B) Investment of capital project funds shall be timed to meet projected contractor payments. The drawdown schedule used to guide the investment of the funds shall evidence the approval of the Investment Officer and review of the Director of Finance & Administration.

(d) Politico/Socio Limitations: The Investment Officer may not purchase any Banker's Acceptances which involve goods which derive from South Africa. A certificate warranting this shall be obtained from the financial institution from which the Banker's Acceptance was purchased.

(e) Total Prohibitions: Purchase of standby or forward commitments of any sort are specifically prohibited.

2.06.060 Competitive Selection of Investment Instruments: Before the Investment Officer invests any surplus funds, a competitive process offering solicitation shall be conducted orally. Offerings will be requested from financial institutions for various options with regards to term and instrument. The Investment Officer will accept the offering which provides the highest rate of return within the maturity required and within the prudent investor rule. Records will be kept of the offerings which are accepted.

2.06.070 Qualifying Institutions: The Investment Officer shall maintain a listing of all authorized dealers and financial institutions which are approved for investment purposes. Written procedures and criteria for selection of financial institutions will be established by the Investment Officer. Financial institutions must have a branch in Oregon. Any firm is eligible to apply to provide investment services to Metro and will be added to the list if the selection criteria are met. Additions or deletions to the list will be made by the Investment Officer and reviewed by the IAB. At the request of the Investment Officer, the firms performing investment services for Metro shall provide their most recent financial statements or Consolidated Report of Condition (call report) for review. At minimum, the Investment Officer and the IAB shall conduct an annual evaluation of each

firm's qualifications to determine whether it should be on the authorized list.

Securities dealers not affiliated with a bank shall be required to have an office located in Oregon and be classified as reporting dealers affiliated with the New York Federal Reserve Bank as primary dealers, or meet the criteria for financial institutions.

2.06.080 Banking Services: Every three years the Investment Officer will solicit competitive bids from commercial banks operating in the District to provide Metro's banking services. The Investment Officer may select a trustee bank to perform activities related to investments. In this case, the activities of the trustee shall be set forth in a trustee agreement consistent with this Code. Trustee services for a bond issue need not be rebid during the life of the issue.

2.06.090 Safekeeping and Collateralization: All securities purchased pursuant to this Investment Policy will be delivered by either book entry or physical delivery to a third party for safekeeping by a bank designated as primary agent. Purchase and sale of all securities will be on a payment versus delivery basis. The trust department of the bank designated as primary agent will be considered to be a third party for the purposes of safekeeping of securities purchased from that bank. The primary agent shall issue a safekeeping receipt to the District listing the specific instrument, rate, maturity and other pertinent information.

Repurchase agreements will not be subject to the safekeeping requirements if purchased from First Interstate Bank of Oregon, The Bank of California or from U.S. National Bank of Oregon; repurchase agreements from all other financial institutions shall require safekeeping. In all cases, a master repurchase agreement is required.

Deposit-type securities (i.e., Certificates of Deposit) shall be collateralized through the State collateral pool as required by ORS 295.015 and ORS 295.018 for any amount exceeding FDIC coverage, recognizing that ORS 295.015 requires only 25% collateralization and ORS 295.018 requires 110% collateralization when the institution is notified by the State Treasurer.

2.06.100 Indemnity Clause: Metro shall indemnify the Investment Officer, staff and the Investment Advisory Board members from personal liability for losses that might occur pursuant to administering this investment policy.
(Ordinance No. 87-228, Sec. 1)

2.06.110 Controls: The Investment Officer shall maintain a system of written internal controls, which shall be reviewed annually by the IAB and the independent auditor. The controls shall be

designed to prevent loss of public funds due to fraud, error, misrepresentation or imprudent actions.

Metro's independent auditor at least annually shall audit investments according to generally accepted auditing standards and this Ordinance.

2.06.120 Accounting Method: Investments will be carried at cost. Gains or losses from investments will be credited or charged to investment income at the time of sale or maturity. Metro shall comply with Government Accounting Standards Board (GASB) requirements.

2.06.130 Reporting Requirements:

(a) A transaction report shall be prepared by the District's Department of Finance & Administration not later than one business day after the transaction, unless a trustee, operating under a trust agreement, has executed the transaction. The trustee agreement shall provide for a report of transactions to be submitted by the trustee on a monthly basis.

(b) Quarterly reports shall be prepared for each regular meeting of the Investment Advisory Board to present historical investment information for the past 12-month period. Copies shall be provided to the Executive Officer and the Metro Council.

2.06.140 Performance Evaluation: The overall performance of Metro's investment program shall be evaluated annually by the IAB using the objectives outlined in this policy.

The performance of Metro's portfolio shall be measured by comparing the average yield of the portfolio at month-end against the performance of the 90-day U.S. Treasury Bill issue maturing closest to 90 days from month-end and the Local Government Investment Pool's monthly average yield. The IAB will periodically determine the target rate of return for the investment portfolio.

2.06.150 Policy Adoption: This investment policy may be reviewed by the IAB and the Oregon Short-Term Fund Board prior to adoption by the Metro Council. Adoption of this policy supersedes any other previous Council action or policy regarding Metro's investment management practices.

2.06.160 Policy Readoption: This policy shall be subject to review and readoption annually by the Metro Council in accordance with ORS 294.135(b).

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 90-365 AMENDING METRO CODE
CHAPTER 2.06 TO UPDATE THE INVESTMENT POLICY.

Date: October 1, 1990

Presented by: Bob Ricks

FACTUAL BACKGROUND AND ANALYSIS

Metro investment policies were adopted by the Council in resolution No. 83-391 on March 24, 1983. Investment duration was limited to six months. The policy was last updated by ordinance 87-228 on September 22, 1987. The maximum time period for investment was lengthened to provide the ability to maximize return on convention center bond proceeds monies. Since little resource was available for monitoring investment opportunities and performance at that time, the allowable list of securities was kept limited and conservative. Metro now has an investment and credit manager. This increases the time and skill available for investigating and monitoring a broader range of investment options. Because of this change a "prudent investor" would use some of these options to increase yield while retaining an acceptable level of safety of capital.

The proposed ordinance expands the allowable investment options to more closely resemble the Experienced Investor option provided by the State of Oregon Short Term Investment Board. Sections are added for Scope, Objectives, Banking Services, Controls, Accounting Method, Performance Evaluation, and Policy Readoption. Some elements of the old code are moved to fit within the new sections.

The proposed changes have been reviewed by the Metro Investment Advisory Board and the Oregon Short-Term Fund Board prior to submission to the Metro Finance Committee.

PROPOSED CHANGES

The chapter is called an Investment Policy rather than an Investment Procedure because the Council sets policy by ordinance. The new outline reflects the additions and changes in flow of the proposed ordinance.

The new Scope section makes it clear which funds are covered by the policy. Bond investments can be tailored in a bond ordinance to optimize for the applicable rules governing a specific project without modifying the general investment policy. Major state and federal legislation is referenced. The policy states that additional restrictions may be applied in the form of written administrative procedures.

A new Objectives section is added. Safety of principal is a dominate goal. Diversification in instruments not backed by the full faith and credit of the U.S. government can be used to meet the goal of safety while allowing some flexibility to meet other goals. Liquidity is necessary for responsible payment of obligations, but is a tradeoff with yield. A minimum standard for investment yield is added, although the yield objective is secondary to safety. And it is, of course, a requirement to always perform within legal constraints.

The Investment Officer section is now covered in Responsibility Scope and Banking Services sections. It is stated that the Executive Officer is the Investment officer of the District and may designate staff to manage the day-to-day operations of Metro's investment portfolio. Every three years bids will be solicited to provide Metro's banking services.

The duties of the Investment Advisory board are more completely defined.

Prudence is separated into a section of its own.

Investment options are broadened and treated in three categories, by instrument type, financial institution, and maturity.

The acceptable U.S. Government Agencies and Instrumentalities of Government Sponsored Corporations are expanded. This will provide some opportunities for higher yield with comparable risk. As available instruments and creditworthiness change it is cumbersome to make repeated changes in the code. The proposed restrictions are now: eligibility as collateral for Treasury Tax and Loan as determined by the Board of Governors of the Federal Reserve System and inclusion on the Oregon State Treasury list of U.S. Government and Agency Securities for Local Government Investment. No more than 40% of the portfolio may be in any one agency. Conditions warranting additional restrictions for a period of time can be discussed with the Investment Advisory Board and handled administratively.

Certificates of Deposit in savings and loan associations are limited to those in Oregon, meeting the Federal capital requirements and insured by the FDIC. The allowable maximum is lowered from 30% to 25%.

Repurchase Agreements are increased to from 25% to 50%.

Commercial paper is an addition at 25% within Oregon and 10% outside of Oregon. Both are restricted to A-1 and P-1 only with a maximum of 60 days maturity. These instruments offer attractive yield even when restricted to top quality.

The State of Oregon Investment Pool allows more than two accounts as long as the maximum is \$20,000,000 and no one account exceeds \$10,000,000. When a single account does not have \$10,000,000 to invest, it is desirable to be able to send other funds to the pool.

The State of Oregon Arbitrage Pool is added as an improved investment for bond proceeds subject to federal arbitrage restrictions. The State is forming an Arbitrage Pool beginning in October. It will function like the State Investment Pool for deposits and withdrawals. It will be of major advantage to Metro when we have bond proceeds subject to arbitrage restrictions. Metro will receive the maximum interest allowed to be retained by Federal regulation, but will have the costly arbitrage calculations performed for us at no additional charge.

Market Interest Accounts and Checking Accounts are specifically mentioned. It is not possible to exactly forecast the checks that will clear each day. The cash on hand can be substantial until large outstanding checks clear. The cash must be kept available at the bank to make good on the checks when presented. Metro uses these services currently, but they are not mentioned in the existing policy.

Only investments which can be held to maturity shall be purchased. There are times when a sale before maturity and reinvestment can result in a net gain in yield. As an example, these opportunities are sometimes caused by corporations wishing to make transactions for tax reasons. This change will allow Metro to take advantage of opportunity to sell before maturity when it achieves a net profit and all other restrictions of this policy are met.

Safekeeping and Collateralization are combined into one section. Qualifying Institutions are redefined. The requirement of an office in Oregon is added as is an annual review of the authorized list by the IAB and the Investment Officer.

Daily and quarterly reporting requirements are retained, but monthly reporting requirements are dropped.

Sections are added for Accounting Method, Performance Evaluation, and an annual Policy Readoption.

INVESTMENT ADVISORY BOARD

At the last quarterly meeting of the Investment Advisory board, the proposed changes to the investment policy were discussed. The proposals were discussed, suggestions made by the board, and agreement obtained on all points at the meeting.

OREGON SHORT TERM FUND BOARD

The Oregon Short Term Fund Board operates in an advisory role only. They performed an advisory analysis at their last meeting in Newport, Oregon. They started the analysis by stating that the proposed Metro ordinance was "quite clean" and thorough. They made four verbal suggestions which did not change the intent, and those have been incorporated. One was definition of a technical term, one was the sequence of a piece of information, and two were explicitly stating implied requirements. One member, Mark Amberson, Assistant Investment Officer to the Oregon Short Term Fund FAX'd four suggestions. All four relate to portions of our policy which are already adopted and we are not proposing to change.

Suggestion No. 1: "Diversification by Investment: Banker's Acceptances percentage too high, would suggest 50%." Our current policy allows up to 100%, which is compatible with ORS 294.046. The BA's provide us the protection of the financial institution, the company providing the contract to the bank, and the company agreeing to pay for the goods. The state restricts by law which financial institutions may sell BA's to political subdivisions, monitors the financial status of those institutions, and requires reserve deposits of collateral to provide additional safety. We feel that this multiple level of protection and the yields available justify retaining our policy on these instruments. The authorizing statute of allowed investments is:

ORS 294.046(11) Banker's acceptances that are guaranteed by a qualified financial institution and that are eligible for discount by the Federal Reserve System. No person may sell a banker's acceptance to a political subdivision unless the acceptance is guaranteed by a qualified financial institution. For purposes of this subsection, a "qualified financial institution" means a financial institution that is located in the State of Oregon, licensed to do a banking business and not required under ORS 295.018 to maintain a reserved deposit of collateral having a value not less than 110 percent of its public fund deposits. When an issuing financial institution becomes unqualified, all of its outstanding banker's acceptances held by political subdivisions must be collateralized at 110 percent through the pool manager as required under ORS 295.018. Contingent liability of the issued banker's acceptance must be carried on the books of the qualified financial institution in Oregon.

Suggestion No. 2: "Short-Term Funds; Would suggest Diversification by maturity schedule." We did not propose a change in our current approach. This suggestion is a textbook approach providing that a certain percentage of the portfolio

should mature within 30, 90, 365, and 547 day time period. It works for average independent demand requirements. We have a cash manager and one of his responsibilities is to make sure that the cash from investments will be available when needed to meet the actual requirements of Metro specifically. Our current approach works better for the needs of Metro where major requirements change in a known way throughout the year rather than following a general schedule developed for a textbook average.

Suggestion No. 3: "Diversification by Financial Institution, State of Oregon Investment Pool; Should read, 'Not to exceed \$20 million in accordance with ORS 294.810'". The words, "in accordance with ORS 294.810", have been added.

Suggestion No. 4: "Suggest reduction in percentage investment in both Commercial Bank and Savings and Loan CD's to around 5% per institution." We plan to leave the limitation at 30% as it is now. The person making the suggestion has \$3.9 billion to manage and 5% of that amount would be significant to an individual bank. We only have \$80 million and it would not be reasonable to develop relationships with over 20 institutions for the purpose of buying CD's. We currently have 4 institutions approved by the Investment Advisory Board.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 90-365, updating the investment policy.

RSR
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Agenda Item No. 6.2
Meeting Date: October 25, 1990

Resolution No. 90-361

For the Purpose of Amending Metro Code Chapter 3.02, Amending the Regional Wastewater Management Plan and Submitting it for Recertification

The complete "Regional Wastewater Management Plan" document has been distributed to councilors under separate cover. Because of the volume of the document, it has not been included in this agenda packet. Copies of the Plan have been filed in the Council office and are available for review by contacting the Clerk of the Council, 221-1646 ext. 206.

INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT

**ORDINANCE NO. 90-361, FOR THE PURPOSE OF AMENDING METRO CODE
CHAPTER 3.02, AMENDING THE REGIONAL WASTEWATER MANAGEMENT PLAN AND
SUBMITTING IT FOR RECERTIFICATION**

Date: October 10, 1990

Presented by: Councilor Devlin

COMMITTEE RECOMMENDATION: At the October 9, 1990, Intergovernmental Relations Committee meeting, Councilors Gardner, McFarland and myself voted unanimously to recommend Council adopt Ordinance No. 90-361. Councilors Bauer and Hansen were excused.

COMMITTEE DISCUSSION/ISSUES: Ordinance No. 90-361 adopts the annual update to Metro's Regional Wastewater Management ("208") Plan under Code Chapter 3.02. As noted in the Staff Report, the update comprises three basic actions in seven local jurisdictions -- collection area amendments, completion of study areas, and adoption of plans. At its June 25, 1990 meeting, the Water Resources Policy Advisory Committee (WRPAC), on which Councilors Bauer, McFarland and myself sit, approved unanimously the proposed Plan changes and amendments.

As you may recall, the "208 Plan" is required under the Federal Clean Water Act of 1972 in order to qualify for federal funds for construction or upgrading of any wastewater treatment facilities. During last year's update, Metro received strong support from the Environmental Protection Agency (EPA) to participate more actively in addressing the region's water quality issues, such as the Tualatin River clean-up.

The Executive Officer's letter to the Council (accompanying the ordinance) outlines Planning & Development staff's work to address and support more comprehensively the region's water resource management issues. The most recent example of Metro's expanded role was Council approval of Ordinance No. 90-336 prohibiting the sale and distribution of cleaning agents containing phosphorus within District boundaries. This ordinance provides a powerful precedent for State action to expand the phosphorous prohibition state-wide.

The Committee did not raise any issues or concerns with the ordinance. It was noted Councilors participating on WRPAC have recently been meeting with Metro staff to discuss in greater detail water resource management issues and potential policy directions.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING METRO) ORDINANCE NO. 90-361
CODE CHAPTER 3.02, AMENDING THE)
REGIONAL WASTEWATER MANAGEMENT) INTRODUCED BY RENA CUSMA
PLAN AND SUBMITTING IT FOR) EXECUTIVE OFFICER
RECERTIFICATION)

WHEREAS, Metropolitan Service District Code Section 3.02.009(a) and (b) sets forth criteria for the continuing planning process to implement the Regional Wastewater Management Plan (Regional Plan) and for amending support documents and maps; and

WHEREAS, the Water Resources Policy Advisory Committee met on July 25, 1990, and recommends Council adoption of the amendments; and

WHEREAS, Amendments needed to update the Regional Plan are based on new information from the cities, counties, and the Unified Sewerage Agency in Washington County showing updated local plans, maps, and service agreements, and conformance of local plans with the Regional Plan; and

WHEREAS, if the Regional Plan is amended by the Council of the Metropolitan Service District, the Regional Plan will be submitted to the Oregon Environmental Quality Commission and Department of Environmental Quality and, in turn, to the U. S. Environmental Protection Agency for recertification; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Regional Wastewater Management Plan Text and Maps (Collection System Service Areas Map, adopted _____, _____, and Transmission and Treatment Service Areas Map, adopted

November 9, 1989, referred to in Metro Code Section 3.02.002, are amended to read as shown in attached Exhibit "A", which is hereby incorporated by reference and made a part of this Ordinance.

Section 2. The Council of the Metropolitan Service District hereby authorizes the Executive Officer to submit the Regional Water Management Plan, as amended, to the Oregon Environmental Quality and, in turn, to the U. S. Environmental Protection Agency for recertification.

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

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council



METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1646
Fax 241-7417

October 1, 1990

Honorable Presiding Officer and Councilors:

The accompanying Staff Report lists the technical changes to Metro's Regional Wastewater Management Plan which are recommended by the Water Resources Policy Advisory Committee at its July 25, 1990 meeting. As indicated in the recently approved Water Resources Management Work Plan, we are moving toward a comprehensive overhaul of the "208" Plan of which the Wastewater Management Plan is a component. This is a multi-year effort for which we have commenced a number of incremental steps over the past year.

Staff has taken the lead in a project to digitize all of the Soil Conservation Services Soil Surveys in Clackamas, Multnomah and Washington Counties. Currently the Soil Survey data is published in the form of maps, tabular, and textual data. For extensive analysis using soils data alone or with other data layers; such as land use, hydrography, and political boundaries; soil survey data needs will be digitized into Metro's Regional Land Information System (RLIS). Having soils digitized will give users a powerful planning and implementation tool for not only water resources management planning but for transportation, land use, recreation, and fish and wildlife planning. The database is important in erosion control planning, the TMDL process, wetlands identification, water quality modeling, natural area identification and urban growth planning.

Staff started mapping existing surface water quality data, detailing it by specific river reaches. Such maps are extremely useful to the state and local agencies responsible for water resource management and planning and to those responsible for the enforcement of water quality standards.

Staff has actively participated in the Unified Sewerage Agency's year-long study of the solutions to the water pollution problem in the Tualatin River, which culminated in June 1990, with the adoption of its Wastewater Facilities Plan. In addition, the county has adopted a Surface Water Management Plan to deal with pollution from nonpoint sources.

Executive Officer
Rena Cusma

Metro Council
Tanya Collier
Presiding Officer
District 9

Gary Hansen
Deputy Presiding
Officer
District 12

David Saucy
District 1

Lawrence Bauer
District 2

Jim Gardner
District 3

Richard Devlin
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Ruth McFarland
District 7

Judy Wyers
District 8

Roger Buchanan
District 10

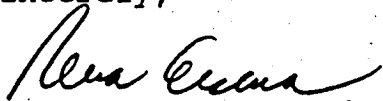
David Knowles
District 11

One outcome of the USA study was adoption by the Metro Council on June 28, 1990, of Ordinance No. 90-336 which prohibits phosphorus within the District boundaries. This ban will have the effect of reducing phosphorus pollution at its source and should significantly enhance cost-effective wastewater treatment.

Metro is exercising an increasing planning and coordinating role in other water related programs and activities. Additional projects in which staff is involved include the TMDL setting process for Columbia Slough and the Johnson Creek multi-objective resource management plan.

We look forward to continued progress in these areas over the next few years and increasing contributions by Metro to maintaining and enhancing the quality of our water resources.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rena Cusma".

Rena Cusma
Executive Officer

EXHIBIT "A"

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 90-361 FOR THE
PURPOSE OF AMENDING METRO CODE CHAPTER 3.02,
AMENDING THE REGIONAL WASTEWATER MANAGEMENT
PLAN AND SUBMITTING IT FOR RECERTIFICATION

Date: July 27, 1990

Presented by Larry Sprecher

FACTUAL ANALYSIS

On July 25, 1990 the Water Resources Policy Advisory Committee (WRPAC) held it's annual meeting for the purpose of reviewing the Regional Wastewater Management (208) Plan (208) at which the following amendments were adopted. The amendments are updated collection areas, completion of studies or adoption of plans. Updated maps are attached.

Portland/Multnomah County

That portion of the mid-Multnomah County collection system that generally lies west of 162nd Street, which has been designated a "Study Area," is now assigned to the City of Portland.

Milwaukie/Clackamas County

The Sanitary Sewage Study of the Johnson Creek Basin in Clackamas County has been completed. That area designated "Study Area" on the collection system map is assigned according to Figure 4-1 of the Report to the City of Milwaukie and Clackamas County Service District No. 1, respectively.

City of West Linn

The Sewerage Facility and Financial Master Plan has been completed.

City of Hillsboro

The collection map has been changed to reflect relevant annexations.

City of Forrest Grove

The collection system map has been changed to reflect relevant annexations.

City of Tigard

The collection system map has been changed to reflect relevant annexations.

Washington County

Completion and adoption of the Wastewater Facilities Plan, Unified Sewerage Agency, Volumes I, II and III.

BACKGROUND

The Federal Water Pollution Control Act of 1972 (Public Law 95-500), commonly known as the Clean Water Act, required the creation of a Regional Wastewater Management Plan, which was first adopted by the Metro Council in 1980. Since that time the Regional Plan has been periodically updated. The plan is now reviewed on an annual basis as part of Metro's continuing "208" Water Quality Program and was last amended November 1989.

The Clean Water Act, requires that the Regional Plan accurately identify the region's water quality management problems and their solutions, both short-term, and long-term. The Regional Plan must also delineate the region's water quality management service areas for collection, transmission and treatment of wastewater. Local jurisdictions are required to coordinate their plans with Metro and to comply with the Regional Plan prior to the allocation of federal funds for the construction or upgrading of any wastewater treatment facilities.

WRPAC was appointed by the Metro Council to advise them, and the Metro staff, on matters relating to water resources management.

The WRPAC meets annually to review the Regional Plan and to consider proposed changes and amendments. This year our meeting was held June 25, 1990. The changes and amendments are contained in the factual analysis section of the Staff Report.

Accompanying this Staff Report is a letter from the Executive Director reporting on various matters relating to Water Resources issues.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 90-361.

Meeting Date: October 25, 1990
Agenda Item No. 6.3

Ordinance No. 90-331A

For the Purpose of Adding Chapter 5.06 to the Metro Code to Provide
for a Composter Community Enhancement Program and Creating a
Composter Community Enhancement Committee

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 90-331A, FOR THE PURPOSE OF ADDING CHAPTER 5.06 TO THE METRO CODE TO PROVIDE FOR A COMPOSTER COMMUNITY ENHANCEMENT PROGRAM AND CREATING A COMPOSTER COMMUNITY ENHANCEMENT COMMITTEE

Date: October 18, 1990 Presented by: Councilor Buchanan

FACTUAL BACKGROUND: On December 9, 1988, Metro Council adopted Ordinance No. 88-273, establishing a community enhancement policy. On July 27, 1989, Resolution No. 89-1103 was adopted for the purpose of establishing the Composter Community Enhancement Advisory Committee. The Composter Community Enhancement Advisory Committee met on seven occasions from August through December 1989. On January 11, 1990, Councilor Buchanan introduced Ordinance No. 90-331, which incorporated the recommendations of the Composter Community Enhancement Advisory Committee for a composter community enhancement program. The Council Solid Waste Committee held a public hearing on the ordinance on February 26, 1990. Presiding Officer Collier subsequently appointed Councilors Gardner and Wyers to serve on a task force to resolve differences of opinion about the composition of the permanent Composter Community Enhancement Committee. Their recommendations were incorporated into proposed Ordinance No. 90-331A.

COMMITTEE RECOMMENDATION: The Committee considered the proposed amended Ordinance at its October 16, 1990 meeting. The Committee voted unanimously to recommend approval of Ordinance No. 90-331 as amended. Voting yes were Councilors Buchanan, Collier, DeJardin, Saucy and Wyers.

COMMITTEE DISCUSSION/ISSUES: Councilors Gardner and Wyers presented a report on the amended proposed ordinance. Councilor Wyers said that the proposal before the committee was developed after talking to many of the affected parties, and is an effort to bring compromise. She commended the Composter Community Enhancement Advisory Committee for its work in establishing the basic structure of the enhancement committee, and in hammering out program boundaries and funding criteria.

Councilor Gardner explained that the task force left unchanged those provisions which were not the subject of a difference of opinion. The area of greatest dispute related to the size of the permanent enhancement committee; the amended proposed ordinance increases the size of the committee from seven to ten. Eight members will be appointed by the Executive Officer and confirmed by the Council, similar to other policy advisory committees. Nominees will come from the areas impacted by the facility, with three members nominated by the Cully Neighborhood Association, which is clearly the most directly affected neighborhood. Beaumont-Wilshire, Concordia, Madison North, and Rose City Park Neighborhood Associations will each nominate one member. A business representative also would be appointed, alternating annually from

the areas north and south of Prescott Street. Members will serve two year terms, effective the day the facility opens. Councilors from both Districts 10 and 11 will serve on the committee, since the facility is located close to the district line. Funding recommendations must be approved by a positive vote of a majority of the full committee.

Councilor Wyers explained that the proposed amendments included a provision for a traffic study two years after the facility opens, as a means of verifying whether original traffic impact projections were accurate. She also recommended several technical changes in the wording of the ordinance which were suggested by Solid Waste Director Bob Martin, to more accurately reflect the type of disposal activity conducted at the facility.

Councilor Buchanan asked whether the task force took into consideration the population of respective neighborhoods. Councilor Gardner noted that the committee in question is advisory, and is not required to adhere to "one person, one vote." He said the task force was aware that the Cully neighborhood contains close to half the population of the program boundary.

Nine members of the public appeared. Three of these citizens said that the committee should also include a representative appointed by the Alameda Neighborhood Association, and that neighborhood associations should be able to nominate members from anywhere in their boundaries, rather than being restricted to the enhancement program boundary. One citizen suggested that the total number of committee members be odd rather than even, to facilitate majority decisions. He also favored having the position of committee chair rotate between the two councilors serving on the committee, rather than having the presiding officer annually appoint either one of the two councilors to serve as chair.

Two citizens questioned the rationale for alternating the business representative between the area north and south of Prescott Street.

Four citizens questioned whether the proposal provides adequate representation for the Cully Neighborhood Association, given population and geography; one citizen said Cully's representation should be reduced to no more than two members. One citizen questioned the need for a positive vote of the full majority of the committee to approve funding recommendations; he suggested a majority of a meeting quorum. One citizen, appearing on behalf of Madison North Neighborhood Association, said the proposal was completely acceptable as written.

Councilor Buchanan proposed six amendments. The first amendment would have permitted funding recommendations based on the vote of a

majority of a meeting quorum. He feared that requiring a positive vote of a majority of the full committee would establish too rigid a standard, particularly given the fact the committee is made up of volunteers. Councilor DeJardin explained that the rationale for requiring a majority of the full committee was to ensure that the decisions received the support of a majority of the members. Councilor Buchanan indicated he found this rationale compelling, and withdrew his amendment.

