



METRO

Agenda

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

DATE: October 24, 1991
MEETING: METRO COUNCIL
DAY: Thursday
TIME: 5:30 p.m.
PLACE: Metro Council Chamber

Approx.
Time*

Presented
BY

5:30
(5 min.)

CALL TO ORDER/ROLL CALL

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

5:35
(30 min.)

- 3.1 Presentation by the Portland Trail Blazers on the Oregon Arena Project**

6:05
(5 min.)

- 4. CONSENT AGENDA (Action Requested: Motion to Adopt the Items Listed Below)**

- 4.1 Minutes of August 8, 1991**

REFERRED FROM THE FINANCE COMMITTEE

- 4.2 Resolution No. 91-1497, For the Purpose of Confirming the Appointment of Cynthia R. Meyer and William J. Glasgow to the Investment Advisory Board**

REFERRED FROM THE TRANSPORTATION & PLANNING COMMITTEE

- 4.3 Resolution No. 91-1516, For the Purpose of Continuing the Bi-State Policy Advisory Committee**

- 4.4 Resolution No. 91-1517, For the Purpose of Approving an Intergovernmental Agreement with the Intergovernmental Resource Center for Bi-State Committee Staff Support**

6:10
(5 min.)

5. ORDINANCES, FIRST READINGS

- 5.1 Ordinance No. 91-412, For the Purpose of Amending Metro Code Chapter 4.01 Metro Washington Park Zoo Regulations (Action Requested: Refer to Regional Facilities Committee)**
- 5.2 Ordinance No. 91-431, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule to Open a Fee Supported RLIS "Storefront" for Providing Services to the Business Community Using the Regional Land Information System (Action Requested: Refer to Finance Committee)**

(Continued)

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

Approx.
Time*

Presented

By

- 5.3 Ordinance No. 91-432, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose Purchasing Office Panels (Action Requested: Refer to Finance Committee)

6. ORDINANCES, SECOND READINGS

REFERRED FROM THE FINANCE COMMITTEE

- 6:15
(20 min.) 6.1 Ordinance No. 91-411, For the Purpose of Amending Chapter 2.09, Builder's Business License Program of the Metro Code (Action Requested: Motion to Adopt the Ordinance)

REFERRED FROM THE SOLID WASTE COMMITTEE

- 6:35
(20 min.) 6.2 Ordinance No. 91-393A, For the Purpose of Amending Ordinance No. 88-266B Adopting the Regional Solid Waste Management Plan to Identify Options for Implementing Local Government Facility Siting Standards (Action Requested: Motion to Adopt the Ordinance) Gardner

7. RESOLUTIONS

- 6:55
(20 min.) 7.1 Resolution No. 91-1415A, For the Purpose of Recognizing the Model Solid Waste Facility Siting Ordinance as Meeting the Requirements of Chapter 16 of the Regional Solid Waste Management Plan to Identify Options for Implementing Local Government Facility Siting Standards (Action Requested: Motion to Adopt the Resolution) DeJardin
- 7:15
(10 min.) 7.2 Resolution No. 91-1520, For the Purpose of Approving the One Percent for Recycling Program Criteria, Application and Project List for FY 1991-92 (Action Requested: Motion to Adopt the Resolution) McLain

BEFORE THE CONTRACT REVIEW BOARD

- 7:25
(10 min.) 7.3 Resolution No. 91-1518, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code Chapter 2.04.053, and Authorizing a Change Order to the Personal Services Agreement with Associated Marketing Research (Action Requested: Motion to Adopt the Resolution) Wyers

REFERRED FROM THE TRANSPORTATION & PLANNING COMMITTEE

- 7:35
(10 min.) 7.4 Resolution No. 91-1511, For the Purpose of Approving the FY 1991-92 Housing Planning Workplan (Action Requested: Motion to Adopt the Resolution) Bauer

7:45
(10 min.) **8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS**

7:55 ADJOURN



METRO

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

Memorandum

DATE: October 28, 1991

TO: Metro Council
Executive Officer
Interested Staff

FROM: Paulette Allen, Clerk of the Council *PA*

RE: COUNCIL ACTIONS OF OCTOBER 24, 1991 (REGULAR MEETING)

COUNCILORS PRESENT: Presiding Officer Tanya Collier, Deputy Presiding Officer Jim Gardner, Roger Buchanan, Richard Devlin, Sandi Hansen, David Knowles, Ruth McFarland, Susan McLain, George Van Bergen and Judy Wyers.
COUNCILORS ABSENT: Tom DeJardin

AGENDA ITEM

ACTION TAKEN

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Multnomah County Commissioners Gary Hansen and Sharron Kelley distributed and discussed a resolution adopted by the Multnomah County Commission asking Metro to consider regionalization of some current county services.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Presentation by the Portland Trail Blazers on the Oregon Arena Project

Trail Blazer representatives discussed the proposed memorandum of understanding agreement between the Trail Blazers, City of Portland and Metro.

4. CONSENT AGENDA

Adopted (Devlin/Hansen; 10-0 vote).

4.1 Minutes of August 8, 1991

4.2 Resolution No. 91-1497, For the Purpose of Confirming the Appointment of Cynthia R. Meyer and William J. Glasgow to the Investment Advisory Board

(Continued)

4. CONSENT AGENDA (Continued)

- 4.3 Resolution No. 91-1516, For the Purpose of Continuing the Bi-State Policy Advisory Committee
- 4.4 Resolution No. 91-1517, For the Purpose of Approving an Intergovernmental Agreement with the Intergovernmental Resource Center for Bi-State Committee Staff Support

5. ORDINANCES, FIRST READINGS

- 5.1 Ordinance No. 91-412, For the Purpose of Amending Metro Code Chapter 4.01 Metro Washington Park Zoo Regulations Referred to the Regional Facilities Committee.
- 5.2 Ordinance No. 91-431, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule to Open a Fee Supported RLIS "Storefront" for Providing Services to the Business Community Using the Regional Land Information System Referred to the Finance Committee.
- 5.3 Ordinance No. 91-432, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose Purchasing Office Panels Referred to the Finance Committee.

6. ORDINANCES, SECOND READINGS

- 6.1 Ordinance No. 91-411, For the Purpose of Amending Chapter 2.09, Builder's Business License Program of the Metro Code Adopted (Wyers/Devlin; 11-0 vote).
- 6.2 Ordinance No. 91-393A, For the Purpose of Amending Ordinance No. 88-266B Adopting the Regional Solid Waste Management Plan to Identify Options for Implementing Local Government Facility Siting Standards Adopted (Wyers/Gardner; 11-0 vote).

(Continued)

7. RESOLUTIONS

- 7.1 Resolution No. 91-1415A, For the Purpose of Recognizing the Model Solid Waste Facility Siting Ordinance as Meeting the Requirements of Chapter 16 of the Regional Solid Waste Management Plan to Identify Options for Implementing Local Government Facility Siting Standards Adopted (Wyers/Hansen; 9-0 vote).
- 7.2 Resolution No. 91-1520, For the Purpose of Approving the One Percent for Recycling Program Criteria, Application and Project List for FY 1991-92 Adopted (McLain/Wyers; 11-0 vote).
- 7.3 Resolution No. 91-1518, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code Chapter 2.04.053, and Authorizing a Change Order to the Personal Services Agreement with Associated Marketing Research Adopted (Wyers/McFarland; 11-0 vote).
- 7.4 Resolution No. 91-1511, For the Purpose of Approving the FY 1991-92 Housing Planning Workplan Adopted (Bauer/Devlin; 11-0 vote).

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

- 1) The Council discussed the Trail Blazers presentation given under the Executive Officer Communications agenda item.

Meeting Date: October 24, 1991
Agenda Item No. 4.1

MINUTES

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

August 8, 1991

Council Chamber

Councilors Present: Presiding Officer Collier, Deputy Presiding Officer Jim Gardner, Roger Buchanan, Richard Devlin, Sandi Hansen, David Knowles, Ruth McFarland and Susan McLain

Councilors Absent: Larry Bauer, Tom DeJardin and George Van Bergen

Also Present: Executive Officer Rena Cusma

Presiding Officer Collier called the regular meeting to order at 5:33 p.m.

Presiding Officer Collier announced the Council meeting scheduled for August, 22 1991 was cancelled, and said the next regular meeting would be held September 12. She announced Agenda Item 7.1 had been renumbered to read as Agenda Item 9.2, and an Executive Session had been added to the agenda which would precede consideration of Agenda Item No. 9.2.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

Kathy Clair, Coordinator, Tualatin River Discovery Day, thanked Metro for supporting the June 29 event, and reported its success. She said 228 citizens cruised the Tualatin River in 97 boats in the rain, noted some had to be turned away, and said the turnout was an indication the Tualatin River was a resource for recreation.

3. EXECUTIVE OFFICER COMMUNICATIONS

Rena Cusma, Executive Officer, said she had asked Bob Martin, Solid Waste Director, to give the Council an update on Metro recycling efforts. Mr. Martin said Metro was a national leader in documentation of recycling rates, and introduced Debbie Gorham, Waste Reduction Manager. Ms. Gorham distributed a Metro report dated July 1991 entitled "1990 Recycling Levels, a Survey of Recycling Markets" to the Council, and said the recycling level for the Metro region had increased from 22% of the waste generated in 1986 to 28% in 1989, and said 32% was estimated for 1990. This handout has been made a part of the permanent meeting record.

3.1 Final Report for 1991 Session of the Oregon Legislature

Burton Weast and Noel Klein of Western Advocates appeared before the Council. Mr. Weast noted the report referenced was in the agenda packet,

(Continued)

and said he was available to answer questions. Councilors Wyers, Devlin and Collier thanked them for their work.

4. CONSENT AGENDA

4.1 Minutes of May 23, 1991

Motion: Councilor Buchanan moved, seconded by Councilor Gardner, for adoption of the Consent Agenda item listed above.

Vote: Councilors Buchanan, Gardner, Hansen, Knowles, McFarland, McLain, Wyers and Collier voted aye. Councilors Bauer, Devlin, DeJardin and Van Bergen were absent. The vote was unanimous and the Consent Agenda was adopted.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 91-419, Amending Ordinance No. 91-390A, Adopting the FY 1991-92 Budget and Levying Ad Valorem Taxes, for the Purpose of Revising the Timeframe Upon Which Taxes are Levied on Properties Within the District

The Clerk read the ordinance by title only for a first time.

Presiding Officer Collier announced that Ordinance No. 91-419 had been referred to the Finance Committee for consideration.

5.2 Ordinance No. 91-418, An Ordinance Repealing the Columbia Region Association of Governments Land Use Goals and Objectives and Adopting the Regional Urban Growth Goals and Objectives (RUGGO)

The Clerk read the ordinance by title only for a first time.

Presiding Officer Collier announced that Ordinance No. 91-418 had been referred to the Transportation & Planning Committee for consideration.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 91-417, An Ordinance for the Purpose of Amending and Renewing the Franchise Agreement with East County Recycling, Inc.; and Declaring an Emergency

The Clerk read the ordinance by title only for a second time.

Presiding Officer Collier announced Ordinance No. 91-417 was first read before the Council on July 25 and was referred to the Solid Waste Committee. The Solid Waste Committee considered the ordinance on August 6 and recommended the ordinance for adoption.

Councilor Wyers presented the Solid Waste Committee's report and recommendation. She said proposed revisions included changing the amount of mixed solid waste from yards to tons, to eliminate the 500 yards per day limit of waste accepted at the facility, and to set an annual limit of 25,000 tons that could be landfilled from the facility.

Motion: Councilor Wyers moved, seconded by Councilor Buchanan, for adoption of Ordinance No. 91-417.

Councilor Wyers noted no complaints had been heard from the community regarding traffic problems.

Presiding Officer Collier opened the public hearing.

No citizens appeared to testify and the public hearing was closed.

Vote: Councilors Buchanan, Gardner, Hansen, Knowles, McFarland, McLain, Wyers and Collier voted aye. Councilors Bauer, Devlin, DeJardin and Van Bergen were absent. The vote was unanimous and Ordinance No. 91-417 was adopted.

6.2 Ordinance No. 91-415, Reapportioning Metro Council Subdistricts

The Clerk read the ordinance by title only for a second time.

Presiding Officer Collier announced Ordinance No. 91-415 was first read before the Council on July 25 and referred to the Governmental Affairs Committee for consideration. The Governmental Affairs Committee considered the ordinance and recommended it for Council adoption on August 1, 1991.

Councilor Devlin presented the Governmental Affairs Committee's report and recommendations. He said the committee voted 4 to 0 on August 1, 1991 in support of the ordinance after public hearings on reapportionment plans in which various options were considered. He pointed out the committee attempted to follow neighborhood boundaries where feasible and the state statute as closely as possible, and noted district population was kept equal to within an average of 4.9%. Councilor Devlin presented a map of proposed changes which has been made a part of the permanent meeting record. He noted changes proposed in Districts 1, 2 and 13 were in response to public testimony requesting an adjustment in the boundary. He noted a proposed change in Districts 3 and 4 which he said would add one neighborhood from southwest Portland, the Far Southwest Neighborhood, to District 4 adding approximately 1,000 citizens to the population of District 4. He indicated recent proposed changes in the Rivergrove and Lake Oswego area would add the Rosewood Neighborhood from District 5 to District 4, and would clarify the Rivergrove Neighborhood boundary placing the entire neighborhood in District 4. He said another proposed change in Districts 9 and 10 would add a portion of the Hazelwood Neighborhood to District 10, and cited the size and shape of Hazelwood as basis for the revisions.

Presiding Officer Collier opened the public hearing.

Ms. Clair, a resident of Sherwood who appeared before the Council earlier under Agenda Item 2., said the area of her residence was in an unincorporated area of farmland. Ms. Clair said she disagreed with the reapportioning and said a fourteenth district bordered on the east and the north by the urban growth boundary, on the south by the Washington County line and on the west by Highway 47 was missing from the reapportioning. She said the neighborhood's way of life could be disrupted by freeways and garbage disposal sites without citizen vote. She said Metro should remain within its boundaries or include a fourteenth district with a vote.

Councilor Devlin said Metro was concerned that district actions impacted the area which Ms. Clair represented, and agreed representation was important. He noted the district's boundaries usually went as far as the urban growth boundary. He believed the Charter Committee did not have the authority to change the district's boundaries, and said the legislature could do so.

Responding to Presiding Officer Collier, Larry Shaw, Legal Counsel, agreed the issue could be addressed by passage of a resolution from Metro Council to refer it to the ballot for vote, or an initiative petition from the citizens could be undertaken.

Ms. Clair requested the Council propose the issue be referred to the voters for the ballot in her district, and to keep her informed.

Presiding Officer Collier suggested the matter be referred to the Governmental Affairs Committee pending the approval of the chair of the committee, and asked Casey Short, Council Analyst to place the matter on the agenda.

Ms. Clair commented on how the Tualatin River area would enhance the Greenspaces program.

No other citizens appeared to testify and Presiding Officer Collier closed the public hearing.

Councilor Devlin discussed other proposed revisions, and said definitions of the legal descriptions of the districts were in process. Mr. Shaw said a motion had been prepared for consideration which would allow modification of Exhibit A by staff to conform to an inserted legal description. This document has been made part of the permanent meeting record.

The Council and staff discussed the boundary lines indicated on the map and the legal descriptions. Presiding Officer Collier indicated should the Council pass the ordinance, Council intent would be represented by the lines drawn on the current map, and said a legal description would be written to conform to the map. The Council and staff discussed discrepancies contained in the legal descriptions and annotations thereof.

Presiding Officer Collier called a ten minute recess at 6:30 p.m.

The Council reconvened at 6:42 p.m.

Motion: Councilor Devlin moved to recommend Ordinance No. 91-415A be referred back to the Governmental Affairs Committee for clarification of the legal descriptions.

Vote: Councilors Devlin, Gardner, Hansen, Knowles, McFarland, McLain, Wyers and Collier voted aye. Councilor Buchanan voted nay. Councilors Bauer, DeJardin and Van Bergen were absent. Ordinance No. 91-415A was referred back to the Governmental Affairs Committee.

Presiding Officer Collier called for further discussion by the Council regarding the issues of boundary reapportionment for consideration by the Governmental Affairs Committee. Councilor McLain addressed keeping neighborhoods and services linked together as an issue of concern. Councilor McFarland indicated she felt referral to the committee should be confined to correcting the legal descriptions. Councilor Gardner added the committee could make technical changes necessary to assure the accuracy of the legal descriptions. He supported the document as a whole, and indicated his preference that District #3 include the Southwest Portland Neighborhoods. Councilor Devlin clarified the work of the committee would be to assure accuracy of the legal descriptions, to accept or reject currently proposed options, and to come back to the full Council with a plan without additional options. Councilor McLain noted for the record that she had not been present when the changes she referred to were made. Presiding Officer Collier asked Mr. Short to follow up with appropriate meeting notices, and asked that he contact each Councilor for comment regarding their district's legal descriptions.

7.2 Resolution No. 91-1486, For the Purpose of Awarding a Two Year Contract to Marx/Knoll, DeNight & Dodge to Design and Implement Recycling and Waste Reduction Education Campaigns to Support Metro's Waste Reduction Campaigns

Motion: Councilor Gardner moved, seconded by Councilor Wyers, for adoption of Resolution No. 91-1486.

Councilor Gardner presented the Solid Waste Committee's recommendation and report. He said the resolution would authorize the Executive Officer to execute a contract for Metro's recycling and waste reduction education campaigns, and referred to the presentation by Vicki Rocker, Public Affairs Director, which outlined the selection process used and approval of the firm of Marx/Knoll, Denight, and Dodge for recommendation to the Solid Waste Committee. Councilor Gardner said the contract was for two years at \$200,000 per year for a total amount \$400,000. He believed the firm would stress creativity and appeal to people's emotions. In response to Councilor Weyer's inquiry, Councilor Gardner noted waste reductions issues

would be addressed in the campaigns, and said the targeted material, corrugated cardboard, would be emphasized.

Vote: Councilors Buchanan, Devlin, Gardner, Hansen, Knowles, McFarland, McLain, Van Bergen, Wyers and Collier voted aye. Councilors Bauer, DeJardin and Van Bergen were absent. The vote was unanimous and Resolution No. 91-1486 was adopted.

7.3 Resolution No. 91-1477, For the Purpose of Authorizing an Exemption to the Requirement of Competitive Bidding and Authorizing Issuance of a Request for Proposals from Paint Manufacturers to Reprocess Latex Paint Collected at Metro's Permanent Household Waste Collection Facilities

Presiding Officer Collier recessed the Council of the Metropolitan Service District and convened the Contract Review Board of the Metropolitan Service District.

Motion: Councilor McLain moved, seconded by Councilor Wyers, for adoption of Resolution No. 91-1477.

Councilor McLain presented the Solid Waste Committee's recommendation and report. Councilor McLain said the resolution would give the Solid Waste Department flexibility to consider new and creative approaches to paint recycling and the marketing of recycled paint products. She noted the cost for the initial contract was estimated at approximately \$25,000. Councilor McLain said the purpose of the resolution was to waive competitive bidding and move forward with the Request for Proposals (RFP).

Vote: Councilors Buchanan, Gardner, Hansen, McFarland, McLain, Wyers and Collier voted aye. Councilors Bauer, Devlin, DeJardin, Knowles and Van Bergen were absent. The vote was unanimous and Resolution No. 91-1477 was adopted.

Presiding Officer Collier adjourned the Contract Review Board and reconvened the Council of the Metropolitan Service District.

7.4 Resolution No. 91-1481, For the Purpose of Authorizing the Executive Officer to Execute a Contract with Trans Industries for Processing and Transporting Yard Debris from the Metro Central Station

Motion: Councilor Gardner moved, seconded by Councilor Wyers, for adoption of Resolution No. 91-1481.

Councilor Gardner presented the Solid Waste Committee's recommendation and report, and said the resolution would authorize the Executive Officer to execute a contract for processing yard debris from the Metro Central transfer station. He said bids were received initially only for Metro Central, and said the winning bid was from Trans Industries. He noted a subsequent RFB resulted in bids for Metro South yard debris which would be

considered by the Council at a later date. He noted the bid was at \$35 per ton, \$4.50 less per ton than the existing contracts.

Vote: Councilors Buchanan, Devlin, Gardner, Hansen, McFarland, McLain, Wyers and Collier voted aye. Councilors Bauer, DeJardin, Knowles and Van Bergen were absent. The vote was unanimous and Resolution No. 91-1481 was adopted.

8. NON-REFERRED RESOLUTIONS

8.1 Resolution No. 91-1490, For the Purpose of Funding Greenspaces Demonstration Projects to Restore and Enhance Urban Wetlands, Streams and Riparian Corridors

Presiding Officer Collier asked for a motion to suspend the rules requiring resolutions to be referred by Committee so that the Council as a whole might consider Resolution No. 91-1490.

Motion: Councilor Wyers moved, seconded by Councilor Devlin, to suspend the rules requiring that resolutions be referred by Committee.

Vote: Councilors Buchanan, Devlin, Gardner, Hansen, Knowles, McFarland, McLain, Wyers and Collier voted aye. Councilors Bauer, DeJardin and Van Bergen were absent. The vote was unanimous and the motion passed.

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 91-1490.

Councilor Devlin explained the resolution was brought before the Council for review to meet deadlines for utilization of federal funds and expedite work startup during the construction season. Councilor Devlin said Metro obtained \$567,000 in federal funding for the Metropolitan Greenspaces program of which \$200,000 was dedicated for demonstration projects for wetlands and riparian areas. He said fourteen applications were received for demonstration projects, and said a committee of ten had reviewed the applications, visited the fourteen sites, and interviewed the applicants. He said six projects were chosen for full funding and partial funding was designated for the remainder.

Councilor McLain noted constituents in local jurisdictions registered concern that local planning inventories had been overlooked.

Councilor Gardner said the purpose of the federal funds was to assist Metro in developing a regional system of open spaces and natural areas. He said the demonstration grants were focused toward building public awareness and support for greenspaces development and preservation, and said grant funds would be insufficient for the improvement needs of affected areas. He did not agree Metro planning duplicated work done by city and/or county parks

bureaus, and noted the open spaces under review were, for the most part, privately owned and not within current park systems. Councilor Gardner said identifying funding sources for such privately owned open spaces was part of the planning process as well.

Councilor Devlin said local jurisdictions "goal five" inventories of lands were included in Metro review for possible connections to regional system planning.

Vote: Councilors Buchanan, Devlin, Gardner, Hansen, Knowles, McFarland, McLain, Wyers and Collier voted aye. Councilors Bauer, DeJardin and Van Bergen were absent. The vote was unanimous and the Resolution No. 91-1490 was adopted.

9. RESOLUTION MOVED FROM SECTION 7

9.1 EXECUTIVE SESSION Held Under the Authority of ORS 192.660(1)(d) to Consult regarding Labor Negotiations

The Executive Session began at 7:20 p.m.

Present: Councilors Buchanan, Devlin, Gardner, Hansen, Knowles, McFarland, McLain, Wyers and Presiding Officer Collier.

Absent: Councilors Bauer, DeJardin and Van Bergen.

Also Present: Paula Paris, Personnel Manager, and Mike Brock, Labor Relations Analyst.

The Executive Session ended at 7:25 p.m.

9.2 Resolution No. 91-1487, Recommending Ratification of the Renegotiated Labor Agreement Between Metro and LIU Effective 07-01-91 through 06-30-95

Motion: Councilor Hansen moved, seconded by Councilor Devlin, moved for adoption of Resolution 91-1487.

Vote: Councilors Buchanan, Devlin, Gardner, Hansen, Knowles, McFarland, McLain, Wyers and Collier voted aye. Councilors Bauer, DeJardin and Van Bergen were absent. The vote was unanimous and Resolution No. 91-1487 was adopted.

10. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS

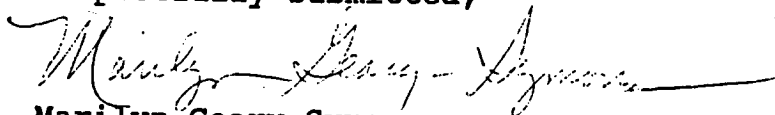
Councilor Devlin said he would be contacting each Councilor within the next week to week and one half relevant to his memorandum requesting Councilors confer with individual Charter Committee appointees. He said the purpose was communicate a balanced view of the district operation and its importance to the public.

METRO COUNCIL
August 8, 1991
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Councilor Wyers said the Solid Waste Committee was involved in discussion regarding the odor at the composter. She noted the committee's concern and interest regarding the role of Metro and DEQ in the matter.

There being no further business, the meeting adjourned at 7:26 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Marilyn Geary-Symons", with a long horizontal line extending to the right.

Marilyn Geary-Symons
Committee Clerk

Meeting Date: October 24, 1991
Agenda Item No. 4.2

RESOLUTION NO. 91-1497



METRO

Memorandum

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

DATE: October 17, 1991

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 4.2; RESOLUTION NO. 91-1497

The Council agenda will be printed before the Finance Committee meets to consider Resolution No. 91-1497. Finance Committee reports will be distributed in advance to Councilors and available at the October 24 Council meeting.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1497 CONFIRMING THE APPOINTMENT OF CYNTHIA R. MEYER AND WILLIAM J. GLASGOW TO THE INVESTMENT ADVISORY BOARD.

Date: October 4, 1991

Presented by: Howard Hansen

FACTUAL BACKGROUND AND ANALYSIS

The Council of the Metropolitan Service District adopted Ordinance No. 90-365 which includes the creation of the District's Investment Advisory Board. One provision of this ordinance requires the District's Investment Officer to recommend to the Council for confirmation those persons who shall 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 operation.

The term of service for a member of the Investment Advisory Board shall be three years.

The Executive Officer, acting as the Investment Officer, recommends the confirmation of Cynthia R. Meyer as a member of the Investment Advisory Board for the unexpired term ending October 31, 1993 of Roger S. Meier. Mr. Meier was appointed April 11, 1991 and resigned July 25, 1991.

The Executive Officer also recommends the confirmation of William J. Glasgow as a member of the Investment Advisory Board for the term beginning November 1, 1991, and ending October 31, 1994. Mr. Glasgow takes the place of Bill Naito whose term expires October 31, 1991.

Cynthia R. Meyer is Retirement Plan Advisor for Bidwell & Co., and she has also represented Paine Webber and Black & Co. Ms. Meyer has been a stock broker for ten years. She has also served on the boards of Dougy Center and Altrusa, and is a member of the Women's Lawyers Association.

Staff Report
October 4, 1991
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William J. Glasgow is Chairman, President and Chief Executive Officer of PacifiCorp Financial Services, Inc. and is a member of the Corporate Policy Group of PacifiCorp. Previously, Mr. Glasgow has been in private practice as an attorney for sixteen years. He is presently a trustee for the Oregon Art Institute. He has served Metropolitan Service District on the Regional Facilities Dome Subcommittee, Northwest Financial Symposium as President, Portland Chamber of Commerce on the Board of Directors and Executive Committee, and Oregon Museum of Science & Industry on the Board of Trustees and as Chairman of the Board.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1497.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 91-1497
APPOINTMENT OF CYNTHIA R. MEYER)
AND WILLIAM J. GLASGOW TO THE) Introduced by Rena Cusma
INVESTMENT ADVISORY BOARD) Executive Officer

WHEREAS, The Metropolitan Service District Code, Section 2.06.030, provides that the Council confirms members to the Investment Advisory Board; and

WHEREAS, Roger S. Meier resigned July 25, 1991, and the term of member Bill Naito expires October 31, 1991; and,

WHEREAS, The Investment Officer recommends Cynthia R. Meyer and William J. Glasgow for appointment; and

WHEREAS, The Council finds that Cynthia R. Meyer and William J. Glasgow are exceptionally qualified to carry out these duties, now, therefore,

BE IT RESOLVED,

That Cynthia R. Meyer is hereby confirmed for appointment as a member of the Investment Advisory Board for the remaining term of Roger S. Meier, beginning immediately and ending October 31, 1993, and William J. Glasgow is hereby confirmed for appointment as a member of the Investment Advisory Board for the term beginning November 1, 1991, and ending October 31, 1994.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

Meeting Date: October 24, 1991
Agenda Item No. 4.3

RESOLUTION NO. 91-1516

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1516, FOR THE
PURPOSE OF CONTINUING THE BI-STATE ADVISORY COMMITTEE

Date: October 8, 1991

Presented by: Councilor Bauer

COMMITTEE RECOMMENDATION: At the October 8, 1991 meeting, the Transportation and Planning Committee voted 4-0 to recommend Council approval of Resolution No. 91-1516. Voting in favor were Councilors Bauer, Devlin, Gardner and McLain. Councilor Van Bergen was excused.

COMMITTEE ISSUES/DISCUSSION: Council Analyst Casey Short explained that the Resolution extends for two years the Council's authorization for the Bi-State Advisory Committee to continue. He said the Intergovernmental Resource Center of Clark County has already approved a similar resolution.

The Committee had no questions regarding the Resolution.

JOINT RESOLUTION OF THE
METROPOLITAN SERVICE DISTRICT
AND THE
INTERGOVERNMENTAL RESOURCE CENTER

| | | |
|-------------------------------|---|------------------------------|
| FOR THE PURPOSE OF CONTINUING |) | METRO RESOLUTION NO. 91-1516 |
| THE BI-STATE POLICY ADVISORY |) | IRC RESOLUTION E.C. 91-10-04 |
| COMMITTEE |) | |
| |) | Introduced by Councilor |
| |) | Lawrence Bauer |

WHEREAS, The Council of the Metropolitan Service District (Metro) and the Regional Planning Council of Clark County, now the Intergovernmental Resource Center (IRC), established the Bi-State Policy Advisory Committee in September, 1981, to provide a forum at which policy-makers from Oregon and Washington can express views and discuss metropolitan problems of mutual concern; and

WHEREAS, The Council of the Metropolitan Service District and the Board of Directors of the Intergovernmental Resource Center approved a joint Resolution in October, 1989 which continued the Bi-State Policy Advisory Committee for a period of two years; and

WHEREAS, The Bi-State Policy Advisory Committee voted on September 27, 1991 to recommend to the Council of the Metropolitan Service District and the Board of Directors of the Intergovernmental Resource Center that the Bi-State Policy Advisory Committee be continued for another two years; now, therefore,

BE IT RESOLVED,

1. That the Metro Council and IRC Board of Directors hereby continue the Bi-State Policy Advisory Committee for a period of two (2) years from the date of passage of this Joint Resolution.

2. That the charge to the Committee, its membership, chairmanship, and staffing shall be as outlined in its by-laws; repeal or amendment of the Committee's by-laws shall require a majority vote of the members of the IRC Board of Directors and the Metro Council.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ADOPTED by the Board of Directors of the Intergovernmental
Resource Center this _____ day of _____, 1991.