Councilor Buchanan proposed a second amendment relating to appointment of the business representative. He favored deleting the requirement that the business representative alternate annually between the areas north and south of Prescott Street. Councilor Gardner explained that businesses in the program boundary had expressed some concern that this provision was needed to ensure that both the retail and industrial segments of the business community had a voice. Councilor Gardner said that if this type of protection is not necessary, the provision is not needed. Councilor Wyers indicated that by leaving the provision in the ordinance both business areas would be tapped. The amendment passed by a vote of 3 -2 , with Councilors Saucy and Wyers voting against.

Three amendments proposed by Councilor Buchanan would have added an additional nominee from the Cully Neighborhood Association, for a total of 4 rather than 3 Cully representatives, which would have increased both the total number of committee members from ten to eleven, and the total number appointed by the Executive Officer from 8 to 9. Councilor Buchanan indicated his concern that Cully was underrepresented, based on clear evidence that Cully includes close to half of the population within the program boundary, and approximately sixty-one percent of the geographical area. He said that with only three out of ten members, Cully's representation on the committee is less than one-third.

Councilor Wyers stated that if the business representative and two councilor members were removed from the discussion, leaving the five neighborhood associations, Cully's three representatives accounted for 42% of the remainder of the committee, which is close to the 45% population figure. Representation for the other four associations is similarly proportionate. She believes this is as fair a proposal as possible in terms of population.

Councilor Buchanan said Cully has 61% of the geographic area, and that there is little traffic impact outside of this area. Councilor DeJardin believed it would be to Cully's advantage to have representation from nearby areas. Councilor Gardner explained that the requirement that committee members reside within the program boundary was intended to meet the concern that impacted

persons have a vote, with neighborhood associations used as a representative forum to select committee members.

The motion on the three amendments relating to the number of Cully representatives failed by a vote of 3- 2, with Councilors DeJardin and Buchanan voting against.

The final amendment would have changed the procedure for appointing the committee chair. Rather than having the presiding officer appoint either one of the two councilor members annually to serve as chair, Councilor Buchanan proposed rotating the chair between these members.

Councilor DeJardin noted that no single procedure is mandated. Councilor Saucy noted that councilors may have varying levels of interest and time, which the presiding officer should be able to consider. Councilor Wyers added that the presiding officer coordinates the tenure of all councilors on committees, and can strike a balance. Councilor Collier noted that the presiding officer can balance councilor's workloads, and that the committee cannot have input into who will serve as chair if the position automatically alternates.

The motion failed by a vote of 4 - 1, with Councilor Buchanan voting against.

The committee then voted unanimously to recommend Council approval of the Ordinance as amended. that the presiding officer can balance councilor's workloads, and that the committee cannot have input into who will serve as chair if the position automatically alternates.

The motion failed by a vote of 4 - 1, with Councilor Buchanan voting against.

The committee then voted unanimously to recommend Council approval of the Ordinance as amended.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADDING CHAPTER 5.06)	ORDINANCE NO. 90-331A
TO THE METRO CODE TO PROVIDE FOR)	
A COMPOSTER COMMUNITY ENHANCEMENT)	Introduced by
PROGRAM AND CREATING A COMPOSTER)	Councilor Roger Buchanan
COMMUNITY ENHANCEMENT COMMITTEE)	

WHEREAS, The Council of the Metropolitan Service District adopted policy on December 8, 1988 (Ordinance No. 88-273) that provides that the Metropolitan Service District shall apportion an ~~[amount of service or user charges]~~ enhancement fee (\$.50 per ton) collected ~~[for]~~ on solid waste ~~[disposal]~~ delivered at each disposal site within the District and dedicate and use the monies obtained for enhancement of the area in and around the ~~[disposal]~~ site from which the fees have been collected; and

WHEREAS, Metro executed a service agreement on August 17, 1989 (authorized by Resolution No. 89-1112) with Riedel Oregon Compost Company, Inc. to design, construct and operate a mass composter facility at 54th and Columbia Boulevard, Portland, Oregon; and

WHEREAS, The Council adopted Resolution No. 89-1103, July 27, 1989, creating the Composter Community Enhancement Advisory Committee to assist Metro in developing a composter community enhancement program for the area in and around the mass composter facility; and

WHEREAS, The Advisory Committee was charged to: Make recommendations to the Council regarding policies and the

administration of the composter community and enhancement program for the composter community area, to include the following:

- a. specify the boundaries of the area to be rehabilitated and enhanced;
- b. criteria for determining how funds will be used for rehabilitation and enhancement; and
- c. continuing public involvement (a committee to recommend projects for funding, etc.);

now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The following chapter is added to the Code of the Metropolitan Service District:

CHAPTER 5.06

COMPOSTER COMMUNITY ENHANCEMENT PROGRAM

5.06.010 Policy and Purpose:

(a) It is the policy of the District to apportion an ~~[amount of service or user charges collected for]~~ enhancement fee of \$.50 per ton on solid waste [disposal at] delivered to each [disposal] site within the District and dedicate and use the monies obtained for enhancement of the area in and around the ~~[disposal]~~ site from which the fees have been collected.

(b) It is further policy of the District to support a community enhancement program in the area of the mass composter facility at 54th and Columbia Boulevard, Portland, Oregon.

5.06.020 Funding: The Council shall create a separate fund entitled the Composter Community Enhancement Fund. The fees collected according to District policy (\$.50 per ton of waste deposited at the mass composter facility) shall be budgeted and accounted for in the Composter Community Enhancement Fund. Funds not expended in any one budget year shall be carried forward. Revenue accruing to the fund shall be invested in accordance to Metro's investment policies.

5.06.030 Approval: Contracts brought forward under this program shall be approved in accordance with Chapter 2.04. No expenditure from the Composter Community Enhancement Fund shall be made without the ~~[prior approval]~~ positive vote of a majority of the full Committee created pursuant to Section 5.06.040.

5.06.040 Composter Community Enhancement Committee: In order to implement the Composter Community Enhancement Program there shall be created a Composter Community Enhancement Committee consisting of ~~[seven]~~ ten members to be appointed and to serve terms as follows:

(a) ~~[Six]~~ Eight members to be appointed by the Executive Officer subject to confirmation by the Council. The Executive Officer shall make appointments as follows:

~~[(1) Four members shall be appointed from a list of nominees submitted by the~~

~~Cully Association of Neighbors,
Concordia Community Association,
Beaumont-Wilshire Neighborhood Association,
Rose City Park Neighborhood Association, and
Madison North Neighborhood Association.~~

~~All of these members shall reside within the Composter Community Enhancement Program boundary.]~~

(1) Three members shall be appointed from a list of nominees submitted by the Cully Association of Neighbors.

(2) One member shall be appointed from a list of nominees submitted by the Concordia Community Association.

~~[(3) One member appointed at the discretion of the Executive Officer. This member shall reside with the Composter Community Enhancement Program boundary.]~~

(3) One member shall be appointed from a list of nominees submitted by the Beaumont-Wilshire Neighborhood Association.

(4) One member shall be appointed from a list of nominees submitted by the Madison North Neighborhood Association.

- (5) One member shall be appointed from a list of nominees submitted by the Rose City Park Neighborhood Association.
- (6) All of these members shall reside within the Composter Community Enhancement Program boundary.
- (7) ~~[(2)]~~ One member, representing the business community, shall be appointed from [a list of] nominees submitted by businesses and the business associations located within the Composter Community Enhancement Program area. This member shall reside or work within the Composter Community Enhancement Program boundary.
- (b) ~~The Metro Councilors representing [the Council district in which the composter facility is located shall be chairperson of the Committee]~~ Council Districts 10 and 11 shall serve on the Committee. The Presiding Officer of the Council annually shall appoint one of these members to serve as chairperson.
- (c) ~~[The initial term of service for members appointed under subsection (a)(1) shall be for two or four years as determined by the Executive Officer; the initial term of service for the member appointed under subsection (a)(2) shall be for four years; the initial term of service for the member appointed under subsection (a)(3) shall be for two years. Thereafter]~~ All [all] members except Metro Councilors shall be appointed for [four-year] two-year terms effective the date the facility opens. [except appointments] Appointments to fill vacancies shall be for the remainder of the vacant term. [Except for the chairperson, no Committee member shall serve more than one full term except for members initially appointed to a two-year term or a member appointed to fill a vacancy.]

In the case of a vacancy in a position ~~[originally]~~ appointed pursuant to subsections (a)(1) ~~[and]~~ through (a) [(2)](7), the Executive Officer shall solicit nominations from all organizations who were eligible to submit nominations for the original appointment.

5.06.050 Administration: The administration of the program shall be subject to the approval of the Composter Community

Enhancement Committee provided for in Section 5.06.040 above.

(a) The Committee shall propose an annual budget for the Composter Community Enhancement Fund for approval by the Council. The budget shall be prepared and considered in Metro's annual budget process. The budget shall at a minimum identify general program or project areas for the fiscal year, except that the Committee may recommend that no expenditures be made during a fiscal year. The Committee and Council shall endeavor to preserve the Composter Community Enhancement Fund principal.

(b) The Committee may solicit requests for proposals or projects which may be funded from the Composter Community Enhancement Fund. Any project or proposal to be funded through the Composter Community Enhancement Fund shall be approved according to Metro contract procedures. Projects or proposals shall not be split into components when approved. No project or proposal shall be considered by Metro which has not been recommended by the Committee.

(c) The Committee shall publish and use the criteria shown in Section 5.06.060 below in selecting projects/programs for funding through a Request for Proposals (RFP) process. The Committee's recommendations and approvals shall be filed with the Council. The Committee may at any time request the Council to modify or change the criteria.

(d) The Committee shall annually report to the Council and the Executive Officer all projects approved and the amounts of funds expended on each project.

5.06.060 Criteria for Funding Projects/Programs:

(a) Projects/Programs will only be funded within the boundaries as specified in Section 5.06.070.

(b) Any person or any organization may submit written proposals.

(c) The Committee will provide an open public process for project/program review and recommendation which shall include the reasons for acceptance or rejection of proposals.

(d) The Fund shall not substitute for projects/programs funded by other sources.

(e) Projects/Programs may be funded in part or in full.

(f) Projects/Programs that best enhance or rehabilitate areas most severely impacted by the composter facility will receive priority consideration for approval.

(g) Projects/Programs shall be directed to the aid of residents, nonprofit corporations and businesses (as defined by the Small Business Administration) and shall meet one or more of the following guidelines:

- (1) Result in increased employment/economic opportunities.
- (2) Result in rehabilitation, upgrading or direct increase in the housing stock.
- (3) Result in the preservation or enhancement of wildlife and marine areas and improve public awareness and the opportunities to enjoy them.
- (4) Result in physical improvements and programs in new or existing parks and recreational areas.
- (5) Result in improvement in the safety of the area.
- (6) Result in an improvement of the appearance or cleanliness or the area/neighborhood or a significant portion thereof.
- (7) Result in a significant increase in the utilization or occupancy of a commercial area.
- (8) Result in programs which benefit low-income youth and seniors.

5.06.070 Composter Community Enhancement Boundary:

- (a) The boundary of the composter community enhancement program shall encompass the area between the Columbia Slough on the North; N.E. 33rd Boulevard on West; N.E. Fremont Street and Sandy Boulevard on the South (from N.E. 33rd Avenue to N.E. 57th Avenue south to Sandy Boulevard, from Sandy Boulevard to N.E. 82nd Avenue); and N.E. 82nd Avenue on the East as shown in Figure I.

(b) Two years after the facility opens, Metro staff shall conduct a traffic study to determine the impact of the facility. The Council may use this study to revise the boundary.

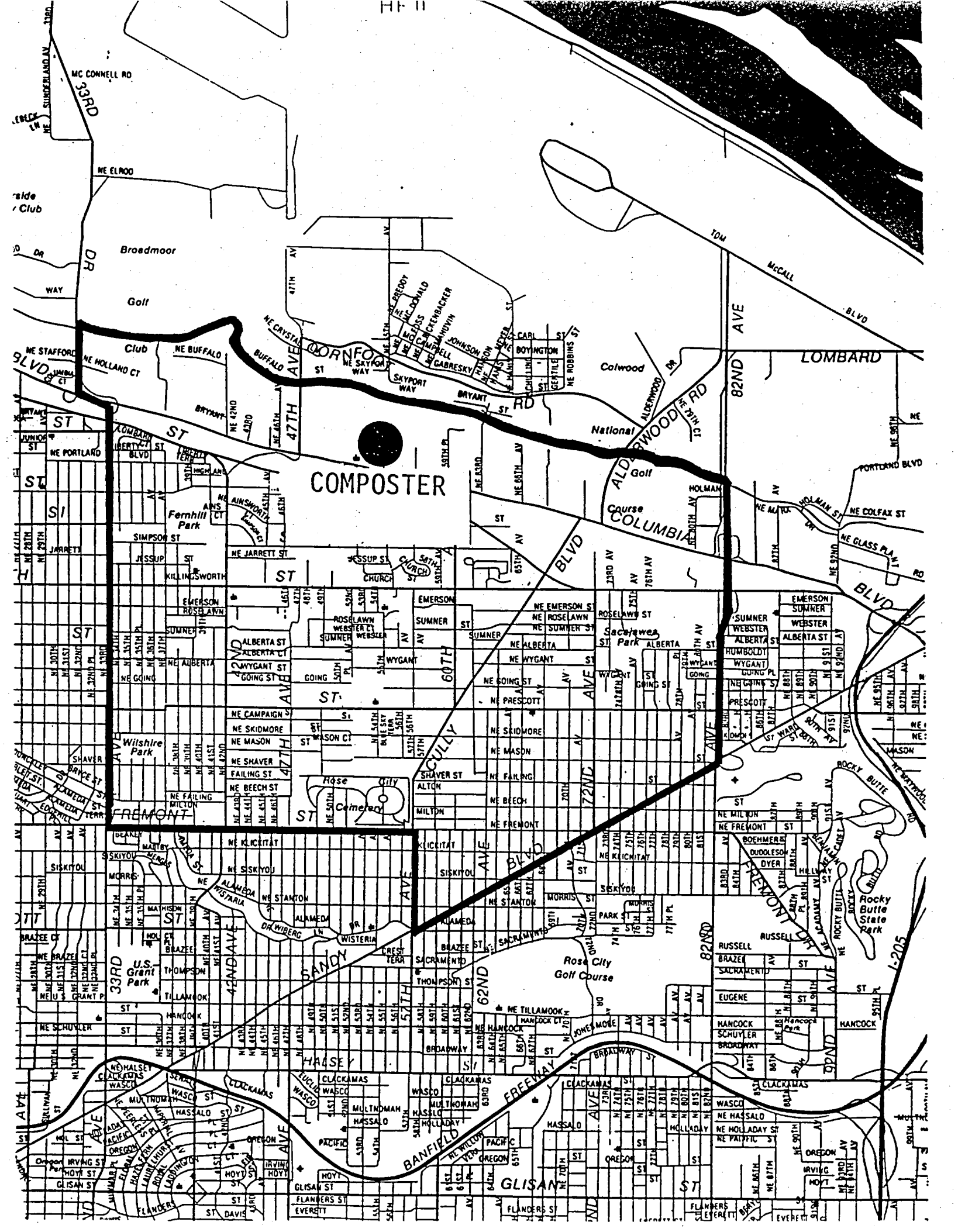
5.06.080 Staff Support: The Executive Officer shall assign staff to assist the Committee in carrying out its duties and responsibilities at the level budgeted in the Composter Community Enhancement Fund. Before assigning staff, the Executive Officer shall consult with the Committee about Committee needs and qualifications of proposed staff. Additional assistance may be acquired following Metro's contract procedures. Direct costs incurred to administer the composter community enhancement program shall be paid by the Composter Community Enhancement Fund. The Council shall not charge overhead costs to the Composter Community Enhancement Fund.