Ron Hart, IRC Chair

BI-STATE POLICY ADVISORY COMMITTEE

BYLAWS

ARTICLE I

This committee shall be known as the BI-STATE POLICY ADVISORY COMMITTEE (BI-STATE).

ARTICLE II MISSION

The Intergovernmental Resource Center (IRC) Board of Directors and the Metropolitan Service District (Metro) Council established BI-STATE to enhance understanding between Oregon and Washington policy-makers of metropolitan issues of mutual concern; to promote recognition of the commonality of problems and encourage cooperative mutually beneficial solutions.

ARTICLE III PURPOSES

The purpose of BI-STATE is as follows:

- a. To provide a forum at which policy-makers from Oregon and Washington can express views and discuss common metropolitan issues, problems, and opportunities.
- b. To achieve consensus on policy and program options and develop recommendations for consideration by the Metro Council and the IRC Board of Directors.
- c. To create an opportunity for other interested local public agencies to participate in the discussion, evaluation and development of recommendations.
- d. To serve as a vehicle for reviewing, analyzing, and addressing State and Federal issues affecting the metropolitan region.
- e. To provide a forum for the creation of ad hoc committees as needed to address specific issues including, but not limited, to an annual Bi-State Issues List supported and adopted by mutual resolutions of the IRC and Metro.
- f. To prepare and adopt resolutions and other written materials to express opinions and fulfill an active advisory role to the IRC, Metro and other local jurisdictions and interested parties.

**ARTICLE IV
MEMBERSHIP**

Section 1. MEMBERSHIP

a. BI-STATE membership shall include an elected representative or designee from the following jurisdictions:

| | |
|---|---|
| IRC Board of Directors | 1 |
| Metro Council | 1 |
| Clark County | 1 |
| Multnomah County | 1 |
| City of Vancouver | 1 |
| City of Portland | 1 |
| Cities of East Clark County | 1 |
| Cities of East Multnomah County | 1 |
| Washington Legislature | 1 |
| Oregon Legislature | 1 |

TOTAL 10

b. Alternates may be appointed to serve in the absence of the regular members, as described herein under Section 2.

c. Members and alternates will be individuals in a position to represent the policy interests of their jurisdiction.

Section 2. APPOINTMENT OF MEMBERS AND ALTERNATES

a. Each member shall be appointed for a two-year term, renewable consistent with the applicable appointment process outlined herein. If a vacancy occurs, the jurisdiction will appoint a representative to complete the two-year term consistent with the applicable appointment process outlined herein.

b. Members from the Cities of Portland and Vancouver and the Counties of Clark and Multnomah will be elected officials or their designated alternate from those jurisdictions and will be appointed by the chief executive official or the governing board of the jurisdiction.

c. Members from the Cities of East Clark County and East Multnomah County, following the initial appointments effective November 1, 1989 through November 1, 1991, shall be elected officials from the represented cities and will be nominated through a caucus convened by the largest city being represented not later than two (2) months prior to the end of the current representatives' terms. For the Cities of East Clark County, those cities' officials shall select and nominate a representative and an alternate via a joint letter to the IRC which shall act on the cities' recommendation and appoint the member and

alternate via resolution. For the Cities of, East Multnomah County, those cities' officials shall select and nominate a representative and alternate via a joint letter to the Metro Council which shall act on the cities' recommendation and appoint the member and alternate via resolution.

d. The member from the IRC shall be the Chair of the IRC Executive Committee or the Chair's designated alternate. The member and alternate from the Metro Council shall be appointed by the Council Presiding Officer.

e. Members from the Oregon and Washington Legislatures shall be jointly appointed by the leaders of the respective state's House of Representatives and Senate. Each member may designate an alternate to serve in the member's absence.

ARTICLE V OFFICERS AND DUTIES

a. BI-STATE shall be co-chaired by the Metro representative and the IRC representative. When the Washington co-chair of Bi-State is also the representative from Vancouver, Clark County or the cities of east Clark County, the IRC Executive Committee shall designate a representative from the Board of Directors of IRC to serve as the IRC representative to Bi-State.

(Article V a. Amended by Metro Res. No. 91-1432, Bi-State Res. 03-01-1991)

b. The Co-Chairs shall alternate presiding at regular meetings based on the meeting's location -- the IRC Co-Chair shall preside at meetings he/she attends in Washington; the Metro Co-Chair shall preside at meetings he/she attends in Oregon. Each Co-Chair shall be responsible for the expeditious conduct of the Committee's business.

c. In the absence of one Co-Chair, the other shall conduct the meeting, regardless of the location.

d. For the purposes of ad hoc committees formed per Article V, either Co-Chair participating in the committee shall preside over those meetings.

ARTICLE VI MEETINGS, CONDUCT OF MEETINGS, QUORUM

a. Regular meetings may be held monthly, but at least semi-annually, on intervals, days, and times established by Committee through a resolution adopted at the beginning of each fiscal year commencing July 1. Meetings will alternate between Oregon and Washington, with the

IRC and Metro coordinating. Special meetings may be called by the Co-Chairs or a majority of the membership.

b. A majority of the membership (or designated alternates) shall constitute a quorum for the conduct of business. The act of a majority of those present at meetings at which a quorum is present shall be the act of the Committee.

c. All meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised.

d. The Committee may establish other rules of procedure as deemed necessary for the conduct of business.

e. Each member shall be entitled to one (1) vote on all issues presented at regular and special meetings of the Committee. In the absence of the member, a designated alternate shall be entitled to one (1) vote.

f. The Co-Chairs may establish Ad hoc committees to address specific issues of mutual bi-state concern. The Co-Chairs will consult with the full Committee at a regularly scheduled meeting on ad-hoc committee membership and charge, with membership on any ad hoc committee providing for equal representation from Oregon and Washington consistent with BI-STATE's balanced representation. Ad hoc committee members can include BI-STATE members, BI-STATE alternates, other jurisdictions, and/or outside experts.

g. To provide a comprehensive measure of local public agencies views on issues, the Committee, by a unanimous vote at a regularly scheduled meeting, may suspend the rules and allow invited local public agencies to each have one vote on designated items. Each invited jurisdiction's vote shall be recorded in writing by the meeting clerk who will note the name of the jurisdiction, the representative voting, and the nature of the vote (aye or nay). Consistent with BI-STATE purposes, the vote shall be recorded for advisory purposes only to the IRC Board of Directors and the Metro Council unless the IRC Board of Directors and the Metro Council shall by joint resolution have previously recognized BI-STATE serving in an alternate capacity to specified government agencies. In the event IRC and Metro adopt such a resolution, these bylaws shall be appropriately amended to reflect the additional role(s) and responsibilities of BI-STATE.

h. Unexcused absence from two (2) consecutive regularly scheduled meetings shall require the Co-Chairs to notify the appointing jurisdiction with a request to address the lack of participation. In the case of the representatives for the "cities" of East Clark County and East Multnomah County, the Co-Chairs will contact the largest city

being represented to convene a caucus of represented cities to address the lack of participation.

i. BI-STATE shall make its reports and findings public and available to Committee members, the Metro Council and the IRC Board of Directors.

ARTICLE VII STAFFING

a. IRC and Metro shall provide clerical staff as necessary to compile the agendas per the Co-Chairs' concurrence; issue timely meeting notices; ensure compliance with their respective state's Public Meeting Laws; record the actions of the Committee; and do all other necessary things to support an efficient and effective BI-STATE meeting in their respective states.

b. The Committee may seek to have additional professional staff to assist in its mission and purposes by adopting a resolution identifying the staffing strategy -- need, purpose, proposed funding, desired outcomes/products -- and submitting the resolution concurrently for approval to the IRC Board of Directors, Metro Council and other member jurisdictions governing bodies as necessary to implement the staffing proposal. Any staffing proposal adopted by the IRC Board of Directors and Metro Council and other member jurisdictions governing bodies shall be implemented by an intergovernmental agreement between the appropriate jurisdictions.

ARTICLE VIII AMENDMENTS

a. Any BI-STATE member may propose an amendment to these bylaws. In order to be considered, a written amendment shall be received by all members at least thirty (30) days prior to the next regularly scheduled Committee meeting.

b. These bylaws may be amended or repealed by a two-thirds majority vote of the current membership of the Committee and ratified by a majority of the members of the IRC Board of Directors and the Metro Council.

c. These bylaws may be amended or repealed by a majority vote of the members of the IRC Board of Directors and the Metro Council without any action of Bi-State.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1516 FOR THE PURPOSE OF CONTINUING THE BI-STATE POLICY ADVISORY COMMITTEE

Date: September 30, 1991

Presented by: Casey Short

FACTUAL BACKGROUND AND ANALYSIS

In October of 1989 the Metro Council and the Board of Directors of the Intergovernmental Resource Center of Clark County (IRC) approved a joint resolution which continued the Bi-State Policy Advisory Committee for a period of two years. (See Resolution No. 89-1088A, attached.)

Since the passage of Resolution 89-1088A, the Bi-State Committee has approved a set of by-laws (attached) which were subsequently adopted by the Metro Council and the IRC Board of Directors. The by-laws include a statement of mission, which is "to enhance understanding between Oregon and Washington policy-makers of metropolitan issues of mutual concern; to promote recognition of the commonality of problems and encourage cooperative mutually beneficial solutions."

The Committee has adopted a list of seven issues for its investigation. In developing these issues, the Committee determined that its focus should be on issues of concern to both Oregon and Washington which are not being specifically addressed in other forums. The Committee further recognized that its role is as facilitator and advisor to the Metro Council and IRC Board, and developed its work plan accordingly. It consists of the following issues:

1. Columbia River Resource Management
2. Land Use Coordination
3. Air Quality
4. Economic Development
5. Household Hazardous Waste Disposal
6. Telecommunications
7. Tourism

Among these issues, the Committee has been most active in the areas of air quality and telecommunications. Bi-State has a standing subcommittee on air quality composed of a Committee member and air quality staff from Oregon Department of Environmental Quality, Washington Department of Ecology, Southwest Washington Air Pollution Control Authority, City of Portland, and Metro's Transportation Department. This group meets regularly to discuss policy and make recommendations to Bi-State and ultimately to the two states' legislatures and regulatory agencies. This group's recommendations have played a role in the development of recent air

quality legislation, and have made strides toward implementing uniform air quality standards that affect the Portland area's airshed.

In the telecommunications area, Bi-State has been active in pursuing the implementation of Extended Area Service between Portland and Clark County. The goal is to have toll-free dialing across the river. Actual implementation will take time, as both states' Public Utility Commissions must conduct exhaustive studies, but Bi-State has been effective in getting the Washington Utilities and Transportation Commission to implement toll-free calling throughout Clark County and to place interstate toll-free calling on its long-term agenda.

Among other issues, the Bi-State receives regular reports on the progress of the Columbia River Water Quality Study; has investigated issues of excess noise at Portland International Airport; has endorsed Metro's Regional Economic Opportunity Program and is working with officials in Clark County on that program; and is now looking into issues concerning policies governing the opening of the Interstate Bridge.

The Committee has become more active over the last two years, moving from irregular bi-monthly meetings to regular monthly meetings, whose location alternates between Portland and Vancouver. At its September 27, 1991 meeting Committee members unanimously recommended that the Metro Council and IRC Board of Directors adopt a joint resolution continuing Bi-State for another two years.

JOINT RESOLUTION OF THE
METROPOLITAN SERVICE DISTRICT
AND THE
INTERGOVERNMENTAL RESOURCE CENTER

| | | |
|---------------------------------|---|-------------------------------|
| FOR THE PURPOSE OF AMENDING |) | METRO RESOLUTION NO. 89-1088A |
| METRO RESOLUTION NO. 86-649 |) | IRC RESOLUTION NO. 89-10-04 |
| AND IRC RESOLUTION NO. 86-05-03 |) | |
| TO CONTINUE THE BI-STATE POLICY |) | Introduced by the Council |
| ADVISORY COMMITTEE AND EXPAND |) | Intergovernmental Relations |
| MEMBERSHIP |) | Committee |

WHEREAS, The Council of the Metropolitan Service District (Metro) and the Regional Planning Council of Clark County, now the Intergovernmental Resource Center (IRC) established the Bi-State Policy Advisory Committee September, 1981, to provide a forum at which policy-makers from Oregon and Washington can express views and discuss metropolitan problems of mutual concern; and

WHEREAS, The Bi-State Policy Advisory Committee voted on March 17, 1989 to recommend to the Council of the Metropolitan Service District and the Board of Directors of the Intergovernmental Resource Center that the Bi-State Policy Advisory Committee be continued for another two years; and

WHEREAS, At its September 22, 1989 meeting the Bi-State Policy Advisory Committee unanimously voted to recommend to the Metro Council and the IRC Board of Directors that the Bi-State Policy Advisory Committee expand its membership to represent the rapidly urbanizing areas of East Multnomah County in Oregon and East Clark County in Washington; now, therefore,

BE IT RESOLVED,

1. That the Metro Council and IRC Board of Directors hereby continue the Bi-State Policy Advisory Committee for a period of two

(2) years from the date of passage of this Joint Resolution.

2. That the charge to the Committee is as follows:

- a. To provide a forum at which policy-makers from Oregon and Washington can express views and discuss metropolitan problems of mutual concern.
- b. To provide a forum for the creation of ad hoc committees as needed to resolve specific problems of mutual concern. When addressing transportation issues, the membership of the ad hoc committee will include representatives from the Oregon Department of Transportation, the Washington Department of Transportation, C-Tran and Tri-Met. The charge to the ad hoc transportation committee will be reviewed and approved by the Metro Joint Policy Advisory Committee on Transportation and IRC.
- c. To develop recommendations for consideration by the Metro Council and the IRC Board of Directors.


3. That the membership of the committee shall include an elected representative or designee from the following:

- a. Metro Council
- b. IRC Board of Directors
- c. Clark County
- d. Multnomah County
- e. City of Portland
- f. City of Vancouver
- g. Cities of East Clark County
- h. Cities of East Multnomah County
- i. Oregon Legislature
- j. Washington Legislature

4. That the Committee is to be co-chaired by the representatives from IRC and Metro. The Committee may convene bi-monthly, but at least once annually. All other rules shall be determined by the members themselves.


5. That staff from IRC and Metro will prepare their agenda for each meeting; will complete all other tasks necessary to ensure that Committee members are notified of meetings and provided with necessary information; and will see that the meetings are recorded. The allocation of staff time and other resources to specific projects the Committee may chose to pursue will be at the discretion of the member jurisdictions.

ADOPTED by the Council of the Metropolitan Service District
this 26th day of October, 1989.



Mike Ragsdale, Presiding Officer

ADOPTED by the Board of Directors of the Intergovernmental
Resource Center this 19th day of October, 1989.



Jane Van Dyke, IRC Chair

jpmnew
b:\891088A.res

Meeting Date: October 24, 1991
Agenda Item No. 4.4

RESOLUTION NO. 91-1517

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1517, FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE INTERGOVERNMENTAL RESOURCE CENTER FOR BI-STATE COMMITTEE STAFF SUPPORT

Date: October 8, 1991

Presented by: Councilor Bauer

COMMITTEE RECOMMENDATION: At the October 8, 1991 meeting, the Committee voted 4-0 to recommend Council approval of Resolution No. 91-1517. Voting in favor were Councilors Bauer, Devlin, Gardner and McLain. Councilor Van Bergen was excused.

COMMITTEE ISSUES/DISCUSSION: Council Analyst Casey Short explained that the Resolution authorizes an intergovernmental agreement between Metro and the Intergovernmental Resource Center of Clark County for staffing the Bi-State Advisory Committee. He said it differs from the previous resolution in two ways: Metro funding is increased from \$6000 to \$7500, and IRC staff support increases from .25 to .50 FTE. The Metro Council is contributing .25 FTE in staff resources.

Councilor Bauer indicated that the agreement is a good deal, given that only the Washington legislature followed through with funding.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING AN) RESOLUTION NO. 91-1517
INTERGOVERNMENTAL AGREEMENT WITH)
THE INTERGOVERNMENTAL RESOURCE) Introduced by Councilor
CENTER FOR BI-STATE COMMITTEE) Lawrence Bauer
STAFF SUPPORT)

WHEREAS, The Metro Council and the Intergovernmental Resource Center of Clark County (IRC) created the Bi-State Policy Advisory Committee (Bi-State) through joint resolution on September 24, 1981; and

WHEREAS, The Purpose of the bi-State is to enhance understanding between Oregon and Washington policy-makers of metropolitan issues of mutual concern and to promote recognition of the commonality of problems and encourage cooperative mutually beneficial solutions; and

WHEREAS, Metro and IRC have jointly staffed Bi-State since FY 1989-90 under the terms of annual intergovernmental agreements; and

WHEREAS, The intergovernmental agreement attached as Exhibit A calls for Metro to provide staff support not to exceed 0.25 FTE, and IRC to provide staff support not to exceed 0.50 FTE; and

WHEREAS, The intergovernmental agreement was anticipated in Metro's FY 1991-92 budget, and \$7,500 is available in the Council Department's budget to compensate IRC for its higher level of staff support; and

WHEREAS, An intergovernmental agreement between Metro and IRC is necessary to formalize the staffing structure and allow IRC to receive its due compensation; now, therefore,

BE IT RESOLVED,

That the Council approves an intergovernmental agreement with the Intergovernmental Resource Center, attached as Exhibit A, for the purpose of providing staff support to the Bi-State Policy Advisory Committee through fiscal year 1991-92.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

AGREEMENT BETWEEN THE
METROPOLITAN SERVICE DISTRICT
AND THE
INTERGOVERNMENTAL RESOURCE CENTER

PROVIDING FOR JOINT STAFFING OF THE
BI-STATE POLICY ADVISORY COMMITTEE

WHEREAS, This agreement, entered into by and between the Intergovernmental Resource Center (hereinafter called IRC) and the Metropolitan Service District (hereinafter called Metro), is to provide for staffing support to the Bi-State Policy Advisory Committee (hereinafter called Committee); and

WHEREAS, Since 1983 Metro and IRC have jointly chaired the Committee which meets on a monthly basis; and

WHEREAS, The Committee was established to enhance understanding between Oregon and Washington policy-makers of metropolitan issues of mutual concern; to promote recognition of the commonality of problems and encourage cooperative mutually beneficial solutions; and

WHEREAS, In November, 1990, Metro and IRC mutually agreed to provide professional staff support to the Committee as requested, not to exceed 0.25 FTE from each agency; and

WHEREAS, The 1991 session of the Washington Legislature granted \$50,000 to IRC for the 1991-93 biennium to support Bi-State's activities in that period; and

WHEREAS, Continued professional staff support to the Committee shall be necessary for fiscal year 1991-1992 to fulfill the Committee's goal of addressing several issues of concern -- Columbia River resource management, land use planning, air quality, economic development joint objectives, hazardous household waste disposal coordination, telecommunications, tourism -- as well as other issues which may be identified during the year; to facilitate the flow of pertinent issue information; and to assist the Committee in identifying and analyzing critical elements of the issues; now,

THEREFORE, Metro and IRC hereby mutually agree to the following:

**SECTION 1
COMMITTEE STAFFING**

1. For the term of the agreement, IRC and Metro shall each provide professional staff support to the Committee as requested. Metro's staff support shall not exceed 25 percent of an FTE or 44 hours per month, and IRC's staff support shall not exceed 50 percent of an FTE or 87 hours per month; total joint staff support is not to exceed 75 percent of an FTE or 131 hours per month. Metro shall pay to IRC a flat amount of \$625 per month during the period of the agreement. This payment will be in recognition of IRC's role as the lead agency for purposes of public contact and maintenance of committee records, and in recognition of IRC's higher level of staff support to the Committee. The designated IRC and Metro staff (hereinafter referred to as designated staff) shall provide staff assistance to the Committee as follows:

- A. Develop and distribute agendas in a timely fashion consistent with applicable Washington and Oregon public meeting law requirements;
 - B. Prepare reports or other materials as requested by the Committee and facilitate the presentation of materials and appropriate briefings on matters of interest to the Committee;
 - C. Oversee the recording and distribution of meeting minutes and Committee actions;
 - D. Prepare necessary resolutions or other appropriate vehicles for the IRC Board of Directors and the Metro Council to act on Bi-State recommendations, actions or other information consistent with the respective jurisdiction's formats and procedures for handling such actions; and
 - E. Maintain all necessary records, bylaws, contractual agreements and any other appropriate materials in conformance with applicable Washington and Oregon public meeting law requirements;
 - F. Provide other assistance as requested by the Committee.
2. The designated staff shall provide continual administrative and professional staff support to the Committee. The designated staff shall be accessible and responsible to the Committee Co-Chairs.

SECTION 2 BUDGETS

Metro and IRC shall each budget adequate funds for their respective staff to the Committee. In addition, Metro shall budget \$7,500.00 for the term stated in this agreement to support IRC's lead agency functions including maintenance of records and higher level of staff support.

SECTION 3 METHOD OF PAYMENT, ACCOUNTING

1. For the term of the agreement, IRC shall bill Metro monthly for Metro's funding commitment consistent with the terms described in Sections 1 and 2 herein.
2. All other expenses associated with the coordination of the Committee, beyond the direct designated staff services and related indirect support, shall be divided equally by Metro and IRC.

SECTION 4 PERIOD OF AGREEMENT

The term of agreement shall commence on July 1, 1991 and shall terminate on June 30, 1992, unless terminated earlier pursuant to Section 5.

SECTION 5 TERMINATION OF AGREEMENT

This agreement shall be terminated upon the recommendation of the Committee and mutual written concurrence from Metro and IRC. The date of the last correspondence from either Metro or IRC stipulating termination of this agreement shall be the date of termination. No additional expenses shall be incurred by IRC on coordination of the Bi-State Committee following the date of termination.

SECTION 6
TERMS OF AGREEMENT

Agreement is premised on continued existence of the Bi-State Policy Advisory Committee in a form substantially similar to the form provided in the bylaws approved by the Metro Council and the IRC Board of Directors. This agreement shall neither require nor prejudice any further agreement between the parties. The invalidity, in whole or in part, of any provision of this agreement shall not affect the validity of any other provisions.

Neither IRC nor Metro will assign the staffing of the Bi-State Committee to any other agency or party.

ADOPTED this _____ day of _____, 1991:

INTERGOVERNMENTAL RESOURCE CENTER

METROPOLITAN SERVICE DISTRICT

By: _____
Ron Hart, Chair,
Board of Directors

By: _____
Rena Cusma,
Executive Officer

By: _____
Gil Mallery, Executive Director

APPROVED AS TO FORM:

Metro General Counsel

csbistate.iga

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1517
FOR THE PURPOSE OF APPROVING AN
INTERGOVERNMENTAL AGREEMENT WITH THE
INTERGOVERNMENTAL RESOURCE CENTER FOR
BI-STATE COMMITTEE STAFF SUPPORT

Date: September 30, 1991

Presented by: Casey Short

FACTUAL BACKGROUND AND ANALYSIS

Resolution 91-1517 would authorize the execution of an intergovernmental agreement between Metro and Clark County's Intergovernmental Resource Center (IRC) for staff support of the Bi-State Policy Advisory Committee. Fiscal year 1991-92 will be the third year Metro and IRC have had such agreements. The principal differences between this year's agreement and last year's are in the level of staff support and the amount of money Metro sends to IRC for their share of that support.

In FY 1990-91, Metro sent IRC \$6,000 in support of Bi-State staffing. The justification for this expenditure was that 1990-91 was a transition year for Bi-State staff support, as Metro had no staff for Bi-State in the first two months of the fiscal year. With the addition of a third Council Analyst, Council staff had sufficient flexibility to dedicate 25% of an analyst's time to help support the activities of Bi-State.

This year, IRC has received a grant from the Washington Department of Community Development for Bi-State staff support. The amount of the grant is \$50,000 for the 1991-93 biennium, which will translate into \$25,000 for each of the two years. Other sources of financial support for Bi-State are \$7,500 from IRC, Metro's in-kind contribution of 0.25 FTE of a Council Analyst and required clerical support, and \$7,500 from Metro's General Fund. Metro's \$7,500 was anticipated in the budget, and is included in the Council Department's line item for Miscellaneous Professional Services.

The difference between 90-91 and 91-92 staffing level is that IRC's State grant will allow it to increase its staffing level from 0.25 FTE to 0.5 FTE. Total professional staff support will increase from 0.5 FTE in 90-91 (split equally between Metro and IRC) to 0.75 FTE (0.5 FTE from IRC and 0.25 FTE from Metro). This is justified by Bi-State's increased level of activity, particularly its work on air quality issues and the Committee's moving from bi-monthly to monthly meetings. The justification for Metro's \$7,500 expenditure is that it retains equity between Metro's and IRC's support, with Metro covering part of IRC's higher staffing costs.

At its September 27, 1991 meeting Committee members unanimously recommended that the Metro Council and IRC Board of Directors approve the intergovernmental agreement.

Meeting Date: October 24, 1991
Agenda Item No. 5.1

ORDINANCE NO. 91-412

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 91-412
UPDATING CHAPTER 4.01 OF THE METRO CODE

Date: October 3, 1991

Presented by: A. McKay Rich

FACTUAL BACKGROUND AND ANALYSIS

Ordinance No. 91-412 repeals the present provisions of Metro Code Chapter 4.01, Metropolitan Washington Park Zoo Regulations and substitutes a new Chapter 4.01. The existing chapter, except for amendments, was adopted by the Metropolitan Service District Board prior to the merger creating Metro. Many parts of the chapter consist of regulations carried forward from the days when the Zoo was owned by the City of Portland. The new chapter brings the Code up to date, fully recognizing the Zoo as an operating department of Metro.

The definition section has been extended significantly and brings more clarity to the chapter. Operating authority and hours of operation are addressed specifically. Rules of conduct for the public within the Zoo premises and the parking area are clarified as is the section on penalties.

General Counsel Dan Cooper will fully explain the changes being proposed. Staff recommends adoption of the new Code Chapter 4.01.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 91-412.

AMR/cak.admfee.sr



METRO

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

Memorandum

Date: October 15, 1991

To: Councilor David Knowles, Chair
Regional Facilities Committee

From: Daniel B. Cooper, General Counsel *DBC*

Regarding: Ordinance No. 91-412

Ordinance No. 91-412 has been prepared by this Office at the request of the Executive Officer. The Ordinance substantially rewrites Metro Code Chapter 4.01, Metro Washington Park Zoo Regulations.

Research reveals that this chapter originated in the Portland City Code prior to the transfer of the Zoo to Metro. At that time, the Zoo was a Portland Bureau of Parks and Recreation facility for purposes of the City Code. The provisions of the City Code pertaining to the Zoo had to be read in conjunction with provisions contained in the City Code pertaining to parks in general. This created several anomalies when Metro, after assuming operation of the Zoo, adopted the provisions of the City Code regulating the Zoo without revising the regulations to reflect the provisions that were applicable to the Zoo because the Zoo was a City park. For example, present provisions of the Zoo Code prohibit the consumption of beverages with an alcohol content of less than 4 percent, however, possession or consumption of alcoholic beverages with a higher alcohol content is not presently prohibited. In the City Code all alcoholic beverages with a higher alcohol content were prohibited in all parks.

The provisions of Ordinance No. 91-412 have been prepared to correct these anomalies, as well as to bring the Metro Code into a format that is more readable and understandable and in conformity with present practice. The Ordinance would expand the present six sections of the Chapter pertaining to the Metro Washington Park Zoo to ten.

The new sections can be described as follows:

Section 4.01.010, Purpose, sets forth in one paragraph a broad purpose for adopting the Chapter. In part, this paragraph replaces a portion of section 4.01.010(a) which comes close to being a general preamble for the present Code provisions.

Section 4.01.020, Definitions, establishes new definitions for the Parking Lot, Public, Special Event, Zoo Employee, and Zoo Railroad in the Code. These terms are used throughout the Chapter presently, but are undefined. The proposed Code as drafted clearly delineates rules of conduct for members of the "Public" and exempts "Zoo Employees." These are key definitions for the purpose of the new Code. The reason for making these distinctions was to clearly define that the Zoo regulations are to regulate the conduct of the public through potential use of the courts and the power to evict persons from the Zoo who violate the regulations. Any "Zoo Employee," as broadly defined in the Ordinance, is subject to direct supervision and the normal employee disciplinary process. Many acts such as feeding animals, cutting the shrubs, etc., which are necessary acts for Zoo Employees, are clearly improper if done by a member of the public. These explicit definitions eliminate the need to make general exceptions for Zoo Employees, as is now the case.

Section 4.01.030, Operating Authority, sets forth directly and specifically that operations at the Zoo are under the general supervision of the Zoo Director, subject to the overall control of the Executive Officer. Zoo employees are directed and controlled by the Zoo Director and Executive Officer subject to the Personnel Rules and applicable Collective Bargaining Agreements of the District. This statement is implied from the existing Code language, but is not directly set forth therein. Adding it directly removes considerable ambiguity from the existing Code.

Section 4.01.040, Hours of Operation, sets forth in Code language the present practice on the establishment of Zoo hours.

Section 4.01.050, Admission Fees and Policies, is a restatement of the existing provisions of Section 4.01.060 with no substantive changes.

Section 4.01.060, Rules of Conduct for Public Within Zoo Premises, is a restatement of present provisions of Section 4.01.020 with changes made to eliminate present language regulating speech which is unconstitutional and clarifying present provisions. A new paragraph [4.01.060(b)] has been added to explicitly state that payment of the Zoo admission, except as specifically authorized, is a requirement for entry for members of the public. No present provision of the Code would penalize any person who walked through the gate without paying required admission, though the present Code provisions to prohibit persons from climbing over the fence. Subsection (h) contains a constitutionally valid prohibition against making loud electronically amplified noises. Subsection (i) incorporates by reference all existing provisions of Oregon law and the City of Portland Police Code and is a substitute for present provisions that prohibit gambling and some but not all criminal conduct at the Zoo.

Councilor David Knowles
Page 3
October 15, 1991

Section 4.01.070, Parking Regulations, restates present provisions of the Code that are presently a subsection of existing Section 4.01.030.

Subsection 4.01.080, Rules of Conduct for Members of Public and Zoo Parking Lot, sets forth conduct standards for persons in the parking lot and outside the parameter surrounding Zoo, but on Zoo property. These provisions are in part presently contained in present Section 4.01.030.

Section 4.01.090, Zoo Railroad, is a restatement of present Section 4.01.040.

Section 4.01.100, Penalties, is a restatement of present Section 4.01.050.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
METRO CODE CHAPTER 4.01 METRO)
WASHINGTON PARK ZOO REGULA-)
TIONS)
ORDINANCE NO. 91-412
Introduced by Rena Cusma,
Executive Officer

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The present provisions of Metro Code Chapter 4.01, Metropolitan Washington Park Zoo Regulations, are hereby repealed.