ADOPTED by the Council of the Metropolitan Service District

this _____ day of _____, 1990.

Tanya Collier, Presiding Officer

DBC/gl
A:\90-331A.ORD
Revised 6/6/90
Revised 8/23/90
Revised 10/9/90
Revised 10/18/90



Agenda Item No. 7.1
Meeting Date: October 25, 1990

Resolution No. 90-1339

Transmitting Housekeeping Legislation to the Oregon State
Legislature for Introduction to the 1991 Legislative Session

The Council Intergovernmental Relations Committee will
consider Resolution No. 90-1339 at their meeting
October 25, 1990. The Committee's report and recommendations
will be distributed at the Council meeting.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

TRANSMITTING HOUSEKEEPING)	RESOLUTION NO. 90-1339
LEGISLATION TO THE OREGON STATE)	
LEGISLATURE FOR INTRODUCTION TO)	Introduced by the
THE 1991 LEGISLATIVE SESSION)	Intergovernmental Relations
)	Committee

WHEREAS, The 1991 session of the Oregon State Legislature shall convene on January 14, 1991; and

WHEREAS, The Council of the Metropolitan Service District finds a need to introduce to the Legislature five (5) housekeeping bills to provide for technical amendments to current State statutes which would clarify and improve provisions regarding the District; and

WHEREAS, The Council supports transmitting the five bills to the Legislature prior to its formal opening session to allow for appropriate assignment to and review by legislative committee(s); now, therefore,

BE IT RESOLVED,

The Council of the Metropolitan Service District respectfully transmits the five (5) housekeeping bills attached hereto as Exhibits A through E for legislative consideration during the 1991 session.

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

Tanya Collier, Presiding Officer

COUNCIL STAFF REPORT

RESOLUTION NO. 90-1339, TRANSMITTING HOUSEKEEPING LEGISLATION TO THE OREGON STATE LEGISLATURE FOR INTRODUCTION TO THE 1991 LEGISLATIVE SESSION

Date: October 16, 1990

Presented by: J. Marlitt

SUMMARY

Attached is Resolution No. 90-1339 transmitting proposed Metro housekeeping legislation to the State Legislature for the 1991 session.

Resolution No. 90-1339 requests legislative consideration of five bills drafted by the Metro Government Relations Manager to make the following technical adjustments:

- o provide for judicial review of Metro Voters' Pamphlet materials by the Circuit Court in which the District's administrative offices are located;
- o make permanent Metro's selection process for Boundary Commission members;
- o remove the detailed legal Metro boundary description from Metro's enabling legislation (ORS 268) and clarify Metro's authority to conduct reapportionment;
- o amend the Builder's Business License provisions; and
- o amend ORS 268 to have District ordinances become effective after 90 days unless otherwise provided and allow use of "emergency clause" provisions on certain ordinances.

BACKGROUND & EXPLANATION

The Intergovernmental Relations (IGR) Committee has previously reviewed all of the proposed housekeeping measures and unanimously supported their introduction to the 1991 Legislature.

At the August 28, 1990 IGR meeting, the Committee reviewed four of the proposed measures -- LC 178-1, LC 178-2, LC 178-3, and LC 1263 (Resolution 90-1339 Exhibits A through E respectively) -- and unanimously recommended they be grouped together under a single resolution for transmittal to the State as Metro housekeeping legislation.

On September 13, 1990, the Committee discussed the proposed fifth bill as first written by the Government Relations Manager -- LC 1568 (Exhibit F to the resolution) -- and unanimously supported sending it to State Legal Counsel for formal development as an LC Draft for subsequent submittal to the legislature. At that time, the Government Relations Manager indicated the bill could be interpreted as housekeeping legislation, but he was not certain if it would be appropriate to proceed in that vein. After further review, however, he has recommended the bill be included in Metro's housekeeping measure.

Each of the proposed housekeeping measures is summarized below, identified by its Exhibit placement in Resolution No. 90-1339:

EXHIBIT A - LC 178-1: Amends ORS 251.285 for judicial review of Metro explanatory statements in the Voters' Pamphlet. The amendment would provide for judicial review by the circuit court of the judicial district in which Metro's administrative offices are located (now Multnomah County). Current law provides for review by the circuit court of the most populous county in the District. The amendment's proposed language is consistent with provisions for judicial review of ballot titles of Metro measures.

EXHIBIT B - LC 178-2: Extends the Executive Officer's authority beyond July 1, 1991 to appoint the Boundary Commission members, consistent with the current process of using Councilor nominations and striving for geographical diversity and representation on the Commission.

EXHIBIT C - LC 178-3: Clarifies Metro Council authority to reapportion the service district into 13 subdistricts effective January 1, 1993. During the 1989 session, the Legislature adopted a bill increasing the Council to 13 members as of 1992, but the bill did not correctly incorporate provisions allowing the Council to reapportion itself instead of the Secretary of State. As a result, both the Council and the Secretary of State now are required to reapportion the Service District; proper conflict amendments were never enacted in 1989 to clarify District reapportionment responsibilities.

EXHIBIT D - LC 1263: Expands Metro's Business Licensing provisions to include all contractors instead of residential builders only and increases from \$100,000 to \$125,000 the gross receipts cap which subjects a contractor to pay business license taxes in cities which are not his/her principal place of business. The amendment does not change the geographical areas for which the licensing provisions apply.

EXHIBIT E - LC 1568: Amends ORS 268.360 of Metro's enabling statute to be consistent with general ORS provisions providing for local jurisdiction ordinances to become effective 90 days after their adoption, unless otherwise provided in an ordinance. Also allows for use of emergency adoption clause to enact ordinances (except revenue measures) immediately upon adoption or in less than 90 days if a majority of the Metro Council members so votes. The current statute language is broadly written and literally allows voters at any time after a Metro ordinance is adopted to file a referendum petition. Upon filing a petition, the ordinance would become "inoperative" until voted on by the District's electors. The proposed amendments would bring Metro ordinance adoption provisions in conformance with other local jurisdictions procedures as provided under State law.

Agenda Item No. 7.2
Meeting Date: October 25, 1990

Resolution No. 90-1314

For the Purpose of Approving an Intergovernmental Agreement to Assume Custody of Certain Monies and Ownership at the St. Johns Landfill and Certain Adjacent Land from the City of Portland

SOLID WASTE COMMITTEE REPORT

RESOLUTION NO. 90-1314, FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT TO ASSUME CUSTODY OF CERTAIN MONIES AND OWNERSHIP AT THE ST. JOHNS LANDFILL AND CERTAIN ADJACENT LAND FROM THE CITY OF PORTLAND

Date: October 18, 1990

Presented by: Councilor DeJardin

COMMITTEE RECOMMENDATION: The Committee considered the Resolution at its meetings on October 2 and October 16, 1990. The Committee voted unanimously to recommend approval of Resolution No. 90-1314. Voting yes were Councilors Buchanan, Collier, DeJardin, Saucy and Wyers.

COMMITTEE DISCUSSION/ISSUES: This resolution would authorize Metro to enter into an agreement with the City of Portland for ownership of the St. Johns Landfill. Bob Martin, Solid Waste Director, outlined key features of the proposed agreement negotiated between Metro and City staff:

- Metro will own the landfill and adjacent wetland property.
- Metro assumes responsibility for a trust fund made up of approximately \$3.1 million of Metro Lease and End-use payments originally intended by the City for implementation of the City's 1987 End-use Plan. The trust fund must be used to implement the 1990 Smith and Bybee Lakes Management Plan.
- Metro will continue to pay .40 to the trust fund for every ton of solid waste added to the landfill.
- Metro will rent City property for scalehouse operations until it is no longer needed for any purpose but access. At that point, the City will grant a permanent easement for access.
- The City will have right of first refusal to implement recreational programs on the site under the Smith and Bybee Lakes Management Plan.
- Metro assumes the responsibility and potential liability of ownership. If additional remediation is required, Metro's duty to protect the City from liability for possible hazardous material remedial action would be limited to the maximum per capita charges mandated by state law.

Mr. Martin listed the advantages to Metro of entering into this agreement. The agreement removes ambiguity in the existing landfill agreement regarding responsibility for closure costs. Metro ownership reduces the potential risks from uncoordinated management of closure, end use, and Smith/Bybee Lakes implementation. Ownership also facilitates monitoring the facility to comply with DEQ requirements. DEQ favors the agreement, because

SOLID WASTE COMMITTEE REPORT
RESOLUTION NO. 90-1314
Page Two

it reduces regulatory complexity. Another advantage is that the North Portland community will be working with one rather than two governments. With regard to risk, Mr. Martin stated that Metro already bears responsibility for remediation. In his view, transferring ownership to Metro reduces risk from lack of coordination.

In response to committee questions, Mr. Martin clarified that Metro could decide to operate recreational programs, but that if the programs were contracted, the City would have right of first refusal.

Mr. Martin indicated there was still some question about the property description of the noncontiguous parcel. The committee was willing to recommend approval contingent upon staff providing an accurate description when this matter is considered by Council.

Councilor Wyers noted that she had given considerable thought to the issue of liability, and had concluded that if remediation is required, it is an appropriate regional responsibility for Metro to assume.

Committee members stated that the agreement appeared fair and well-reasoned, and represented good work by all parties.

kf:a:\1314.res

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING AN) RESOLUTION NO. 90-1314
INTERGOVERNMENTAL AGREEMENT)
TO ASSUME CUSTODY OF CERTAIN)
PUBLIC MONIES AND OWNERSHIP) Introduced by Rena Cusma,
OF THE ST. JOHNS LANDFILL) Executive Officer
AND CERTAIN ADJACENT LAND FROM)
THE CITY OF PORTLAND)

WHEREAS, The Metropolitan Service District can best fulfill its solid waste management responsibilities by accepting authority and responsibility for the St. Johns Landfill; and

WHEREAS, The Metropolitan Service District can best fulfill its role in regional cooperative efforts to establish urban natural areas by accepting authority and responsibility for implementing the Smith and Bybee Lakes Management Plan; and

WHEREAS, This 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 approves the execution of Intergovernmental Agreement No. 901-438 with the City of Portland to assume custody of certain public monies and ownership of the St. Johns Landfill and certain adjacent land from the City of Portland.

ADOPTED by the Council 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: October 17, 1990

TO: Karla Forsythe, Council Analyst

FROM: Dennis O'Neil, Senior Solid Waste Planner *DO*

RE: Latest Draft of Metro/City of Portland Agreement Concerning St. Johns Landfill

Attached is the latest draft, dated October 17, 1990, of the Agreement between Metro and the City of Portland concerning St. Johns Landfill. This draft contains added language (highlighted) in Section 1, page 3. This language refers to a 119 acre parcel of City-owned wetland along the east edge of Smith Lake. This parcel is physically separate from the City-owned wetland surrounding the St. Johns Landfill. The City desires to retain ownership of this parcel. Metro negotiators agreed because it is not adjacent to the landfill. This language change makes it clear that this parcel is not included in the property transfer. Thus, the total acreage transferred to Metro is reduced from 776 acres (presented in the staff report) to 657 acres. This change was proposed by staff when the Council Solid Waste Committee discussed the Agreement on October 16, 1990.

Attachment

DON:jc

AGREEMENT

THIS AGREEMENT is entered into by and between the CITY OF PORTLAND, OREGON ("City") and the METROPOLITAN SERVICE DISTRICT ("METRO").

RECITALS:

A. City is a municipal corporation of the State of Oregon. METRO is a METROpolitan Service District, established under ORS Chapter 268.

B. City owns the St. Johns Sanitary Landfill (the "Landfill"). The Landfill is located within the boundaries of METRO and is currently used by residents and commercial refuse haulers from METRO's solid waste planning area, both within and without the City limits.

C. ORS 268.310 (a) authorizes METRO to provide facilities for the disposal of solid waste.

D. Pursuant to an agreement effective June 1, 1980, and amended October 19, 1983, the City transferred operational responsibility, rate regulation, and control of the landfill operations to METRO subject to the terms of the prior agreement. That agreement was terminated and replaced with a new agreement adopted on May 21, 1986 by City Ordinance No. 158522.

E. Subject to terms and conditions set forth herein, METRO is willing to assume ownership of City owned properties described in Section 1 below which include the Landfill site. METRO is further willing to continue to lease Parcel A from the City until

such time as METRO no longer needs Parcel A for reasons other than access.

F. City adopted the St. Johns Landfill End Use Plan (End Use Plan) on June 10, 1987 by Resolution No. 34295. The End Use Plan, developed cooperatively with representatives of the St. Johns community, proposed ultimate development facilities for the Landfill. However, the proposed Closure Plan developed in 1989 requires features such as a geomembrane cover which prohibit most end uses of the Landfill for 20 years or more. Therefore, the End Use Plan is superseded by this Agreement and the Smith & Bybee Lakes Management Plan, 1990 (Lakes Plan). The monies intended for the End Use Plan, as itemized in this Agreement, shall be deposited in the Smith & Bybee Lakes Trust Fund (Lakes Fund) and used for the Lakes Plan which includes projects on the landfill site.

G. METRO is willing to accept custody and responsibility as Trust Fund Manager of the Smith & Bybee Lakes Trust Fund (Lakes Fund) which is to be established as part of the Lakes Plan. Such responsibilities shall include conducting periodic audits of the Lakes Fund as required by State Law and METRO Council review of budgets implementing the Lakes Plan, proposed by the Smith & Bybee Lakes Management Committee established in the Lakes Plan.

H. This Agreement is entered into pursuant to ORS 190.010.110 and ORS 268.300(2) and supersedes all previous Agreements between METRO and the City regarding the ownership and operation of the Landfill.

THE PARTIES AGREE AS FOLLOWS:

1. Transfer. City hereby transfers to METRO and METRO accepts ownership of the Incinerator Road Bridge (hereinafter Landfill Bridge), Tax Lot (2), Section 36, T2N, R1W, W.M. (221.62 acres) except for that portion of Tax Lot (2) lying southwesterly of the south bank of Columbia Slough (about 40.2 acres), Tax Lot (5), Section 31, T2N, R1E, W.M. (213.22 acres) ~~except for that separate portion of Tax Lot (5) in section 32, T2N, R1B, W.M. and in Section 5, T1N, R1E, W.M. (about 119 acres),~~ Tax Lot (6), Section 31, T2N, R1E, W.M. (108 acres) and Tax Lot (30), Section 36, T2N, R1W, W.M. (273.6 acres) ~~(net acreage of transferred parcels being about 657 acres)~~ for the sale price of \$1.00. With ownership of the landfill, METRO accepts the authority and responsibility to implement the St. Johns Landfill Revised Closure and Financial Assurance Plan (hereinafter Closure Plan) as approved by the Oregon State Department of Environmental Quality (DEQ) pursuant to OAR 340-61-033, 034. The City shall not be responsible for any closure costs, including any long term operations and maintenance costs except as provided in Sections 8 and 12, below. The City agrees that METRO may fill the St. Johns Landfill to elevations necessary to comply with the Closure Plan, state, or federal requirements. METRO agrees that the property hereby transferred shall be used for park and open space purposes consistent with the Lakes Plan and that permission to construct facilities on and use the property as described in the Lakes Plan shall not be unreasonably withheld. The City further transfers

to METRO and METRO accepts the monies contributed from METRO to the City and designated by the City for use in implementing the End Use Plan including monies in the City's "Refuse Disposal Fund", City "End Use Fund", and any other City funds with revenues related to Landfill closure and Lakes Plan implementation and the interest these monies have accrued. The monies to be transferred are itemized Exhibit C attached and incorporated herein. The City shall effect the transfer of real property described in Section 1 through the execution and delivery of the deeds in the form of attached Exhibit A on or before December 31, 1990.

2. Road and Utility Easement and Planning Designation.

a. The parties recognize that permanent easements for access and utilities are necessary for ownership of the landfill and related properties transferred in this Agreement. The City shall maintain for the benefit of METRO, a right of access through Parcel A to Parcels B and C to all existing roads, and the City shall maintain utilities for electricity, sewer, potable water, natural gas, and any other utility currently in use or needed for the Closure Plan so long as METRO leases Parcel A or until permanent easements have been executed. During or after closure of the landfill, the City shall execute permanent easements across Parcel A and connecting to the Landfill Bridge providing for access consistent with development of the Smith-Bybee Lakes Management Plan. Upon receipt of each

permanent easement METRO shall be responsible for maintenance of that facility.

b. METRO will actively seek any planning designation of Landfill property needed for recreational purposes proposed in the Lakes Plan.

c. The City shall, if needed to implement the Lakes Plan, provide at least 40,000 square feet of Parcel A adjacent to the Landfill Bridge for a parking area.

3. Term. This Agreement shall be effective upon execution and any term remaining after transfer of property ownership shall continue until all remaining conditions contained herein have been satisfied by both parties or December 31, 2020, whichever comes first.

4. Alternative Solid Waste Management Unit Boundary. In the event that the DEQ permits an alternative solid waste management unit boundary for the Landfill the City shall not withhold land under City ownership from inclusion in the boundary.

5. Improvements. The City at its option may, when METRO no longer leases Parcel A, take ownership of any fixed structures on Parcel A or require their removal at METRO's expense, provided that METRO may remove any scale Mechanisms and associated equipment which are the property of METRO. Any improvements or equipment currently located on Parcel A which are necessary for METRO's post-closure maintenance responsibilities shall remain and be operated and maintained by METRO until METRO

no longer leases Parcel A. METRO shall maintain the Landfill Bridge or other acceptable access to the Landfill consistent with the Lakes Plan.

6. City End Use Plan; METRO Contributions. Pursuant to Section 9 of the previous City/METRO Agreement METRO has contributed \$.40 per ton for all waste landfilled in the Landfill since January 1, 1987 for implementation of the End Use Plan. The City has deposited these monies received from METRO in the St. Johns Landfill End Use Fund where they have drawn interest. This Fund was estimated at \$908,070.48 on June 30, 1990. The entire contents of this Fund, including all interest accrued between January 1, 1987 and date of transfer, shall be transferred to METRO within 30 days after this Agreement has been adopted by both City and METRO Councils. The End Use Plan shows that, beginning in 1987, the City intended to use monies in the Refuse Disposal Fund which were obtained from Landfill lease payments for the End Use Plan. Exhibit C shows that these monies were estimated to total \$2,233,522 on June 30, 1990. The Office of the City Auditor shall issue a report verifying the correctness of the calculations, accounting procedures and deposit and expense amounts used in Exhibit C on or before December 31, 1990. The City shall deposit \$1,000,000 of these monies into the Lakes Fund within 30 days of the adoption of this Agreement by both City and METRO Councils or within 30 days of the creation of the Lakes Fund whichever occurs later. Subject to sufficient appropriations during the City's

annual budget process the estimated \$1,233,522 remaining in the Refuse Disposal Fund (or corrected amount established by the independent audit described above), plus 40% of lease payments paid by METRO to the City subsequent to June 30, 1990, plus interest earned by the Refuse Disposal Fund on these amounts, shall be deposited by the City into the Lakes Fund on or before December 31, 1993.

For each ton of waste deposited in the St. Johns Landfill after December 31, 1989, for which METRO charges a tipping fee, METRO shall contribute \$.40 per ton to the Lakes Fund. After February 1, 1991 METRO shall contribute \$.50 per ton to the Lakes Fund if METRO continues to deposit solid waste in St. Johns Landfill. This contribution shall be made on or before January 31 of each year for the tonnage deposited in the Landfill during the preceding calendar year.

7. Participation of City Parks Bureau in the Lakes Plan.

METRO shall afford to the City Bureau of Parks each year a right of first refusal for an intergovernmental contract by METRO to supervise, manage and operate recreation programs and projects recommended for Trust Fund expenditures in the Lakes Plan, subject to available funds, by requesting Bureau participation prior to implementing alternative means of operations. Bureau participation shall be based on a scope of work developed by Management Committee recommendation and METRO budget approval.

8. Environmental Risks. As between METRO and City, METRO accepts responsibility for all costs for correcting conditions

resulting from the use of the property as a municipal solid waste disposal landfill, including both (i) costs incurred because of required amendments to the Closure Plan pursuant to either changes in state or federal law or a determination by the appropriate federal or state agency that additional measures and costs are required by applicable federal or state laws, and (ii) costs incurred to remove or remediate hazardous wastes or hazardous materials deposited into the landfill and released into the environment subject to the following provisions:

1. METRO's duty to protect the City from liability for additional measures and costs required by applicable state or federal law to remove or remediate hazardous wastes or hazardous materials deposited into the landfill and released into the environment is limited to holding the City harmless for claims or causes of action initiated pursuant to federal or state environmental protection law pertaining to hazardous wastes and hazardous materials and shall be limited to an amount equivalent to the maximum per capita charges per local government mandated by ORS 459.311(1). If the costs of removal or remediation exceeds such amount, METRO and the City each shall be subject to such liability and have such rights to claim contribution or to make any and all claims against each other as the law may provide and this Agreement shall not constitute a waiver of any right or defense.

2. This Agreement is not a waiver of either party's right to pursue claims for environmental liability against any third parties who generated wastes deposited in the landfill including hazardous wastes.
3. This Agreement is not a release or waiver or agreement to hold harmless City for any costs necessitated by the deposit of wastes, including hazardous wastes, in the landfill by the City in its capacity as a generator of wastes including, but not limited to, deposit of sewage sludges or other wastes produced by City facilities.

9. Indemnity; Insurance.

a. Subject to statutory and constitutional restrictions on debt, if any, METRO shall hold harmless the City, its officers and employees and shall indemnify the City, its officers and employees, for any claims or damage to property or injury to persons which may be occasioned, in whole or in part, by METRO's lease of Parcel A. operation of the Landfill.

b. METRO shall furnish and maintain such public liability and property damage insurance, either through a carrier or self insurance, including automotive coverage, as will protect the City from all claims for damage to property or bodily injury, including death, which may arise from operations under this Agreement or in connection herewith, including all operations of Subcontractors Such insurance shall provide coverage of not less than \$100,000 for bodily

injury for each person, \$500,000 for each occurrence and not less than \$500,000 for property damage per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City, its officers and employees. The insurance shall further provide that the insurance shall not terminate or be cancelled prior to the completion of METRO's lease of Parcel A without thirty (30) days written notice to the Auditor of the City of Portland. Notwithstanding the naming of additional insured, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insured on the policy. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of the Agreement.

c. METRO shall maintain on file with the City Auditor a certificate of insurance certifying the coverage required under subsection (b). The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to provide proof of adequate insurance, as required hereunder, or failure at any time to maintain such liability insurance

shall be a default of the lease of Parcel A in this Agreement.

10. Workers' Compensation Insurance. METRO agrees that it and any subcontractor with whom it may contract during METRO's lease of Parcel A shall provide workers' compensation coverage in accordance with ORS Chapter 656, and maintain it for the duration of this lease. Failure to maintain workers' compensation insurance shall be a default of this Agreement. METRO shall assure that it and any subcontractor with whom it may contract in performance of this Agreement shall provide workers' compensation coverage for all persons employed in performing services during METRO's lease of Parcel A in accordance with ORS 656.001 to 656.794, either as:

- (1) A carrier-insured employer; or
- (2) A self-insured employer as provided by ORS 656.407,

Evidence of METRO's coverage shall be filed with the City and kept current during METRO's lease of Parcel A.

11. METRO Rental of Parcel A

a. Until December 31, 1996 or final cover has been placed on the entire solid waste disposal area, whichever comes first, METRO may at its option continue to rent Parcel A including all roads and facilities from the City except that the public may not be permitted to dispose of mixed solid waste on Parcel A.

b. The rental amount shall be \$120,000 per year, payable in advance per invoice from the City on the anniversary date of the adoption of this agreement by METRO Council. The first year's rent shall be paid fifteen (15) days after the date of the adoption of this agreement by METRO Council. METRO shall give City 90 days notice prior to termination of the rental of Parcel A. Upon receipt of notice of termination City shall within 30 days refund to METRO the proportional part of the rent for that part of the rental year for which METRO did not rent Parcel A. For the month in which METRO Council adopts this Agreement METRO shall not be required to pay the Landfill rental payment required by the May 1986 City/METRO Agreement for any portion of the month.

12. Leachate Treatment Costs. If collection and treatment from Subareas 1, 2, or 3 is required by the Closure Permit or the DEQ the City agrees to transport and treat including pretreatment, at its own expense, all leachate from these subareas that is not prohibited from discharge into the City sewer system and which is delivered to the City sewer at Columbia Boulevard. The City shall transport and treat, at METRO's expense, all leachate from the St. Johns Landfill expansion area (See Exhibit D) collection system that is not prohibited from discharge into the City sewer system and which is delivered to the City sewer at Columbia Boulevard. It is the intent of METRO and the City that leachate from the landfill will be regulated

under the City's industrial waste pretreatment program on the same basis that industrial discharges from other sources are regulated. The City agrees not to impose more stringent pretreatment requirements on leachate than are imposed on wastewaters from other sources unless required by state or federal regulations. However, METRO and the City recognize that state and federal regulatory authorities have the authority to change industrial pretreatment requirements and that such changes could have an impact on pretreatment requirements.

If the City notifies METRO that pretreatment requirements for leachate are to be increased and it is agreed between the parties (or determined by an arbitrator if the parties do not agree) that the City is imposing industrial pretreatment requirements on METRO in a more stringent manner than it is imposing requirements on other industrial dischargers, then the City shall be responsible for any leachate pretreatment costs in excess of the costs METRO would incur if there were no differential treatment.

13. Delinquent Payments.

a. Payments due City under this Agreement shall be considered delinquent if not paid before thirty (30) days after those dates when payment is due and an invoice is received by METRO. Delinquent payments shall be subject to interest calculated from the date the payment is due to the date the payment is received. Interest rates shall be the bank prime rate interest at First Interstate bank less two

percent (2%) effective at the time the payment became delinquent.

b. City may, at any time in its discretion, declare METRO in default after a payment has become delinquent. Acceptance of late payment(s) shall not constitute a waiver of City's right to declare METRO in default for any subsequent delinquent payment.