Section 2. The following provisions are hereby adopted as Chapter 4.01, Metropolitan Washington Park Zoo Regulations of the Code of the Metropolitan Service District:

SECTIONS

| | |
|----------|--|
| 4.01.010 | Purpose |
| 4.01.020 | Definitions |
| 4.01.030 | Operating Authority |
| 4.01.040 | Hours of Operation |
| 4.01.050 | Admission Fees |
| 4.01.060 | Rules of Conduct for Public within Zoo Premises |
| 4.01.070 | Parking Regulations |
| 4.01.080 | Rules of Conduct for Members of Public in Zoo Parking Lot |
| 4.01.090 | Zoo Railroad |
| 4.01.100 | Penalties |

4.01.010 Purpose: The purpose of this Chapter is to provide for the operation of the Zoo and to provide for regulations governing the use of the Zoo and Zoo parking areas by members of the public in order to provide protection of Zoo animals, plants, and property, and to protect the safety and enjoyment of persons visiting the Zoo.

4.01.020 Definitions:

(a) As used in this Chapter, unless the context requires otherwise:

- (1) "Director" or "Zoo Director" means the Director of the Metro Washington Park Zoo, and also includes such subordinate employees of the Zoo or other Metro employees to the extent the Zoo Director or Executive Officer has delegated specific duties in writing.
- (2) "Parking Lot" means that portion of the Zoo outside of the premises including the paved parking lot area adjacent to the Zoo leased from the City of Portland, but not the public right-of-way located therein, and also includes the adjacent sidewalks, landscaped areas, and plaza outside of the Zoo gates.
- (3) "Premises" means the property, buildings, and grounds within the perimeter fence surrounding the Zoo, the admission and exit gates, all Zoo buildings including but not limited to the administrative, commissary, haybarn, and shop buildings, the employee parking lot, the Zoo vehicular storage area, and the Zoo Railroad right-of-way from the Zoo to and including the Metro Washington Park Station.
- (4) "Public" means any person other than a Zoo employee.
- (5) "Special Event" means any event or occasion held on the premises other than during normal operating hours as specifically authorized by the Zoo Director and Executive Officer.
- (6) "Zoo" means the Metro Washington Park Zoo and includes the parking lot and the premises.
- (7) "Zoo Employee" means all paid employees of the Metro Washington Park Zoo, other paid employees of Metro performing tasks or functions at the Zoo at the request or direction of either the Zoo Director or the Executive Officer, volunteers performing functions and duties assigned or authorized by the Zoo Director, and any contractors or agents of the Zoo carrying out their duties or obligations to the Zoo.
- (8) "Zoo Railroad" means the equipment, rails, and right-of-way extending from within the Zoo premises through the City of Portland park adjacent to the Zoo to a location near the Rose

Test Gardens, also known as the Washington Park and Zoo Railway.

4.01.030 Operating Authority: Operation of the Zoo and management of the Zoo premises and parking lot shall be under the general supervision of the Zoo Director except as may be specifically provided to the contrary by the Executive Officer. All Zoo employees shall be directed and controlled by the Zoo Director and Executive Officer subject to the personnel rules and applicable collective bargaining agreements of the District.

4.01.040 Hours of Operation: Hours of operations of the Zoo, including all times the Zoo is open to the public or for special events, shall be established by the Zoo Director and approved by the Executive Officer. In cases of inclement weather, or in any case of emergency, the Zoo may be closed in order to protect the safety of members of the public, Zoo employees or animals, and other Zoo property.

4.01.050 Admission Fees:

(a) Regular Fees:

(1) Definitions:

- (A) An Education Discount is offered to groups of students in a state accredited elementary, middle, junior, or high school, or pre-school/daycare center. Qualifications for education discount include a minimum of one chaperon for every five (5) students of high school age or under; registration for a specific date at least two weeks in advance; and the purchase of curriculum materials offered by the Zoo, or submission of a copy of the lesson plan that will be used on the day of the visit.
- (B) The Group Discount is defined as any group of twenty-five (25) or more (including school groups that have not met the advance registration and curriculum requirements for the education discount; groups of students not accompanied by a minimum of one chaperon for every five (5) students shall not qualify for the group discount).

(2) Fee Schedule:

| | |
|--|--|
| Adult (12 years and over) | \$5.00 |
| Youth (3 years through 11 years) | \$3.00 |
| Child (2 years and under) | free |
| Senior Citizen (65 years and over) | \$3.50 |
| Education Groups (per student) | \$2.00 |
| Chaperons accompanying education groups | free |
| Groups other than education groups 25 or more per group | 20% discount from appropriate fee listed above |

(b) Free and Reduced Admission Passes:

- (1) Free and reduced admission passes may be issued by the Director in accordance with this Chapter.
- (2) A free admission pass will entitle the holder only to enter the Zoo without paying an admission fee.
- (3) A reduced admission pass will entitle the holder only to enter the Zoo by paying a reduced admission fee.
- (4) The reduction granted in admission, by use of a reduced admission pass (other than free admission passes), shall not exceed 20 percent.
- (5) Free or reduced admission passes may be issued to the following groups or individuals and shall be administered as follows:
 - (A) Metro employees shall be entitled to free admission upon presentation of a current Metro employee identification card.
 - (B) Metro Councilors and the Metro Executive Officer shall be entitled to free admission.
 - (C) Free admission passes in the form of volunteer identification cards may, at the Director's discretion, be issued to persons who perform volunteer work at the Zoo. Cards shall bear the name of the volunteer, shall be signed by the Director, shall be non-transferrable, and shall terminate at the end of each calendar year or upon termination of volunteer duty, whichever date occurs

first. New identification cards may be issued at the beginning of each new calendar year for active Zoo volunteers.

- (D) Reduced admission passes may be issued to members of any organization approved by the Council, the main purpose of which is to support the Metro Washington Park Zoo. Such passes shall bear the name of the passholder, shall be signed by an authorized representative of the organization, shall be non-transferrable, and shall terminate not more than one year from the date of issuance.
- (E) Other free or reduced admission passes may, with the approval of the Director, be issued to other individuals who are working on educational projects or projects valuable to the Zoo. Such passes shall bear an expiration date not to exceed three months from the date of issuance, shall bear the name of the passholder, shall be signed by the Director and shall be non-transferable.

(c) Special Admission Days:

- (1) Special admission days are days when the rates established by this Code are reduced or eliminated for a designated group or groups. Six special admission days may be allowed, at the discretion of the Director, during each calendar year.
- (2) Three additional special admission days may be allowed each year by the Director for designated groups. Any additional special admission days designated under this subsection must be approved by the Executive Officer.

(d) Special Free Hours: Admission to the Zoo shall be free for all persons from 3:00 p.m. until closing on the second Tuesday of each month.

(e) Commercial Ventures: Proposed commercial or fund-raising ventures with private profit or nonprofit entities involving admission to the Zoo must be authorized in advance by the Executive Officer. The Executive Officer may approve variances to the admission fees to facilitate such ventures.

(f) Special Events: The Zoo, or portions thereof, may be utilized for special events designed to enhance Zoo revenues

during hours that the Zoo is not normally open to the public. The number, nature of, and admission fees for such events shall be subject to the approval of the Executive Officer.

4.01.060 Rules of Conduct for Public within Zoo Premises: The following rules of conduct and regulations shall be applicable to all members of the public within the Zoo premises. In addition to penalties provided for herein or by applicable law, adherence to these standards of conduct shall be a condition of admission to the Zoo premises.

(a) Limited Right-of-Entry: Public entry into the Zoo premises is prohibited except during hours of public operation as established pursuant to Section 4.01.040. Members of the public attending special events after normal hours of operation may do so only as specifically authorized by the Zoo Director, and may only enter those portions of the Zoo premises specifically authorized for the conduct of the special event.

(b) Admission Fee Required: All members of the public entering the Zoo shall do so only after payment of the applicable admission fee except as entry may be specifically authorized by the Zoo Director or Executive Officer.

(c) Destruction Prohibited: No member of the public may destroy, damage, or remove any property including plants located on Zoo premises.

(d) Protection of Zoo Animals: No member of the public shall:

- (1) Kill, injure, or disturb any animal by any means except to secure personal safety;
- (2) Pet, attempt to pet, handle, move, or remove the animals except where expressly permitted;
- (3) Feed the animals except when and where expressly permitted;
- (4) Catch, attempt to catch, trap, remove, or kill any free roaming animals inhabiting the premises;
- (5) Go over, under, between, or otherwise cross any guardrail, fence, moat, wall, or any other safety barrier; or

(6) Except as provided in paragraph (3), throw any object or material at any animal or into any animal enclosure or exhibit area.

(e) Conformity with Signs and Emergency Directions: Members of the public shall comply with official signs of a prohibitory or directory nature, and with the directions of Zoo employees.

(f) Littering: Littering, dumping, or any other disposal of rubbish, trash, or other wastes at the Zoo other than in designated receptacles is prohibited.

(g) Alcohol: Possession or consumption on the Zoo premises of any alcoholic beverage of any nature whatsoever other than beverages purchased from Zoo employees or as expressly authorized in writing by the Zoo Director is prohibited.

(h) Sound Amplification Devices: Possession or use of musical instruments, radios or other electric sound-producing or amplification devices that make or emit sounds audible to anyone other than the user of the device is prohibited.

(i) State and Local Laws: All members of the public on Zoo premises shall comply with all provisions of the Oregon Criminal Code, the City of Portland Police Code, and other provisions of applicable law.

(j) Soliciting, Vending, and the Distribution of Handbills: The soliciting of alms and contributions, commercial soliciting, and vending or distribution of samples of any kind, the display or distribution of commercial advertising, and the disseminating of written materials, and canvassing for political, charitable, or religious purposes by members of the public are prohibited within the Zoo premises.

(k) Animals: Except for assistance animals authorized by ORS 346.685, no animals shall be brought on the premises for other than official purposes. Use of assistance animals at the Zoo shall be subject to reasonable guidelines established by the Zoo Director and approved by the Executive Officer.

(l) Photographs for News, Advertising, or Commercial Purposes: No photographs for advertising or any other commercial purpose may be taken on the premises unless officially authorized by the Zoo Director.

(m) Weapons and Explosives: No member of the public while on the premises shall:

- (1) Carry a firearm, loaded or unloaded. "Firearm" is defined to include a pistol, revolver, gun, rifle or other ordinance, including a miniature weapon, which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air.
- (2) Carry a dangerous or deadly weapon. "Dangerous or deadly weapon" includes a firearm, metal knuckles, straight razor, weapon of the type commonly known as a nunchaku, blackjack, sap or sap glove, slingshot, bomb or bombshell, and any type of knife other than an ordinary pocketknife with a blade not longer than three and one-half (3-1/2) inches. When carried with intent to use the same unlawfully against another, "dangerous or deadly weapon" also includes any instrument or device capable of inflicting injury to the person or property of another.
- (3) Carry, discharge, or set off any fireworks or explosives of any nature.

4.01.070 Parking Regulations: The following rules shall govern all vehicles operated within the area of the Zoo parking lot and Zoo premises:

(a) It shall be a violation of this Code for the driver of any motor vehicle or bus to violate any legend or direction contained on any sign, signal, or marking now installed or hereafter installed upon any portion of the Zoo premises or parking lot areas. Drivers of all vehicles shall drive in a careful and safe manner at all times, and shall comply with the signals and directions of the police or security officers and all posted traffic signs. Blocking of entrances, driveways, walks, loading platforms, fire lanes, or fire hydrants is prohibited. Parking without authority, or parking in unauthorized locations or in locations reserved for other persons or contrary to the directions of posted signs, is prohibited.

(b) Security personnel designated by the Executive Officer as serving as a Zoo parking patrol shall have the authority and duty to issue parking citations in accordance with subsection (c) of this section for a violation specified by subsection (a) of this section. The Zoo parking patrol shall have no other police authority or duty. Persons appointed as Zoo parking patrol shall be special police officers of the Metropolitan Service District. As special police officers, the Zoo parking patrol personnel and the Zoo parking patrol supervisor shall have authority to issue

citations for violations of parking or non-moving traffic violations occurring on Zoo property or property adjacent to the Zoo leased from the City of Portland by the Metropolitan Service District for Zoo parking purposes, and particularly they shall have authority to issue citations. To the extent of the power and authority granted in this section, such personnel and their supervisor shall exercise full police power and authority.

(c) Parking Citations:

- (1) Form of citations. All parking citation forms used by the Zoo parking patrol shall be in a form approved by the General Counsel of Metro and as issued by the District Court for the State of Oregon for Multnomah County. Such parking citations shall, at a minimum, clearly state:
 - (A) the date, place, and nature of the charge;
 - (B) time and place for the defendant's appearance in court;
 - (C) name of the issuing officer;
 - (D) license number of the vehicle.
- (2) Procedure for issuing citations. Any citation form issued pursuant to this Code section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. In all other aspects, the procedure now provided by law in such cases shall be followed, but ORS 810.365 does not apply. The officer need not have observed the act of parking, but need only observe that the car was parked in violation of the Metro Code.
- (3) Use of parking citation as a complaint. The original of the traffic citation form when completed to meet the minimum requirements of ORS 221.340 may serve as a complaint, other forms of parking complaints are prohibited.
- (4) Citation form books issued by District Court. Citation form books for parking violations shall be provided by the District Court and upon request

distributed to the Zoo parking patrol officers who issue them.

- (5) List of parking citations. A list of the parking citations issued by Zoo parking patrol officers shall be forwarded to the District Court within twenty-four (24) hours.

(d) Person Responsible for Violation Charged by the Citation: The registered owner of the vehicle is prima facie responsible for the violation charged by the citation.

4.01.080 Rules of Conduct for Members of Public in Zoo Parking Lot:

The following rules of conduct and regulations shall be applicable to all members of the public within the Zoo parking lot. In addition to penalties provided for herein or by applicable law adherence to these standards of conduct shall be a condition of admission to the Zoo parking lot.

(a) Advertising, Canvassing, Soliciting, and Disseminating of Written Materials for Political, Charitable, or Religious Purposes: Commercial or non-commercial speech activity including advertising, canvassing, soliciting, or disseminating of written materials for commercial or non-commercial purposes including political, charitable, or religious purposes is permitted on the parking lot and sidewalks between the parking lot and the perimeter fence surrounding the Zoo. Such activities must be conducted in accordance with the following conditions:

- (1) Parking lot entrances, exits, and travel lanes must not be obstructed. Interference with traffic flow is prohibited.
- (2) Loudspeakers, musical instruments, and other sound-making or amplification devices of any nature are prohibited.
- (3) Activity causing a crowd to gather is prohibited if pedestrian or vehicular traffic is obstructed or impeded.
- (4) Activity conducted within twenty (20) feet of an admission gate, ticket booth, entrance, or exit is prohibited.
- (5) Obstructing Zoo visitors' line of travel or detaining a Zoo visitor or employee against his or her will is prohibited.

- (6) Actual or threatened physical harm directed against a Zoo visitor or employee is prohibited.
- (7) The sale of food or items of any nature is prohibited.

(b) Littering:. Littering, dumping, or any other disposal of rubbish, trash, or any solid waste on the Zoo parking lot is prohibited.

(c) State and Local Laws: All members of the public within the Zoo parking lot shall comply with all provisions of the Oregon Criminal Code, the Oregon Traffic Code, the City of Portland Police and Traffic Codes, and other provisions of applicable law.