14. Default; Remedies.

a. In the event METRO shall default on any of its obligations under this Agreement, the City shall give METRO written notice specifying the nature and the extent of the default. METRO shall have one hundred twenty (120) days from receipt of the notice to cure the default. If METRO is unable or unwilling to cure the default, the City may cure the default and bill METRO for the reasonable costs and expenses incurred in curing the default.

b. In the event City shall default on any of its obligations under this Agreement, METRO shall give City written notice specifying the nature and extent of the default. City shall have one hundred twenty (120) days from receipt of the notice to cure the default. If City is unable or unwilling to cure the default, METRO may cure the default and deduct the reasonable costs and expenses incurred in curing the default from the payments required to be made by METRO under Section 11, METRO Rental of Parcel A.

c. The remedies specified in subsections (a) and (b) shall be in addition to any other remedies available under applicable law. Other remedies may include specific performance and an action to recover all damages caused by the default, including but not limited to unpaid amounts and attorneys' fees relating to the default.

15. Termination. This Agreement shall terminate upon the occurrence of any of the following events:

(a) the natural expiration of the term of this Agreement pursuant to Section 3, Term;

(b) in the event that METRO dissolves or terminates its existence without a successor with Responsibility and authority for regional solid waste disposal.

16. Approvals. Any approval required of the City or METRO under this Agreement shall not be unreasonably withheld.

17. Prior Agreements Superseded. All prior agreements between the City and METRO relating to the operation and closure of the Landfill are hereby terminated and shall be entirely superseded by the terms of this Agreement.

This Agreement is authorized by City Ordinance No. _____

METROPOLITAN SERVICE DISTRICT

CITY OF PORTLAND, OREGON

By _____
Executive Officer

By _____
Commissioner of Public Works

By _____
City Auditor

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By _____
Metro General Counsel

By _____
City Attorney

DON:jc
October 17, 1990
CITYMETR.AGR

Exhibit A

**PROPERTY DEEDS
TEMPORARILY REMOVED**

PARCEL "A"

A tract of land in Sec. 36, T2N, R1W, W.M. described as follows by Distances, Bearing and Coordinates on the Oregon Coordinate System North Zone. Beginning at a point (Coord. N 717565.1 E 1422412.5) on the Easterly line of the James Loomis D.L.C. S 20° 45' 07" E 466.8' from the N.E. Cor. of the James Loomis D.L.C. (Coord. N 718001.7, E 1422247.1) said beginning point being on the Southerly bank of the Columbia Slough, thence S 20° 45' 07" E 1216'.2 along the Easterly line of James Loomis D.L.C. and the Easterly line of Ramsey Villa Acres (a recorded Plat) to a point (Coord. N 716427.8, E 1422843.5), said point being the most Easterly Cor. of a 33' road on the Southeasterly line of Ramsey Villa Acres and apart of said Plat, thence S 61° 48' 04" W 659.4 along the Southerly line of said 33' road to a point on the Northeasterly Right of Way of Shipyard Access Road 1943 (Coord. N 716116.2, E 1422262.4), thence S 30° 8' 41" E 71.5' along the Northeasterly Right of Way line of Shipyard Access Road 1943 to a point (Coord. N 716054.4 E 1422298.3) at the beginning of a curve to the left, thence on a curve to the left along the Northerly Right of Way line of Shipyard Access Road 1943 (curve radius of 1392.7, central angle 17° 00', chord bearing S 38° 51' 34" E, arc length 413.6) to a point (Coord. N 715733.5, E 1422556.8), said point being the most Westerly Cor. of that tract of land transferred to Merta J. and Oscar F. Mason by Deed dated 3/26/47 and recorded in Book 1156, page 363, thence N 47° 45' 53" E 1376.2' along the Westerly line and the Westerly line extended of the said Mason Tract to a point (Coord. N 716658.5, E 1423575.8) on the South bank of Columbia Slough, thence Northwesterly along the South bank of Columbia Slough to the point of beginning. Tract contains 18.2 acres.

St. John Landfill End Use Fund

August 1990

City Council Resolution No. 34295, June 10, 1987, which adopted the St. Johns Landfill End Use Plan directed the Bureau of Environmental Services (BES) to "... pursue implementation of this [End Use] Plan including the establishment of a dedicated End Use Plan fund, ...". Ordinance No. 160973 (July 23, 1988) created the St. Johns Landfill End Use by adding Section 5.04.310 to the City Code.

Section 9 of the 1986 City/METRO contract requires that METRO contribute \$.40 per ton of waste placed in the Landfill from 1987 until closure (expected in 1991) for the End Use Plan. This tonnage fee is to be paid at the end of each calendar year. The correct amounts for 1987, 88 and 89 have been placed in the End Use fund and continue to draw interest. None of these monies have ever been spent and the June 30, 1990 balance was \$908,070.48. this the approved End Use Plan.

Since 1980 METRO has been making monthly Landfill lease payments to the City. These payments have been deposited in the Refuse Disposal Fund (RDF). The RDF which received almost all of its money from Landfill lease payments between 1980 and 1987 had grown to about \$1,660,000 in 1987. Pages S-8, S-9, B-15, B-16 and B-17 of the St. Johns Landfill End Use Plan, May 1987, show that \$1,500,000 of the 1987 RDF balance plus a portion of the lease payments from 1987 until closure were to be placed in the End Use Fund and draw interest. Calculation worksheets prepared for but not included in the published End Use Plan show that 40% of the lease payments from 1987 on were to be placed in the End Use Fund.

The majority of the 1987 End Use Plan is no longer feasible for technical and environmental reasons which will not be discussed here. The landfill gas project was not feasible so there is no gas revenue. However, the METRO CONTRIBUTIONS shown in the center column of the table on page B-16 have come in and have been somewhat larger than expected. These amounts are the sums of estimates of \$.40 per ton money (explained above) and 40% of lease payment money for each year (see above mentioned calculation worksheets).

All lease payment money has remained in and continues to be deposited in the RDF. Thus, there is no official accounting of the lease payment money intended for End Use. The RDF draws interest, receives monies from other sources and is used for other expenditures. However, with a few reasonable assumptions the amount of lease payment money that was intended for End Use purposes and the interest it has earned can be readily calculated.

Agreement 901-438 Exhibit C

Assumptions for calculation of lease payment money and interest intended for St. Johns Landfill End Use Plan:

1. \$1,500,000 deposited in fund on January 1, 1987.
2. 40% of each monthly lease payment deposited in the fund at the end of the month.
3. Interest for each month is calculated by taking 1/12th of monthly interest rate for all City funds (obtained from City Treasurer's office) and multiplying by previous month's balance.
5. End Use expenses (expenses charged to BES Project No. 4296 from 1986 to June 30, 1990 as shown in the City's Financial Management System (FMS) are accumulated for the fiscal year and subtracted from the fund balance on June 30 of each fiscal year.

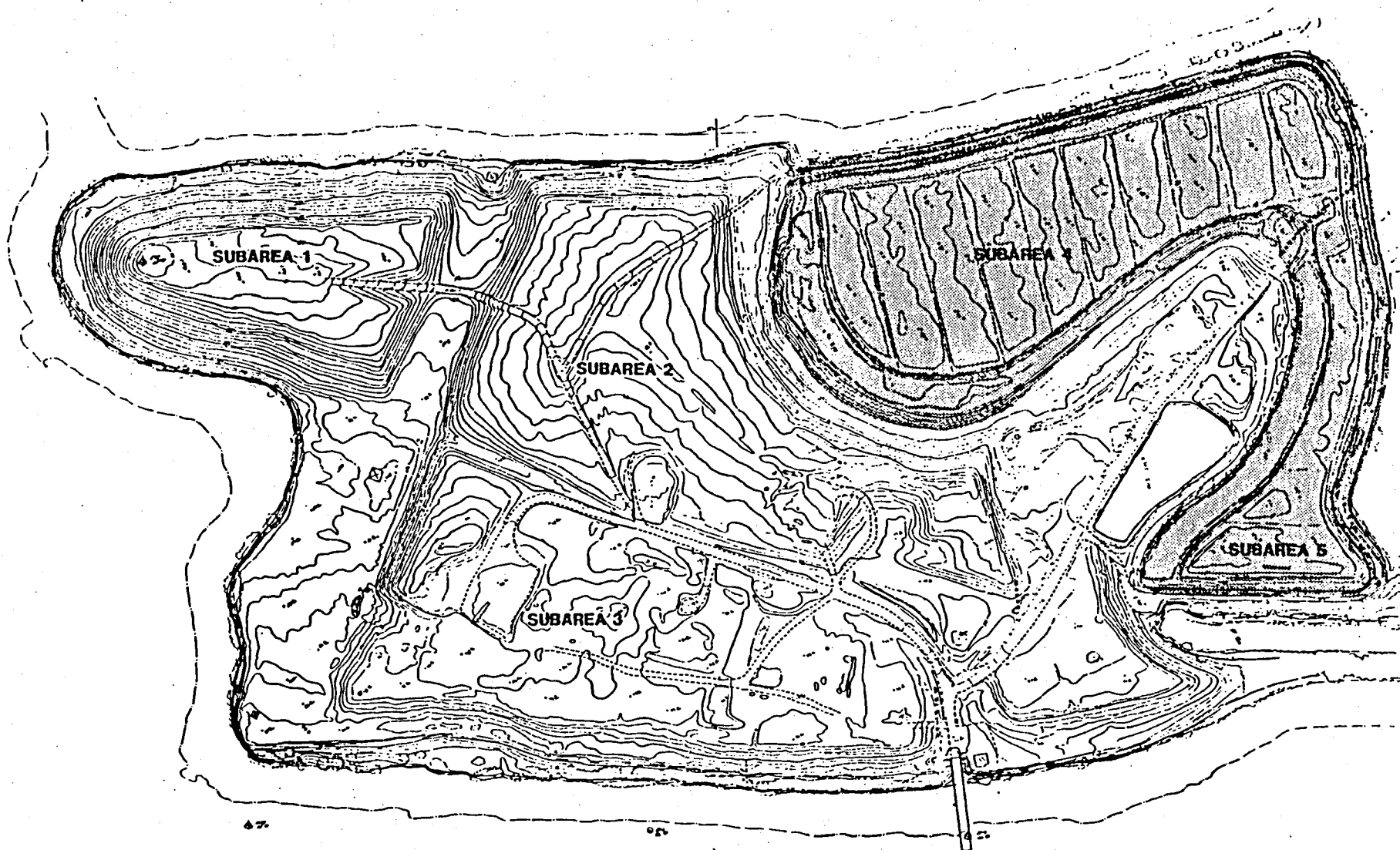
The table on the following page shows the results of the above assumptions with amount of lease payments plus interest intended for the St. Johns Landfill End Use Plan to be \$2,233,522.


Prepared by: Dan Miller
Bureau of Environmental Services
City of Portland

LEASE PAYMENT MONEY INTENDED FOR ST. JOHNS LANDFILL END USE PLAN PLUS INTEREST.

1,500,000 DEPOSITED ON JAN 1, 1987

	SJL LEASE	40%	INT. RATE	INT. AMOUNT	END USE EXPENSE	FUND BAL BY MONTH
Jan-87	24,037	9,615	5.92%	7,400		1,517,015
Feb-87	24,037	9,615	5.90%	7,459		1,534,088
Mar-87	24,037	9,615	5.97%	7,632		1,551,335
Apr-87	24,037	9,615	6.08%	7,860		1,568,810
May-87	24,037	9,615	6.54%	8,550		1,586,975
Jun-87	25,755	10,302	6.86%	9,072	139,522	1,466,827
Jul-87	25,755	10,302	6.76%	8,263		1,485,392
Aug-87	25,755	10,302	6.79%	8,405		1,504,099
Sep-87	25,755	10,302	6.90%	8,649		1,523,050
Oct-87	25,755	10,302	7.27%	9,227		1,542,579
Nov-87	25,755	10,302	7.56%	9,718		1,562,599
Dec-87	25,755	10,302	7.54%	9,818		1,582,719
Jan-88	25,755	10,302	7.46%	9,839		1,602,861
Feb-88	25,755	10,302	7.53%	10,058		1,623,221
Mar-88	25,755	10,302	8.62%	11,660		1,645,183
Apr-88	25,755	10,302	6.88%	9,432		1,664,917
May-88	25,755	10,302	7.01%	9,726		1,684,945
Jun-88	27,711	11,084	7.32%	10,278	39,832	1,666,475
Jul-88	27,711	11,084	7.43%	10,318		1,687,878
Aug-88	27,711	11,084	7.73%	10,873		1,709,835
Sep-88	27,711	11,084	8.09%	11,527		1,732,446
Oct-88	27,711	11,084	8.16%	11,781		1,755,312
Nov-88	27,711	11,084	8.37%	12,243		1,778,639
Dec-88	27,711	11,084	8.72%	12,925		1,802,648
Jan-89	27,711	11,084	8.94%	13,430		1,827,163
Feb-89	27,711	11,084	9.08%	13,826		1,852,072
Mar-89	27,711	11,084	9.18%	14,168		1,877,325
Apr-89	27,711	11,084	9.43%	14,753		1,903,162
May-89	27,711	11,084	9.63%	15,273		1,929,520
Jun-89	27,259	10,904	9.64%	15,500	885	1,955,038
Jul-89	27,259	10,904	9.40%	15,314		1,981,256
Aug-89	27,259	10,904	9.07%	14,975		2,007,135
Sep-89	27,259	10,904	8.91%	14,903		2,032,942
Oct-89	27,259	10,904	8.84%	14,976		2,058,821
Nov-89	27,259	10,904	8.59%	14,738		2,084,463
Dec-89	27,259	10,904	8.55%	14,852		2,110,218
Jan-90	27,259	10,904	8.51%	14,965		2,136,087
Feb-90	27,259	10,904	8.43%	15,006		2,161,996
Mar-90	27,259	10,904	8.43%	15,188		2,188,088
Apr-90	27,259	10,904	8.48%	15,462		2,214,454
May-90	27,259	10,904	8.50%	15,686		2,241,043
Jun-90	27,500	11,000	8.61%	16,079	34,600	2,233,522



 Expansion area
St. Johns Landfill, 1983



METRO

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

Memorandum

SOLID WASTE COMMITTEE
October 16, 1990
Agenda Item No. 4

DATE: September 28, 1990
TO: Tom De Jardin, Chair
Council Solid Waste Committee
FROM: *BM* Bob Martin, Director of Solid Waste
RE: ST. JOHNS LANDFILL AGREEMENT

I am responding to Karla Forsythe's September 12, 1990 memorandum concerning council questions about the St. Johns Landfill agreement.