(d) Alcohol: Possession or consumption on the Zoo parking lot of any alcoholic beverage of any nature whatsoever is prohibited.

4.01.090 Zoo Railroad: No member of the public shall:

- (a) Enter or exit the train except when the train is stopped.
- (b) Enter the train without authorization.
- (c) Throw or propel any object or material from or at the train.
- (d) Smoke on the train.
- (e) Destroy, damage, or deface the train, equipment, rolling stock, stations, tracks, or switches or attempt to do the same.

4.01.100 Penalties:

(a) Each violation of these Rules and Regulations shall be punishable by a fine of not more than \$500.

(b) In addition to prosecution under paragraph (a) above, any person violating these Rules and Regulations may be ejected from the Zoo. The decision to eject shall be made by the Zoo Director or his/her designate, a security officer, or a peace officer.

(c) In addition to the measures prescribed in subsection (a) and (b) above, violation of these Rules and Regulations may be grounds for exclusion from the Zoo premises and the Zoo parking lot. In the event of a violation of these Rules and Regulations, or a violation of any of the laws of the State of Oregon, any police officer, Zoo security officer, Zoo Director or his/her designate, or any individual providing security services under contract with Metro may exclude for a period of not more than forty-five (45) days, any person who violates any provision of these Rules and Regulations, or any of the laws of the State of Oregon.

- (1) Written notice shall be given to any person excluded from the Zoo, or Zoo Parking Lot. The notice shall specify the violation of Zoo Rules and Regulations or State Law which is the basis for the exclusion and shall specify the dates covered by the exclusion. The notice shall be signed by the issuing party. Warning of the consequences for failure to comply with the exclusion shall be prominently displayed on the notice.
- (2) A person receiving an exclusion notice may appeal to the Metro Council in accordance with the Contested Case procedure in Chapter 2.05 of the Metro Code.
- (3) At any time within the period of exclusion, a person receiving an exclusion notice may apply in writing to the Zoo Director for a temporary waiver from the exclusion. The Zoo Director may grant a temporary waiver of an exclusion upon a showing of good cause for said waiver.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

DBC/gl
1044

TITLE IV

METRO WASHINGTON PARK ZOO

CHAPTERS:

4.01 Metro Washington Park Zoo Regulations

CHAPTER 4.01

METRO WASHINGTON PARK ZOO REGULATIONS

SECTIONS:

- 4.01.010 General; Definitions
- 4.01.020 Buildings and Grounds of the Zoo
- 4.01.030 Parking Lot and Sidewalk Adjacent to the Zoo
- 4.01.040 Zoo Railroad
- 4.01.050 Penalties
- 4.01.060 Admission Fees and Policies

4.01.010 General and Definitions:

(a) These rules and regulations apply to all buildings and grounds of the Metro Washington Park Zoo, to sidewalks and parking lots adjacent thereto and to the Metro Washington Park Zoo Train and tracks, and to all persons entering in or on such buildings, grounds, parking lots, sidewalks, train or tracks.

(b) As used in these Rules and Regulations, unless the context requires otherwise:

- (1) "Director" or "Zoo Director" means the Director of the Metro Washington Park Zoo.
- (2) "Premises" means the property, buildings and grounds within the perimeter fence surrounding the Zoo, the admission and exit gates, the administrative, commissary, haybarn and shop buildings, the employee parking lot, the Zoo vehicular storage area and the Zoo Train right-of-way from the Zoo to the Metro Washington Park Station.
- (3) "Zoo" means the Metro Washington Park Zoo.

(Ordinance No. No. 45, Sec. 1; amended by Ordinance No. 89-269, Sec. 2)

4.01.020 Buildings and Grounds of the Zoo:

(a) Recording Presence: Except as otherwise ordered, the Zoo buildings and grounds shall be closed to the public to after posted visiting hours. Such buildings and grounds, or portions thereof, shall be also closed to the public in emergency situations and at such other times as may be necessary for the orderly conduct of business. Whenever the buildings and grounds or portions thereof are closed to the public for any reasons, visitors will immediately leave the premises upon being requested

by an authorized individual. Admission to such premises during periods when closed to the public will be limited to those on official Zoo business who will be required to register and identify themselves when requested by security officers or other authorized individuals. Climbing or cutting the fence or other means of unauthorized entry is prohibited.

(b) Preservation of Property: It is unlawful to destroy, damage, or remove any property belonging to or a part of the Zoo. In order to remove any property from the premises, a properly completed property pass signed by the Zoo Director, or his/her designate, may be required for removal.

(c) Protection of Zoo Animals: Except for official purposes, no person shall:

- (1) Kill, injure or disturb any animal by any means except to secure personal safety;
- (2) Pet, attempt to pet, handle, move, or remove the animals except where expressly permitted;
- (3) Feed the animals where prohibited by authorized signs;
- (4) Catch, attempt to catch, trap, remove or kill any free roaming animals inhabiting the premises;
- (5) Go over, under, between, or otherwise cross any guardrail, fence, moat, wall or any other safety barrier;
- (6) Except as provided in paragraph (3), throw any object or material at any animal or into any animal enclosure or exhibit area.

(d) Conformity with Signs and Emergency Directions: Persons in or on the premises shall comply with official signs of a prohibitory or directory nature and with the directions of members of the Zoo staff or volunteers.

(e) Nuisances: The use of unreasonably loud, abusive or obscene language; the improper disposal of rubbish; climbing on buildings, trees and fences; and any other disorderly conduct as defined by ORS 166.025 is prohibited.

(f) Gambling: Participating in games for money or other personal property or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets in or on the premises is prohibited.

(g) Alcoholic Beverages and Narcotics:

- (1) Consumption of alcoholic beverages on the premises is prohibited, unless officially authorized by the Director or his/her designate. Alcoholic beverages is defined to include wine and beer of less than four (4) percent alcohol by weight.
- (2) Entering the premises under the influence of a narcotic or dangerous drug or the use of a narcotic or dangerous drug on the premises except when administered or dispensed by or under the direction of a person authorized by law to prescribe or administer narcotic drugs and dangerous drugs to human beings is prohibited.

(h) Soliciting, Vending and the Distribution of Handbills: The soliciting of alms and contributions, commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, and the disseminating of written materials and canvassing for political, charitable or religious purposes are prohibited. This rules does not apply to concessions operated by the Zoo or by a contractor for the Zoo.

(i) Animals: No animals shall be brought on the premises for other than official purposes.

(j) Photographs for News, Advertising or Commercial Purposes: No photographs for advertising or any other commercial purpose may be taken on the premises unless officially authorized by the Zoo Director or his/her designate.

(k) Weapons and Explosives: Except for official purposes, no person while on the premises shall:

- (1) Carry a firearm, loaded or unloaded. "Firearm" is defined to include a pistol, revolver, gun, rifle or other ordinance, including a miniature weapon, which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air.
- (2) Carry a dangerous or deadly weapon. "Dangerous or deadly weapon" includes a firearm, metal knuckles, straight razor, weapon of the type commonly known as a nunchaku, blackjack, sap or sap glove, slingshot, bomb or bombshell, and any type of knife other than an ordinary pocketknife with a blade not longer than three and one-half (3-1/2) inches. When carried with intent to use the same unlawfully against another, "dangerous or deadly weapon" also includes any instrument or device capable or inflicting injury to the person or property of another.

- (3) Carry, discharge or set off any fireworks or explosives of any nature.

(Ordinance No. 45, Sec. 1; amended by Ordinance No. 89-269, Sec. 1)

4.01.030 Parking Lot and Sidewalk Adjacent to the Zoo:

(a) Vehicular and Pedestrian Traffic:

- (1) It shall be a violation of this Code for the driver of any motor vehicle or bus to violate any legend or direction contained on any sign, signal or marking now installed or hereafter installed upon any street, avenue, parking lot or other public way within the boundaries of the Metro Washington Park Zoo or the surrounding area leased by the City of Portland to Metro for public access or for public parking at the Zoo. Drivers of all vehicles shall drive in a careful and safe manner at all times and shall comply with the signals and directions of the police or security officers and all posted traffic signs.
- (2) Blocking of entrances, driveways, walks, loading platforms, or fire hydrants is prohibited. Parking without authority, or parking in unauthorized locations or in locations reserved for other persons or contrary to the directions of posted signs, is prohibited.

(b) Security personnel designated by the Executive Officer of Metro as serving as a Zoo Parking Patrol shall have the authority and duty to issue parking citations in accordance with subsection (c) of this section for a violation specified by subsection (a) of this section. The Zoo parking patrol shall have no other police authority or duty. Persons appointed as Zoo parking patrol shall be special police officers of the Metropolitan Service District. As special police officers the

Zoo parking patrol personnel and the Zoo parking patrol supervisor shall have authority to issue citations for violations of parking or non-moving traffic violations occurring on Zoo property or property adjacent to the Zoo leased from the City of Portland by the Metropolitan Service District for Zoo parking purposes, and particularly they shall have authority to issue citations as provided for in Section 4.01.030 of the Metro Code. To the extent of the power and authority granted in this section, such personnel and their supervisor shall exercise full police power and authority.

(c) Parking Citations:

(1) Form of citations. All parking citations forms used by the Zoo parking patrol shall be in a form approved by the General Counsel of Metro and as issued by the District Court for the State of Oregon for Multnomah County. Such parking citations shall, at a minimum, clearly state:

- (A) the date, place and nature of the charge;
- (B) time and place for the defendant's appearance in court;
- (C) name of the issuing officer;
- (D) license number of the vehicle.

(2) Procedure for issuing citations. Any citation form issued pursuant to this Code section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. In all other aspects, the procedure now provided by law in such cases shall be followed, but ORS 810.365 does not apply. The officer need not have observed the act of parking, but need only observe that the car was parked in violation of the Metro Code.

(3) Use of parking citation as a complaint. The original of the traffic citation form when completed to meet the minimum requirements of ORS 221.340 may serve a complaint, other forms of parking complaints are prohibited.

(4) Citation form books issued by District Court. Citation form books for parking violations shall be provided by the District Court and upon request distributed to the Zoo parking patrol officers who issue them.

(5) List of parking citations. A list of the parking citations issued by Zoo parking patrol officers shall be forwarded to the District Court within twenty-four (24) hours.

(d) Person Responsible for Violation Charged by the Citation. The registered owner of the vehicle is prima facie responsible for the violation charged by the citation.

(e) Advertising, Canvassing, Soliciting and Disseminating of Written Materials for Political, Charitable or Religious

Purposes. Advertising, canvassing, soliciting and disseminating of written materials for political, charitable, or religious purposes is permitted on the parking lot and sidewalks between the parking lot and the perimeter fence surrounding the Zoo. Such activities must be conducted in accordance with the following conditions:

- (1) Parking lot entrances, exits and travel lanes must not be obstructed. Interference with traffic flow is prohibited.
- (2) Loudspeakers and other sound devices are prohibited.
- (3) Activity causing a crowd to gather is prohibited if pedestrian or vehicular traffic is obstructed or impeded.
- (4) Activity conducted within twenty (20) feet of an admission gate, ticket booth, entrance or exit is prohibited.
- (5) Activity shall be conducted by no more than two (2) persons in the vicinity of the entrances or exists for each cause or candidate.
- (6) Obstructing Zoo visitors' line of travel or detaining a Zoo visitor or employee against his or her will is prohibited.
- (7) Abusive language and actual or threatened physical harm directed against a Zoo visitor or employee is prohibited.
- (8) A person conducting such activity shall identify his or her cause or candidate and shall not misrepresent his or her purpose.
- (9) The dissemination or sale of food or goods other than written materials is prohibited.

(Ordinance No. 45, Sec. 1; Amended by Ordinance No. 88-251, Sec. 1)

4.01.040 Zoo Railroad: Except for official purposes, no person shall:

- (a) Enter or exit the train except when the train is stopped.
- (b) Enter the train without authorization.
- (c) Throw any object or material from or at the train.
- (d) Smoke on the train while it is in motion.
- (e) Destroy, damage or deface the train, equipment, rolling stock, tracks or switches or attempt to do the same.

(Ordinance No. 45, Sec. 1)

4.01.050 Penalties:

(a) Each violation of these Rules and Regulations shall be punishable by a fine of not more than \$500.

(b) In addition to prosecution under paragraph (a) above, any person violating these Rules and Regulations may be ejected from the Zoo. The decision to eject shall be made by the Zoo Director or his/her designate, a security officer, or a peace officer.

(c) In addition to the measures prescribed in subsection (a) and (b) above, violation of these Rules and Regulations may be grounds for exclusion from Zoo premises. In the event of a violation of these Rules and Regulations or a violation of any of the laws of the State of Oregon, any police officer, Zoo security officer, Zoo Director or his/her designate, or any individual providing security services under contract with Metro may exclude for a period of not more than forty-five (45) days, any person who violates any provision of these Rules and Regulations, or any of the laws of the State of Oregon.

- (1) Written notice shall be given to any person excluded from the Zoo premises. The notice shall specify the violation of Zoo Rules and Regulations or State law which is the basis for the exclusion and shall specify the dates covered by the exclusion. The notice shall be signed by the issuing party. Warning of the consequences for failure to comply with the exclusion shall be prominently displayed on the notice.
- (2) A person receiving an exclusion notice may appeal to the Metro Council in accordance with the

Contested Case procedure in Chapter 2.05 of the Metro Code.

- (3) At any time within the period of exclusion, a person receiving an exclusion notice may apply in writing to the Zoo Director for a temporary waiver from the exclusion. The Zoo Director may grant a temporary waiver of an exclusion upon a showing of good cause for said waiver.

(Ordinance No. 45, Sec. 1; and Ordinance No. 90-358)

4.01.060 Admission Fees and Policies:

(a) Regular Fees:

(1) Definitions:

- (A) An Education discount is offered to groups of five (5) or more students in a state accredited elementary, middle, junior or high school or pre-school/daycare center. Qualifications for Education Discount include a minimum of one chaperon for every five (5) students of high school age or under; registration for a specific date at least two weeks in advance; and the purchase of curriculum materials offered by the Zoo, or submission of a copy of the lesson plan that will be used on the day of the visit.
- (B) The Group Discount is defined as any group of twenty-five (25) or more (including school groups that have not met the advance registration and curriculum requirements for the Education Discount; groups of students not accompanied by a minimum of one chaperon for every five students shall not qualify for the Group Discount).

(2) Fee Schedule:

| | |
|------------------------------------|----------------------------------|
| Adult (12 years and over) | \$4.50 |
| Youth (3 years through 11 years) | \$2.50 |
| Child (2 years and under) | free |
| Senior Citizen (65 years and over) | \$3.00 |
| Education Groups (per student) | \$2.00 |
| Chaperons accompanying | |
| Education groups | free |
| Groups other than Education groups | |
| 25 or more per group | 20% discount from appropriate |

fee listed above

(b) Free and Reduced Admission Passes:

- (1) Free and reduced admission passes may be issued by the Director in accordance with this ordinance.
- (2) A free admission pass will entitle the holder only to enter the Zoo without paying an admission fee.
- (3) A reduced admission pass will entitle the holder only to enter the Zoo by paying a reduced admission fee.
- (4) The reduction granted in admission, by use of a reduced admission pass (other than free admission passes), shall not exceed twenty percent.
- (5) Free or reduced admission passes may be issued to the following groups or individuals and shall be administered as follows:
 - (A) Metro employees shall be entitled to free admission upon presentation of a current Metro employee identification card.
 - (B) Metro Councilors and the Metro Executive Officer shall be entitled to free admission.
 - (C) Free admission passes in the form of volunteer identification cards may, at the Director's discretion, be issued to persons who perform volunteer work at the Zoo. Cards shall bear the name of the volunteer, shall be signed by the Director, shall be non-transferrable, and shall terminate at the end of each calendar year or upon termination of volunteer duty, whichever date occurs first. New identification cards may be issued at the beginning of each new calendar year for active Zoo volunteers.
 - (D) Reduced admission passes may be issued to members of any organization approved by the Council, the main purpose of which is to support the Metro Washington Park Zoo. Such passes shall bear the name of the pass holder, shall be signed by an authorized representative of the organization, shall be non-transferrable, and shall terminate not more than one year from the date of issuance.
 - (E) Other free or reduced admission passes may, with the approval of the Director, be issued

to other individuals who are working on educational projects or projects valuable to the Zoo. Such passes shall bear an expiration date not to exceed three months from the date of issuance, shall bear the name of the pass holder, shall be signed by the Director and shall be nontransferable.