QUESTION: What is the timing relationship between the closure of the landfill and The Smith/Bybee Lakes Plan?

ANSWER: The Smith and Bybee Lakes Management Plan was approved in concept through Resolution No. 90-1282 on June 28, 1990. there will be a first reading of the ordinance to adopt the Smith and Bybee Lakes Management Plan on October 11th followed by a hearing with the Intergovernmental Relations Committee on October 23. Final adoption of the Lakes Management Plan is scheduled for November 8, 1990 in conjunction with adoption of the new METRO/City of Portland Landfill agreement. The Smith/Bybee Lakes Plan can be implemented when approved by the City and METRO Councils.

Although St. Johns Landfill would "close" i.e. stop accepting waste as a general purpose landfill in February 1991, the actual closure improvement construction process is not expected to be complete until 1995. Implementation of The Smith/Bybee Lake Plan can and should proceed concurrently with landfill closure.

QUESTION: What are the consequences for end-use management if METRO does not own the landfill?

ANSWER: Under the current agreement the City has responsibility for end-use management of the landfill. If the landfill ownership was retained by the City, METRO would have to obtain permission from the city to implement closure improvements, post closure maintenance and monitoring, and any changes to the above activities. Conflicts between closure, post closure needs and end-use desires could arise. In addition, METRO, not the City, is responsible to

DEQ for landfill closures so METRO could be caught between future conflicting policies of the City and DEQ. If METRO developed methane gas recovery there would be a three-way contract among the City, METRO, and the gas developer. This process is cumbersome, it could delay necessary actions, and could become entangled in changing political relationships between the City and METRO. Ownership of the landfill gives METRO the freedom to pursue prompt and effective steps to close the landfill and maintain and monitor the landfill after closure.

Finally, without adequate control of the property and the end-use plan it is conceivable that future property management decision might jeopardize the integrity of the closure structures resulting in increased liability for all involved.

QUESTION: Which METRO department ultimately will be taking the lead of post-closure uses?

ANSWER: The Solid Waste Department would be responsible for maintaining the landfill after closure and monitoring its impact on the environment. The Planning and Development Department would be responsible for coordination, implementation of the SMITH/BYBEE LAKE PLAN including the trust fund and end-use of the landfill.

QUESTION: How does the potential for disposal of hazardous waste impact the ownership decision? To what extent is METRO legally responsible for the landfill, independent of potential ownership?

ANSWER: Under the City/METRO agreement, METRO assumes the responsibility and potential liability of ownership of the St. Johns Landfill. Although the closure improvements currently under design are themselves intended to prevent ground and surface water contamination, it is possible that additional actions could be required in the future.

METRO already has responsibility for required future remedial action as operator of St. Johns Landfill. The U. S. Environmental Protection Agency (EPA) has published interim guidelines for Federally required remedial actions involving municipal solid waste disposal sites. The guidelines state that "All parties that are owners/operators of facilities will generally be notified as potentially responsible." Thus, EPA would consider METRO a potentially responsible party whether or not it owned the landfill. Our control of the property and its future uses can reduce the risk of encountering future remediation that can arise from use conflicts.

QUESTION: If METRO assumes ownership, is it possible to sever potential liability so that the City retains some legal responsibility?

ANSWER: Yes. Should additional remedial action be required, METRO intends to collect any necessary funds for additional remedial action from the solid waste disposal rates up to the maximum per capita charges per year allowed in ORS 459.311. METRO and the City agree that METRO's duty to protect the City from liability for possible hazardous material remedial action shall be limited to the maximum per capita charges mandated by ORS 459.311 (1).

QUESTION: Does the potential tax cap raise issues which impact the ownership decision, given the City's limited ability to raise money except through property taxes?

ANSWER: Under the agreement the City would not be protected by METRO from liability beyond the maximum per capita charges mandated by ORS 459.311 (1). If the city were unable to raise sufficient money for remedial action METRO would likely be expected by the region to collect the funds and carry out any future state or federally required remedial actions at the St. Johns Landfill whether or not METRO owned the landfill.

QUESTION: What is the likelihood that after closure, METRO would be required to take additional action to meet federal requirements?

ANSWER: The primary closure improvement is a cap over the landfill which will interfere with contaminated water (leachate) generation by blocking future rainwater percolation into the solid waste. This is recognized method being used both for many municipal landfill closures and also at federal superfund sites. There is a remote possibility that METRO could some day have to take additional action to control contamination if the cap is less effective than intended. Based on the large volume of information known so far, it is expected that the cost would be far less than the cost of the cap. Nothing known from the extensive testing which has been done so far has resulted in a hazard ranking score that would even come close to stimulating federally mandated remediation.

QUESTION: What are the implications of this decision for METRO's relationship with private landfills in the region?

ANSWER: It is not expected that METRO's ownership of St. Johns Landfill would cause any change in METRO's current relationship as a fellow landfill operator with private landfills in the region. Rossman's landfill in Oregon City

was never owned or operated by Metro so does not raise issues regarding Metro ownership or closure, which are the responsibility of the owner.

QUESTION: How can the review process be structured to allow the Council ample time to review the various ownership options in detail?

ANSWER: There are two options. Under the first option METRO continues to lease the landfill which is owned by the City of Portland, Under the second option METRO acquires ownership of the landfill and adjacent city property. It would appear that the Council's current review process is adequate to review these options. Currently a joint METRO Council/City Council Meeting is scheduled for November 8. there is time for at least two Solid Waste Committee meetings and at least one full Council Meeting before this date. Additional meetings could be scheduled by the Council.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1314 FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT TO ASSUME CUSTODY OF CERTAIN PUBLIC MONIES AND OWNERSHIP OF THE ST. JOHNS LANDFILL AND CERTAIN ADJACENT LAND FROM THE CITY OF PORTLAND

Date: August 17, 1990

Presented by: Bob Martin
Jim Watkins

PROPOSED ACTION:

Approve Resolution No. 90-1314, which authorizes Metro to enter into Intergovernmental Agreement No. 901-438 (attached) between Metro and the City of Portland.

FACTUAL BACKGROUND AND ANALYSIS

Currently, Metro operates the St. Johns Landfill under a rental agreement with the City of Portland that was executed in May 1986. Metro must operate and close the landfill pursuant to an Operations Plan taken from the 1985 Metro/BFI Contract. Metro must pay a \$2 per ton penalty if it disposes of more than a specified quantity of waste per year. Metro must cease to accept solid waste at the St. Johns Landfill in February 1991. Metro pays rent to the City (currently approximately \$330,000 per year). Metro also pays \$0.40 per ton (approximately \$200,000 during the 1990 calendar year) for end use of the landfill. Metro must set aside funds for closure and post-closure maintenance.

The Agreement terminates December 31, 1991 or when the landfill is fully utilized. At termination, Metro must leave the site with control measures acceptable to the City. After termination, Metro is responsible for control and discharge of leachate from the 1980 expansion area of the landfill. The City is responsible for control and discharge of leachate from other areas of the landfill. The City is responsible for unacceptable conditions resulting from hazardous waste deposited while under City control. The Agreement states that Metro is responsible for unacceptable conditions resulting from hazardous waste deposited while under Metro control and City ownership.

The current City/Metro Agreement is no longer adequate because it is based upon a closure concept that is now obsolete in light of the Revised Closure and Financial Assurance Plan reviewed by the Metro Council in October 1989, and directives from the Oregon Department of Environmental Quality (DEQ). For example, the mandated final contours in the Agreement do not provide adequate slopes for drainage. Although Metro operates the landfill under a DEQ permit in Metro's name, the obsolete Agreement gives the City the power to delay or veto efforts by Metro to make changes

implementing the Revised Closure Plan or DEQ requirements. The present agreement also contains no clear statement concerning responsibility for post-closure maintenance costs. To remedy these inadequacies, Metro and the City began negotiations from which resulted the attached Metro/City of Portland Intergovernmental Agreement No. 901-438.

Under this Agreement, Metro assumes ownership of the 776 acre City-owned parcel, which includes the St. Johns Landfill site northeast of Columbia Slough, and the City property in the wetlands immediately adjacent to the landfill.

Metro assumes responsibility for a trust fund made up of approximately \$3.1 million of Metro Lease and End-use Payments which were originally intended by the City for implementation of the City's 1987 St. Johns Landfill End-use Plan. Metro takes custody of \$1.9 million 30 days after the Agreement is adopted. By January 31, 1993, Metro assumes custody of the remaining \$1.2 million plus interest. Under the proposed Agreement, this trust fund, including interest, must be used by Metro to implement the 1990 Smith and Bybee Lakes Management Plan, which is a land use plan for St. Johns Landfill end-use and management of the surrounding wetlands. Metro affords the City of Portland Parks Bureau a right of first refusal of a contract to implement recreation programs under the Smith and Bybee Lakes Management Plan. This Agreement supersedes the 1987 City End-Use Plan.

Metro would continue to contribute \$0.40 to the trust fund for every ton of solid waste incorporated into the St. Johns Landfill. This would add approximately \$200,000 to the trust fund as of February 1991. If limited purpose landfill waste is deposited after February 1, 1991, this contribution would increase to a minimum of \$0.50 per ton.

Metro would continue to rent for \$120,000 per year City property southwest of the Columbia Slough for scalehouse operation until this property is no longer needed for any purpose but access. As part of the Agreement, the City would grant to Metro at no cost a permanent easement through this property needed for access and utilities on Metro land.

Under this Agreement, Metro assumes the responsibility and potential liability of ownership of the St. Johns Landfill. Although the closure improvements currently under design are themselves intended to prevent ground and surface water contamination, it is possible that additional action could be required in the future.

In reality Metro already has responsibility for required future remedial action as operator of St. Johns Landfill. The U.S. Environmental Protection Agency (EPA) has published interim guidelines for federally-required remedial actions involving municipal solid waste disposal sites. The guidelines state that "All parties that are owners/operators of facilities will

generally be notified as potentially responsible." Thus, EPA would consider Metro a potentially responsible party whether or not it owned the landfill.

Should additional remedial action be required, Metro intends to collect any necessary funds for additional remedial action from the solid waste disposal rates up to the maximum per capita charges per year allowed in ORS 459.311. Metro and the City agree that Metro's duty to protect the City from liability for possible hazardous material remedial action shall be limited to maximum per capita charges mandated by ORS 459.311(1). As a practical matter, Metro would likely be expected by the region to collect the funds and carry out any future state- or federally-required remedial actions at the St. Johns Landfill whether or not Metro owned the landfill.

BUDGET IMPACT

By signing this Agreement Metro would be assuming the City's estimated \$5.5 million post-closure maintenance costs. Metro will acquire \$1.9 million within 30 days after the agreement is adopted by both parties, and \$1.2 million more plus interest by December 31, 1993. Under the Smith and Bybee Lakes Management Plan, this money would become an endowment fund from which all interest and principal would be used by Metro as Trust Fund Manager to implement the plan. Also, Metro would continue to allocate to this fund the amount per ton specified in the Agreement, as long as solid waste is disposed of in the landfill. Since the current budget and disposal rates are based on a \$0.40 per ton allocation, a budget adjustment and a rate increase adjustment may be required if the allocation increases to \$0.50 per ton. Metro would allocate money from the trust fund for projects recommended by a Management Committee of interested parties, including Metro.

When this Agreement is signed, Metro's rent for the St. Johns Landfill (Parcel A) drops to \$120,000 per year which is due within 15 days of the adoption of this Agreement. There is sufficient money budgeted for this purpose.

Whether or not this Agreement were signed, the St. Johns Landfill Reserve Account would continue to fund closure, post-closure care, and mitigation of environmental impacts caused by the St. Johns Landfill (Metro Ordinance No. 89-300).

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 90-1314.

Agenda Item No. 7.3
Meeting Date: October 25, 1990

Resolution No. 90-1328

For the Purpose of Authorizing an Exemption from Requirements
of Metro Code Section 2.04.054(a) for Amendment No. 10 to the
Contract with GSA Partnership, P.C. to Perform Additional Design
Services for the Africa Rain Forest Exhibit

ZOO COMMITTEE REPORT

RESOLUTION NO. 90-1328, AUTHORIZING AN EXEMPTION FROM REQUIREMENTS OF METRO CODE SECTION 2.04.054(a) FOR AMENDMENT NO. 10 TO THE CONTRACT WITH GSA PARTNERSHIP, P.C. TO PERFORM ADDITIONAL DESIGN SERVICES FOR THE AFRICA RAIN FOREST EXHIBIT.

Date: October 5, 1990

Presented by: Councilor Gardner

COMMITTEE RECOMMENDATION: At the October 4, 1990 Zoo Committee meeting, Councilors McFarland, DeJardin, Gardner, and Saucy voted unanimously to recommend Contract Review Board adoption of Resolution No. 90-1328. Councilor Knowles was absent.

COMMITTEE DISCUSSION/ISSUES: Resolution No. 90-1328 authorizes an amendment to the contract with GSA, adding up to \$30,000 for additional soils testing for construction of the Africa Rain Forest Exhibit at the Zoo. GSA's project team includes the soils analysis firm of L.R. Squier & Associates, who will do the work. The contract already allocates \$10,000 for soils testing, but the nature of the soil and fill at the site, and the general contractor's method of dealing with it, require significantly more testing. The additional funds are available in the project's contingency.

In its discussion of the issue, the Committee asked whether the general contractor's practice of reusing existing fill material added to the soils analysis requirement. Zoo staff responded that this was the case, but pointed out that the higher costs for analysis were more than offset by savings realized by reusing the material. The bid of L.D. Mattson, the project's general contractor, was some \$100,000 less than the other bid received on the project, with the difference primarily in the soils treatment. The high bidder proposed hauling out all the old fill, replacing it with crushed rock. Mattson's approach of reusing fill requires more expense for testing, but results in a lower overall cost.

Following discussion of this point, the Committee asked if the \$30,000 included costs of hauling unusable fill or was it just for testing. The answer is that it's for testing; hauling costs are a separate item in the project budget.

BEFORE THE CONTRACT REVIEW BOARD OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING AN) RESOLUTION NO. 90-1328
EXEMPTION FROM REQUIREMENTS OF METRO)
CODE SECTION 2.04.054 (a) FOR)
AMENDMENT NO. 10 TO THE CONTRACT)
WITH GSA PARTNERSHIP, P.C. TO)
PERFORM ADDITIONAL DESIGN SERVICES) Introduced by Rena Cusma,
FOR THE AFRICA RAIN FOREST EXHIBIT) Executive Officer

WHEREAS, GSA Partnership, P.C. was selected in 1988 to design the Africa Rain Forest; and

WHEREAS, Fees for the design services were negotiated at the time of contract; and

WHEREAS, The project has required greater services for soils investigation than could have been anticipated at the time of contract award; and

WHEREAS, Other additional services by the architect have been required to complete the Africa Rain Forest Exhibit; now, therefore,

BE IT RESOLVED,

That the Metropolitan Service District Contract Review Board hereby exempts the attached Contract Amendment No. 10 to the contract with GSA Partnership, P.C. from the competitive procurement section of 2.04.054 (a) of the Metro Code for required additional design services for the Africa Rain Forest Exhibit at the Metro Washington Park Zoo.

ADOPTED by the Contract Review Board of the Metropolitan Service District this _____ day of _____, 1990.

Tanya Collier, Presiding Officer



GRANT/CONTRACT SUMMARY

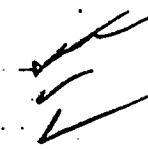
METROPOLITAN SERVICE DISTRICT

GRANT/CONTRACT NO. 900610 BUDGET CODE NO. 325-221700-574/30-575
 FUND: Capital DEPARTMENT: Zoo (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

SEP 1 1990



PURPOSE OF GRANT/CONTRACT Architectural Services for Africa Rain Forest Exhibit, Amd. #10

2. TYPE OF EXPENSE
- | | | |
|---|---|---------------------------------------|
| <input checked="" type="checkbox"/> PERSONAL SERVICES | <input type="checkbox"/> LABOR AND MATERIALS | <input type="checkbox"/> PROCUREMENT |
| <input type="checkbox"/> PASS THROUGH AGREEMENT | <input type="checkbox"/> INTER-GOVERNMENTAL AGREEMENT | <input type="checkbox"/> CONSTRUCTION |
| | | <input type="checkbox"/> OTHER |

OR

TYPE OF REVENUE GRANT CONTRACT OTHER

3. TYPE OF ACTION
- | | |
|--|--|
| <input checked="" type="checkbox"/> CHANGE IN COST | <input checked="" type="checkbox"/> CHANGE IN WORK SCOPE |
| <input type="checkbox"/> CHANGE IN TIMING | <input type="checkbox"/> NEW CONTRACT |

4. PARTIES GSA Partnership, P.C.

5. EFFECTIVE DATE 6/1/88 TERMINATION DATE 12/31/91
 (THIS IS A CHANGE FROM _____)

6. EXTENT OF TOTAL COMMITMENT:	ORIGINAL/NEW	\$ <u>532,623</u>
	PREV. AMEND	<u>98,626</u>
	THIS AMEND	<u>30,000</u>
	TOTAL	\$ <u>661,249</u>

7. BUDGET INFORMATION

1. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR 19890-91 \$ 100,000
 2. BUDGET LINE ITEM NAME Arch/Eng. Svc. Africa Rain Forest AMOUNT APPROPRIATED FOR CONTRACT \$ 100,000
 3. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF July 31 90 \$ 3,054,306

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

SUBMITTED BY n/a \$ _____ MBE
 AMOUNT
 SUBMITTED BY _____ \$ _____ MBE
 AMOUNT
 SUBMITTED BY _____ \$ _____ MBE
 AMOUNT

9. NUMBER AND LOCATION OF ORIGINALS 3

APPROVED BY STATE/FEDERAL AGENCIES? YES NO NOT APPLICABLE

IS THIS A DOT/UMTA/FHWA ASSISTED CONTRACT YES NO

CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? YES NO

YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION 000T

ALL INSURANCE CERTIFICATE BE REQUIRED? YES NO

WERE BID AND PERFORMANCE BONDS SUBMITTED? YES NOT APPLICABLE

TYPE OF BOND _____ AMOUNT \$ _____

TYPE OF BOND _____ AMOUNT \$ _____

LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)

NAME _____ SERVICE _____ MBE

NAME _____ SERVICE _____ MBE

NAME _____ SERVICE _____ MBE

NAME _____ SERVICE _____ MBE

IS THE CONTRACT OVER \$10,000

IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?

YES NO

IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?

YES DATE _____ INITIAL _____

COMMENTS:

GRANT/CONTRACT APPROVAL

INTERNAL REVIEW

CONTRACT REVIEW BOARD

COUNCIL REVIEW

(IF REQUIRED) DATE _____

(IF REQUIRED)


DEPARTMENT HEAD

COUNCILOR

DATE

BUDGET REVIEW

COUNCILOR

BUDGET REVIEW

COUNCILOR

LEGAL COUNSEL REVIEW AS NEEDED.

1. DEVIATION TO CONTRACT FORM _____

2. CONTRACTS OVER \$10,000 _____

3. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____

METRO CONTRACT NO. 900610

METRO BUDGET NO. 325-221700-574130-51500

CONTRACT AMENDMENT NO. 10

- 1. This is an amendment to the contract by and between the Metropolitan Service District (Metro) and Guthrie/Slusarenko/Associates (Contractor).**
- 2. The contract scope of work shall increase to continue (Contract Amendment No. 8 initiated this work) construction observation and testing services for soils work as required by the City of Portland, Bureau of Buildings to determine that the soils work is performed in substantial conformance with the contract documents and with the design intent.**
 - A. Check site preparation, including stripping of unsuitable materials and proof-rolling, prior to placement of fill.**
 - B. Conduct laboratory tests as required to confirm specified material gradations and determine the compaction properties of the materials used for fills.**
 - C. Observe/test the placement of structural fill during periodic site visits to check that the placement and compaction is in general conformance with project specifications. The work will include area fill and trench backfill.**
 - D. Observe spread footing excavations to confirm suitability of soils exposed.**
 - E. Observe the placement of subdrains and drainage materials in connection with the subdrain systems.**
 - F. Prepare site visit memoranda summarizing the results of field and laboratory testing.**
- 3. The Terms of Payment shall increase by the amount not to exceed \$30,000.00 for a maximum contract amount of \$661,249.**

METRO BUDGET NO. 325-221700-574130-51500

CONTRACT AMENDMENT NO. 10

- 4. The work will be billed monthly as performed using hourly rates for testing and professional services as established in Contract Amendment No. 8.

- 5. Since the Contractor does not have control of the methods of construction, and since the scope of the work will be determined by actual field conditions, this contract amendment may not cover the total number of hours required to complete the soils field observation and testing. Therefore the Contractor is to notify Metro of the progress of the work and alert Metro that additional funds may be needed with sufficient advance notice that additional contract amendments can be arranged in a timely manner.

METROPOLITAN SERVICE DISTRICT

BY: _____

TITLE: _____

DATE: _____

GUTHRIE/SLUSARENKO/ASSOCIATES

BY:  _____

TITLE: David B. Slusarenko
President

DATE: 12 Sep 70

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1328
AUTHORIZING AN EXEMPTION FROM REQUIREMENTS OF
METRO CODE SECTION 2.04.054 (a)

Date: Sept. 19, 1990

Presented by: A. M. Rich

FACTUAL BACKGROUND AND ANALYSIS

Amendment No. 10 to the Africa Rain Forest design contract with GSA Partnership, P.C. is required to cover continuing site soil testing and construction observation of soil related work. As construction work has proceeded rapidly this summer, we found several unanticipated problems that have greatly increased the amount of field testing and observation required:

1. Soil conditions at all building foundation levels were much worse than expected. The poor soil had to be removed and crushed rock had to be used to fill under building foundations. Field inspections were required to determine how much of the bad soil had to be removed, and then the crushed rock had to be checked to assure proper compaction had been achieved.
2. The debris fill along the south edge of the site was deeper than expected and was filled with more and larger debris than expected. A large portion of the debris fill had to be removed from the site, and crushed rock brought in to provide fill material. Both export and import operations required monitoring by the soils engineer.
3. The contractor is reusing site soil material for most backfilling operations, as is his choice, which requires more field testing to assure that proper moisture and compaction requirements are met.

Amendment No. 10 requests an additional \$30,000 to cover additional work made necessary by the above conditions. The actual amount of field work required cannot be determined because of the general contractor's schedule, unknown site conditions and future weather conditions.

Agenda Item No. 7.4
Meeting Date: October 25, 1990

Resolution No. 90-1342

**For the Purpose of Expressing Opposition to Ballot
Measure #5**

The resolution and accompanying Council Staff report for Resolution No. 90-1342 was not available at the time this agenda was printed. The materials will be available prior to the Council meeting. Those wishing copies should contact the Clerk of the Council at 221-1646, ext. 206.

FINANCE COMMITTEE REPORT

RESOLUTION NO. 90-1334, APPROVING METRO'S PARTICIPATION
IN THE NATIONAL RED RIBBON CAMPAIGN

Date: October 23, 1990 Presented by: Councilor Devlin

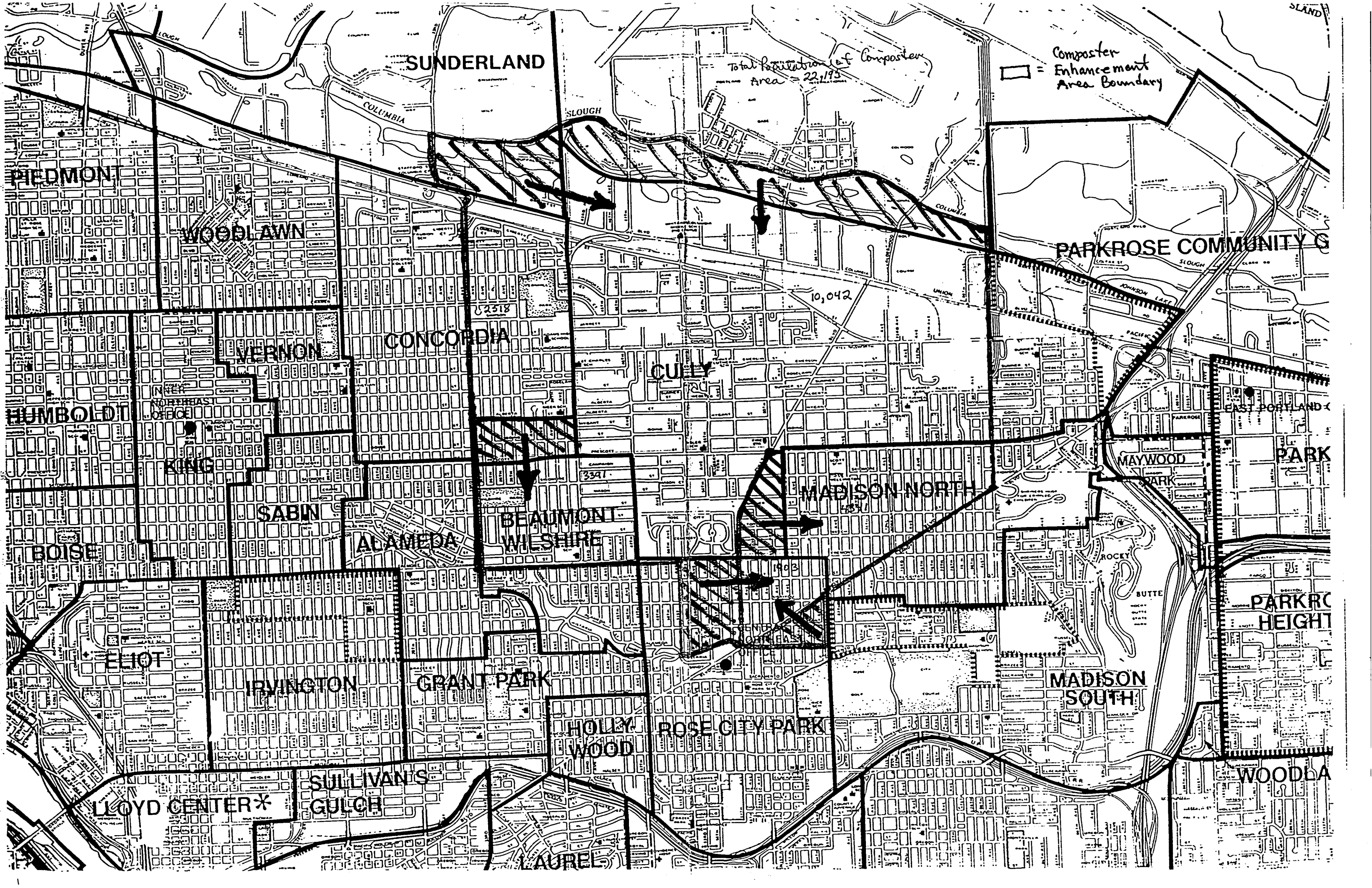
COMMITTEE RECOMMENDATION: The Committee at its October 18, 1990 meeting voted unanimously to recommend Council adoption of the Resolution. Voting yes were Councilors Devlin, Gardner, Van Bergen and Wyers. Councilor Collier was excused.

COMMITTEE DISCUSSION/ISSUES: Don Rocks, Executive Assistant, presented the staff report. He indicated the Resolution provides Metro's support for a drug free work place and lifestyle. He pointed out that the lateness of consideration of the Resolution means that Metro's participation will be limited for the most part to the wearing of red ribbons. Next year's consideration will need to be more timely for fuller participation.

Councilor comments included agreement with the recommendation to eliminate the "pledge signing" part of the program.

DEC:aeb
Attach.

A:\90-1334.RPT



Ord. No. 90-331A
Agenda Item
6.3 Oct. 25
Council Meeting
Submitted to
record by Gordon
Hunter