(c) Special Admission Days:

- (1) Special admission days are days when the rate established by this ordinance are reduced or eliminated for a designated group or groups. Six special admission days may be allowed, at the discretion of the Director, during each calendar year.
- (2) Three additional special admission days may be allowed each year by the Director for designated groups. Any additional special admission days designated under this subsection must be approved by the Executive Officer.

(d) Special Free Hours: Admission to the Zoo shall be free for all persons from 3:00 p.m. until closing on the second Tuesday of each month.

(e) Commercial Ventures: Proposed commercial or fund-raising ventures with private profit or nonprofit corporations involving admission to the Zoo must be authorized in advance by the Executive Officer. The Executive Officer may approve variances to the admission fees to facilitate such ventures.

(f) Special Events: The Zoo, or portions thereof, may be utilized for special events designed to enhance Zoo revenues during hours that the Zoo is not normally open to the public. The number, nature of and admission fees for such events shall be subject to the approval of the Executive Officer.

(Ordinance No. 81-108, Sec. 2; amended by Ordinance No. 85-185, Sec. 1, Ordinance No. 87-235, Sec. 1; Ordinance No. 89-269, Sec. 1; Ordinance No. 89-326, Sec. 1; Ordinance No. 90-354; and Ordinance No. 91-376B, Sec. 1)

Meeting Date: October 24, 1991
Agenda Item No. 5.2

ORDINANCE NO. 91-431

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 91-431 AMENDING ORDINANCE NO. 91-390A REVISING THE FY 1991-92 BUDGET AND APPROPRIATIONS TO OPEN A FEE SUPPORTED RLIS "STORE FRONT" FOR PROVIDING SERVICES TO THE BUSINESS COMMUNITY USING THE REGIONAL LAND INFORMATION SYSTEMS (RLIS)

Date: October 11, 1991

Presented by: Andy Cotugno
Dick Bolen

FACTUAL BACKGROUND AND ANALYSIS

This budget amendment implements a key recommendation of the consultants engaged to develop a program for the distribution and pricing of RLIS products and services. Their draft plan is being reviewed by the Transportation and Planning Committee in companion with a resolution supporting its findings. A central piece of accomplishing the proposed plan's objectives is through opening an RLIS "store front". The cost of the store front's operation is to be born by its users. The attached spread sheet shows how products and services will be priced and how RLIS users client groups will be charged. Following are the direct costs of opening the store front.

Store Front costs:

| | |
|----------------------|---|
| Personnel | \$24,566 (0.5 FTE for remainder of FY) |
| Materials & Services | \$18,000 (computer + Arc/Info software) |

This action requests the following transfers within the Transportation Department budget:

From

M & S, Miscellaneous Professional Services (\$42,566)

To

| | |
|-------------------------------------|----------|
| M & S, Capital Lease | \$ 8,000 |
| M & S, Computer Software | \$10,000 |
| Personal Services (Salary & Fringe) | \$24,566 |

It also requests the authorization of a regular, full time Associate Regional Planner responsible for the initial development and ongoing operations of the RLIS store front (0.50 FTE for FY 1991-92). A position justification form is attached and will be reviewed by Personnel for appropriate classification level.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 91-431, transferring appropriations within the Transportation Department to open a fee support RLIS "store front" for providing services to the business community and authorizing the addition of 0.50 FTE Associate Regional Planner.

PRODUCT PRICING

DATA RESOURCE CENTER

| | FIXED PRICE | OPERATOR TIME | COMPUTER TIME | DATA CHARGE (1) |
|--|-------------|---------------|------------------|--------------------|
| <u>OFF-THE-SHELF PRODUCTS</u> | | | | |
| Market Profiles | \$65 + | | | |
| Reports (e.g. Factbook & Forecast) | \$10-\$30 | | | |
| Base Maps (streets or parcels) | \$2-\$25 | | | |
| Thematic Maps (e.g. census) | \$10-\$30 | | | |
| RLIS Layer (e.g. zoning) | \$50-\$200 | | | |
| RLIS Catalogue | \$25 | | | |
| <u>RLIS DIGITAL PRODUCTS</u> | | | | |
| Entire Parcel Data Base | | \$37.50/Hr. | \$30/Connect Hr. | \$15,000 |
| Specific Layer(s) | | \$37.50/Hr. | \$30/Connect Hr. | \$500-\$5,000 |
| Specific Geographic Area | | \$37.50/Hr. | \$30/Connect Hr. | \$500-\$5,000 |
| TIGER (3 Counties) | | \$37.50/Hr. | \$30/Connect Hr. | \$10,000 |
| TIGER (Subarea) | | \$37.50/Hr. | \$30/Connect Hr. | \$1,000-\$5,000 |
| <u>SPECIAL SERVICES</u> | | | | |
| Custom Queries (Rent-A-Tech) | | | | |
| Hard Copy Output | | \$37.50/Hr. | \$30/Connect Hr. | Layer(s) X Area/10 |
| Digital Output | | \$37.50/Hr. | \$30/Connect Hr. | Layer(s) X Area |
| Creation of a Custom Layer | | \$37.50/Hr. | \$30/Connect Hr. | Layer(s) X Area |
| Address Geocoding | | \$37.50/Hr. | \$30/Connect Hr. | Layer(s) X Area |
| On-line Computer Access | | \$37.50/Hr. | \$40/Connect Hr. | \$50/Connect Hr. |
| (1) Charge per RLIS data layer based on a per square mile cost times the number of layers being purchased. | | | | |
| <u>CLIENT CATAGORIES</u> | | | | |
| Metro Departments (2) | No Charge | Full Price | Full Price | No Charge |
| Member Jurisdictions (3) | No Charge | Full Price | Full Price | No Charge |
| Consultants Working for Members (4) | No Charge | Full Price | Full Price | No Charge |
| Other Govs., Non-Profit & Public | Half Price | Full Price | Full Price | Half Price |
| Consultants & Business Users | Full Price | Full Price | Full Price | Full Price |
| (2) Services funded from departmental budgets (3) Services funded from dues and other local funds (4) Consultant billed directly for services provided | | | | |



New Position/Reclass/ FTE Increase Request

Fiscal Year 1991-92

ACTION REQUESTED:

A new position is requested for operator of the planned RLIS store front in the Data Resource Center (Associate Regional Planner).

DUTIES AND RESPONSIBILITIES:

This person will be responsible for the initial development and ongoing operation of the RLIS store front. This will involve development of contractual relationships with licensed RLIS users in the business community and delivery of products and services to businesses making requests. Assistance will be provided on utilizing the capabilities of RLIS to address specific business applications. This will include provision of predefined services as well as filling custom requests which may include importing some client data, such as their customer address list. This person will be responsible for tracking all costs associated with providing services, including the amount of staff and computer time required, plus a charge for the types and quantities of data used.

QUALIFICATIONS:

Experience using Arc/Info software is required and a college degree with course work related to the use and analysis of spatial information. Good communications skills are needed to convey technical information, and public relations skills are a high priority.

IUSTIFICATION:

Creation of this position implements a key recommendation of the consultants engaged to develop a program for the distribution and pricing of RLIS products and services. The current staffing level of the Data Resource Center can not accommodate the amount of work expected to be generated by private sector data requests for RLIS products and services. In addition, legal counsel advises us that, due to the lack of a clear public purpose for the work this person will be doing, publically funded staff should not be used and all costs associated with providing these services must be recovered from the users.

BUDGET IMPACT:

| | |
|---------|----------|
| Salary: | \$18,197 |
| Fringe: | \$6,369 |
| Total | \$24,566 |

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE NO.)
91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS SCHEDULE)
TO OPEN A FEE SUPPORTED RLIS "STORE)
FRONT" FOR PROVIDING SERVICES TO)
THE BUSINESS COMMUNITY USING THE)
REGIONAL LAND INFORMATION SYSTEM)

ORDINANCE NO. 91-431

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

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

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

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring funds from Materials & Services to Personal Services in the Transportation Department to open a fee supported RLIS "Store Front" for providing services to the business community using the Regional Land Information System (RLIS) and authorizing the addition of 0.50 FTE Associate Regional Planner.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this
_____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

kr:ord91-92:91-431:ord
October 11, 1991

**EXHIBIT A
ORDINANCE NO. 91-431**

| ACCT # | DESCRIPTION | CURRENT BUDGET | | REVISION | | PROPOSED BUDGET | |
|---|--------------------------------------|----------------|------------------|-------------|---------------|-----------------|------------------|
| | | FTE | AMOUNT | FTE | AMOUNT | FTE | AMOUNT |
| TRANSPORTATION PLANNING FUND TOTAL | | | | | | | |
| Personal Services | | | | | | | |
| 511121 SALARIES-REGULAR EMPLOYEES (full time) | | | | | | | |
| | Transportation Director | 1.00 | 67,714 | 0 | 0 | 1.00 | 67,714 |
| | Trans. Planning Manager | 1.00 | 58,506 | 0 | 0 | 1.00 | 58,506 |
| | Technical Manager | 1.00 | 58,506 | 0 | 0 | 1.00 | 58,506 |
| | Regional Planning Supervisor | 1.00 | 53,056 | 0 | 0 | 1.00 | 53,056 |
| | Trans. Planning Supervisor | 3.00 | 141,790 | 0 | 0 | 3.00 | 141,790 |
| | Senior Regional Planner | 2.00 | 82,855 | 0 | 0 | 2.00 | 82,855 |
| | Senior Management Analyst | 1.00 | 43,711 | 0 | 0 | 1.00 | 43,711 |
| | Senior Trans. Planner | 8.00 | 309,615 | 0 | 0 | 8.00 | 309,615 |
| | Assoc. Trans. Planner | 7.00 | 224,742 | 0 | 0 | 7.00 | 224,742 |
| | Assoc. Regional Planner | 3.00 | 90,415 | 0.50 | 18,197 | 3.50 | 108,612 |
| | Asst. Trans. Planner | 3.00 | 83,367 | 0 | 0 | 3.00 | 83,367 |
| | Asst. Regional Planner | 3.00 | 63,062 | 0 | 0 | 3.00 | 63,062 |
| | Administrative Assistant | 1.00 | 29,921 | 0 | 0 | 1.00 | 29,921 |
| 511221 WAGES-REGULAR EMPLOYEES (full time) | | | | | | | |
| | Administrative Secretary | 1.00 | 27,248 | 0 | 0 | 1.00 | 27,248 |
| | Secretary | 1.00 | 23,023 | 0 | 0 | 1.00 | 23,023 |
| | Planning Technician | 1.00 | 19,461 | 0 | 0 | 1.00 | 19,461 |
| 511231 WAGES - TEMPORARY EMPLOYEES (full time) | | | | | | | |
| | Vacant | 1.00 | 21,404 | 0 | 0 | 1.00 | 21,404 |
| 512000 FRINGE | | | | | | | |
| | | 0.00 | 474,813 | | 6,369 | 0.00 | 481,182 |
| Total Personal Services | | 39.00 | 1,873,209 | 0.50 | 24,566 | 39.50 | 1,897,775 |
| Materials & Services | | | | | | | |
| 521100 | Office Supplies | | 30,244 | | 0 | | 30,244 |
| 521110 | Computer Software | | 78,250 | | 10,000 | | 88,250 |
| 521240 | Graphics/Reprographic Supplies | | 2,100 | | 0 | | 2,100 |
| 521310 | Subscriptions | | 1,260 | | 0 | | 1,260 |
| 521320 | Dues | | 1,580 | | 0 | | 1,580 |
| 524110 | Accounting & Auditing Services | | 5,000 | | 0 | | 5,000 |
| 524190 | Misc. Professional Services | | 1,296,050 | | (42,566) | | 1,253,484 |
| 525640 | Maint. & Repairs Services-Equipment | | 66,026 | | 0 | | 66,026 |
| 526200 | Ads & Legal Notices | | 6,500 | | 0 | | 6,500 |
| 526310 | Printing Services | | 53,940 | | 0 | | 53,940 |
| 526320 | Typesetting & Reprographics Services | | 3,750 | | 0 | | 3,750 |
| 526410 | Telephone | | 9,220 | | 0 | | 9,220 |
| 526420 | Postage | | 3,500 | | 0 | | 3,500 |
| 526440 | Delivery Services | | 1,000 | | 0 | | 1,000 |
| 526500 | Travel | | 28,510 | | 0 | | 28,510 |
| 526700 | Temporary Help Services | | 8,000 | | 0 | | 8,000 |
| 526800 | Training, Tuition, Conferences | | 15,860 | | 0 | | 15,860 |

EXHIBIT A
ORDINANCE NO. 91-431

| ACCT # | DESCRIPTION | CURRENT BUDGET | | REVISION | | PROPOSED BUDGET | |
|---|--|----------------|------------------|-------------|-----------------|-----------------|------------------|
| | | FTE | AMOUNT | FTE | AMOUNT | FTE | AMOUNT |
| TRANSPORTATION PLANNING FUND TOTAL (continued) | | | | | | | |
| 528100 | License, Permits, Payments to Other Agencies | | 335,000 | | 0 | | 335,000 |
| 529500 | Meetings | | 1,000 | | 0 | | 1,000 |
| 529800 | Miscellaneous | | 3,000 | | 0 | | 3,000 |
| 531100 | Capital Lease-Furniture & Equipment | | 144,748 | | 8,000 | | 152,748 |
| Total Materials & Services | | | 2,094,538 | | (24,566) | | 2,069,972 |
| Total Capital Outlay | | | 61,585 | | 0 | | 61,585 |
| Total Interfund Transfers | | | 722,712 | | 0 | | 722,712 |
| Contingency and Unappropriated Balance | | | | | | | |
| 599999 | Contingency | | 223,358 | | 0 | | 223,358 |
| 599990 | Unappropriated Fund Balance | | 38,000 | | 0 | | 38,000 |
| Total Contingency and Unappropriated Balance | | | 261,358 | | 0 | | 261,358 |
| TOTAL EXPENDITURES | | 39.00 | 5,013,402 | 0.50 | 0 | 39.50 | 5,013,402 |

EXHIBIT B
 ORDINANCE NO. 91-431
 SCHEDULE OF APPROPRIATIONS

| | CURRENT APPROPRIATION | REVISION | PROPOSED APPROPRIATION |
|--|--------------------------|----------|---------------------------|
| TRANSPORTATION PLANNING FUND | | | |
| Personal Services | 1,873,209 | 24,566 | 1,897,775 |
| Materials & Services | 2,094,538 | (24,566) | 2,069,972 |
| Capital Outlay | 61,585 | 0 | 61,585 |
| Interfund Transfers | 722,712 | 0 | 722,712 |
| Contingency | 223,358 | 0 | 223,358 |
| Unappropriated Balance | 38,000 | 0 | 38,000 |
| Total Transportation Planning Fund Requirements | 5,013,402 | 0 | 5,013,402 |

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Meeting Date: October 24, 1991
Agenda Item No. 5.3

ORDINANCE NO. 91-432

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 91-432 AMENDING ORDINANCE NO. 91-390A REVISING THE FY 1991-92 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF PURCHASING OFFICE PANELS.

Date: October 15, 1991

Presented by: Jennifer Sims

PROPOSED ACTION

Amend the FY 1991-92 budget of Finance and Management Information Department for the purchase of office panels for the Transportation Department. Requires the transfer of \$26,057.20 from contingency to capital outlay.

FACTUAL BACKGROUND AND ANALYSIS

Resolution No. 91-1514 authorizing an exemption to the competitive bidding procedures and allowing a sole source contract with Office Interiors for the purchase of panels for the Transportation Department was passed on October 10, 1991.

A number of factors influence the need for additional panels to accommodate the Transportation Department in their new location at the Contact Lumber Building. Among these include an increase of nine additional employees budgeted for this fiscal year; three additional employees for the I-5 Light Rail Study already approved by Council; and two free interns that are now working for the Transportation Department.

Additionally, the new location at the Contact Lumber building contains space constraints and limitations that include three fewer enclosed (hard walled) office spaces, and less wall space so that a additional fourth panel built wall is needed where once there had been a hard wall.

The additional employees and the space requirements now necessitates the need for the purchase of additional panels.

It is proposed that the funding for the new panels be from the Support Services budget in an effort to continue the maintenance of a pool of panels that can be used as the need arises, thus designing a flexible system that can best meet the changing needs of individual Metro Departments. At this time, this panel system is planned for re-use at the new headquarters offices.

Budget Impact

A total of \$34,357.20 is needed for the purchase of new panels for Transportation. The capital budget for Transportation contains \$8,300.00 approved for the new employee work stations in

the fiscal year 1991-92 budget. The balance of \$26,057.20 will be funded from the Support Services budget. The proposed purchase costs are summarized below:

| | | |
|---|--|--------------------|
| - | Total cost of proposed panel purchase | \$34,357.20 |
| - | Budgeted amount from Transportation | \$8,300.00 |
| - | Support Services Fund (this amendment) | <u>\$26,057.20</u> |
| | Total | \$34,357.20 |

This action requests the transfer of \$26,057 from the Support Services Fund Contingency to Office Services Division Capital Outlay within the Finance and Management Information Department.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 91-432.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE NO.)
91-390A REVISING THE FY 1991-92)
BUDGET AND APPROPRIATIONS SCHEDULE)
FOR THE PURPOSE PURCHASING OFFICE)
PANELS)

ORDINANCE NO. 91-432

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District has reviewed and considered the need to transfer appropriations within the FY 1991-92 Budget; and

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

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

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That Ordinance No. 91-390A, Exhibit B, FY 1991-92 Budget, and Exhibit C, Schedule of Appropriations, are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring \$26,057 from the Support Service Fund Contingency to the Office Services Division, Capital Outlay within the Finance and Management Information Department for the purpose of purchasing office panels.

2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

**EXHIBIT A
ORDINANCE NO. 91-432**

| ACCT # | DESCRIPTION | CURRENT BUDGET | | REVISION | | PROPOSED BUDGET | |
|---|----------------------------------|----------------|------------------|-------------|----------|-----------------|------------------|
| | | FTE | AMOUNT | FTE | AMOUNT | FTE | AMOUNT |
| SUPPORT SERVICE FUND | | | | | | | |
| Finance & Management Information | | | | | | | |
| Personal Services | | | | | | | |
| 511221 SALARIES-REGULAR EMPLOYEES (full time) | | | | | | | |
| | Directors | 1.00 | 69,763 | 0 | 1.00 | 69,763 | |
| | Data Processing Administrator | 1.00 | 53,078 | 0 | 1.00 | 53,078 | |
| | Chief Accountant | 1.00 | 57,441 | 0 | 1.00 | 57,441 | |
| | Management Analyst Supervisor | 1.00 | 46,795 | 0 | 1.00 | 46,795 | |
| | Sr. Management Analyst | 4.00 | 182,289 | 0 | 4.00 | 182,289 | |
| | Assoc. Management Analyst | 3.00 | 103,349 | 0 | 3.00 | 103,349 | |
| | Asst. Management Analyst | 2.00 | 54,283 | 0 | 2.00 | 54,283 | |
| | D.P. Systems Analyst | 3.00 | 110,219 | 0 | 3.00 | 110,219 | |
| | D.P. Computer Programmer | 1.00 | 31,445 | 0 | 1.00 | 31,445 | |
| | Administrative Assistant | 1.00 | 28,500 | 0 | 1.00 | 28,500 | |
| | Senior Accountant | 3.00 | 116,920 | 0 | 3.00 | 116,920 | |
| 511221 WAGES-REGULAR EMPLOYEES (full time) | | | | | | | |
| | D.P. Computer Operator | 1.00 | 28,608 | 0 | 1.00 | 28,608 | |
| | D.P. Computer Technician | 1.00 | 25,970 | 0 | 1.00 | 25,970 | |
| | Administrative Secretary | 1.00 | 21,350 | 0 | 1.00 | 21,350 | |
| | Secretary | 2.00 | 43,166 | 0 | 2.00 | 43,166 | |
| | Lead Accounting Clerk | 1.00 | 23,548 | 0 | 1.00 | 23,548 | |
| | Reproduction Clerk | 1.00 | 25,870 | 0 | 1.00 | 25,870 | |
| | Accounting Clerk 2 | 4.00 | 82,358 | 0 | 4.00 | 82,358 | |
| | Accounting Clerk 1 | 3.00 | 54,849 | 0 | 3.00 | 54,849 | |
| | Office Assistant | 1.00 | 15,956 | 0 | 1.00 | 15,956 | |
| | Operations Utility Worker | 1.00 | 19,268 | 0 | 1.00 | 19,268 | |
| 511235 WAGES-TEMPORARY EMPLOYEES (part time) | | | | | | | |
| | Temporary Administrative Support | 1.00 | 18,683 | 0 | 1.00 | 18,683 | |
| 511400 OVERTIME | | | | | | | |
| | | 0.00 | 4,074 | 0 | 0.00 | 4,074 | |
| 512000 FRINGE | | | | | | | |
| | | 0.00 | 413,364 | 0 | 0.00 | 413,364 | |
| Total Personal Services | | 38.00 | 1,631,146 | 0.00 | 0 | 38.00 | 1,631,146 |

Materials & Services

| | | | | |
|--------|--|---------|---|---------|
| 521100 | Office Supplies | 63,119 | 0 | 63,119 |
| 521110 | Computer Software | 17,090 | 0 | 17,090 |
| 521260 | Printing Supplies | 50,000 | 0 | 50,000 |
| 521291 | Small Tools | 840 | 0 | 840 |
| 521310 | Subscriptions | 3,558 | 0 | 3,558 |
| 521320 | Dues | 2,645 | 0 | 2,645 |
| 521540 | Maintenance & Repairs Supplies-Equipment | 500 | 0 | 500 |
| 524110 | Accounting & Auditing Services | 110,000 | 0 | 110,000 |
| 524190 | Misc. Professional Services | 139,400 | 0 | 139,400 |
| 524210 | Data Processing Services | 18,000 | 0 | 18,000 |
| 524310 | Management Consulting Services | 8,000 | 0 | 8,000 |

**EXHIBIT A
ORDINANCE NO. 91-432**

| ACCT # | DESCRIPTION | CURRENT BUDGET | | REVISION | | PROPOSED BUDGET | |
|---|--|----------------|------------------|-------------|---------------|-----------------|------------------|
| | | FTE | AMOUNT | FTE | AMOUNT | FTE | AMOUNT |
| SUPPORT SERVICE FUND | | | | | | | |
| Finance & Management Information (continued) | | | | | | | |
| 525640 | Maintenance & Repairs Services-Equipment | | 135,620 | | 0 | | 135,620 |
| 525710 | Equipment Rental | | 500 | | 0 | | 500 |
| 526200 | Ads & Legal Notices | | 750 | | 0 | | 750 |
| 526310 | Printing Services | | 3,735 | | 0 | | 3,735 |
| 526410 | Telephone | | 1,500 | | 0 | | 1,500 |
| 526420 | Postage | | 80,000 | | 0 | | 80,000 |
| 526440 | Delivery Services | | 850 | | 0 | | 850 |
| 526500 | Travel | | 18,360 | | 0 | | 18,360 |
| 526700 | Temporary Help Services | | 4,700 | | 0 | | 4,700 |
| 526800 | Training, Tuition, Conferences | | 16,720 | | 0 | | 16,720 |
| 526900 | Misc Other Purchased Services | | 15,150 | | 0 | | 15,150 |
| 529500 | Meetings | | 450 | | 0 | | 450 |
| 529800 | Miscellaneous | | 900 | | 0 | | 900 |
| 525740 | Capital Lease Payments-Furniture & Equipment | | 265,033 | | 0 | | 265,033 |
| Total Materials & Services | | | 957,420 | | 0 | | 957,420 |
| Capital Outlay | | | | | | | |
| 571500 | Purchases-Office Furniture & Equipment | | 54,770 | | 26,057 | | 80,827 |
| Total Capital Outlay | | | 54,770 | | 26,057 | | 80,827 |
| TOTAL EXPENDITURES | | 38.00 | 2,643,336 | 0.00 | 26,057 | 38.00 | 2,669,393 |

EXHIBIT A
ORDINANCE NO. 91-432

| ACCT # | DESCRIPTION | CURRENT BUDGET | | REVISION | | PROPOSED BUDGET | |
|---|--|----------------|------------------|-----------------|----------|-----------------|------------------|
| | | FTE | AMOUNT | FTE | AMOUNT | FTE | AMOUNT |
| SUPPORT SERVICE FUND | | | | | | | |
| General Expenses | | | | | | | |
| Interfund Transfers | | | | | | | |
| 581513 | Trans. Indirect Costs to Bldg. Fund | | 314,646 | 0 | | | 314,646 |
| 581615 | Trans. Indirect Costs to Insur. Fund-Gen'l | | 47,177 | 0 | | | 47,177 |
| 581615 | Trans. Indirect Costs to Insur. Fund-Workers' Comp | | 54,245 | 0 | | | 54,245 |
| Total Interfund Transfers | | | 416,068 | | 0 | | 416,068 |
| Contingency and Unappropriated Balance | | | | | | | |
| 599999 | Contingency | | | | | | |
| | * General | | 251,780 | (26,057) | | | 225,723 |
| | * Builders License | | 7,848 | 0 | | | 7,848 |
| Total Contingency and Unappropriated Balance | | | 259,628 | (26,057) | | | 233,571 |
| TOTAL EXPENDITURES | | 78.10 | 5,825,205 | 0.00 | 0 | 78.10 | 5,825,205 |

EXHIBIT B
ORDINANCE NO. 91-432
SCHEDULE OF APPROPRIATIONS

| SUPPORT SERVICES FUND | CURRENT APPROPRIATION | REVISION | PROPOSED APPROPRIATION |
|---|--------------------------|-----------------|---------------------------|
| Finance & Administration | | | |
| Personal Services | 1,631,146 | 0 | 1,631,146 |
| Materials & Services | 957,420 | 0 | 957,420 |
| Capital Outlay | 54,770 | 26,057 | 80,827 |
| Subtotal | 2,643,336 | 26,057 | 2,669,393 |
| Regional Facilities | | | |
| Personal Services | 444,211 | 0 | 444,211 |
| Materials & Services | 317,966 | 0 | 317,966 |
| Capital Outlay | 40,500 | 0 | 40,500 |
| Subtotal | 802,677 | 0 | 802,677 |
| Personnel | | | |
| Personal Services | 433,555 | 0 | 433,555 |
| Materials & Services | 62,310 | 0 | 62,310 |
| Capital Outlay | 1,227 | 0 | 1,227 |
| Subtotal | 497,092 | 0 | 497,092 |
| Office of General Counsel | | | |
| Personal Services | 367,530 | 0 | 367,530 |
| Materials & Services | 19,544 | 0 | 19,544 |
| Capital Outlay | 2,955 | 0 | 2,955 |
| Subtotal | 390,029 | 0 | 390,029 |
| Public Affairs | | | |
| Personal Services | 672,850 | 0 | 672,850 |
| Materials & Services | 136,040 | 0 | 136,040 |
| Capital Outlay | 7,485 | 0 | 7,485 |
| Subtotal | 816,375 | 0 | 816,375 |
| General Expense | | | |
| Interfund Transfers | 416,068 | 0 | 416,068 |
| Contingency | 259,628 | (26,057) | 233,571 |
| Subtotal | 675,696 | (26,057) | 649,639 |
| Total Support Services Fund Requirements | 5,825,205 | 0 | 5,825,205 |

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

Meeting Date: October 24, 1991
Agenda Item No. 6.1

ORDINANCE NO. 91-411



METRO

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

Memorandum

DATE: October 17, 1991

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 6.1; ORDINANCE NO. 91-411

The Council agenda will be printed before the Finance Committee meets to consider Ordinance No. 91-411. Finance Committee reports will be distributed in advance to Councilors and available at the Council meeting October 24.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 91-411 AMENDING
CHAPTER 2.09, BUILDERS BUSINESS LICENSE PROGRAM OF THE
METRO CODE

Date: July 19, 1991

Presented by: Neil Saling

FACTUAL BACKGROUND AND ANALYSIS

Since the inception of The Metropolitan Service District's Builder's Business License program on July 1, 1988, Legislative changes had been enacted that significantly altered the program. These changes have not been reflected in Chapter 2.09 of the Metro Code.

The first change altered the original formula for distribution of business license fees to participating cities: the second Legislative change to the program expanded coverage to Landscape Contractor's: the third Legislative change will be reflected in ORS Chapter 701 which henceforth will refer to Builder's as Contractor's.

This resolution will reflect the Law changes that have occurred to this program, and will also eliminate one section requiring a duplicate license fee for replacing a lost license.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-411.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
CHAPTER 2.09, BUILDER'S)
BUSINESS LICENSE PROGRAM OF)
THE METRO CODE)

ORDINANCE NO. 91-411
Introduced by Rena Cusma,
Executive Officer

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Chapter 2.09 of the Metro Code is hereby amended
as follows:

CHAPTER 2.09

BUILDER'S ~~CONTRACTOR'S~~ BUSINESS LICENSE PROGRAM

SECTIONS:

| | |
|---------------------|---|
| 2.08-09.010 | Purpose and Authority |
| 2.09.020 | Definitions |
| 2.09.030 | Eligibility and License Issuance |
| 2.09.040 | Denial of Issuance |
| 2.09.050 | Exemptions |
| 2.09.060 | License Applicability |
| 2.09.070 | Application for License |
| 2.09.080 | Application Contents |
| 2.09.090 | Validity of the License |
| 2.09.100 | Fee |
| 2.09.110 | License |
| 2.09.120 | Replacement License |
| 2.09.130 120 | Renewal |
| 2.09.140 130 | Revocation |
| 2.09.150 140 | Appeal of a Revoked License or Denied Application |
| 2.09.160 150 | Penalty |
| 2.09.170 160 | Distribution of Fees |
| 2.09.180 170 | Regulations |
| 2.09.190 180 | Operative Date |
| 2.09.200 | Effective Date |

Section 2. Section 2.08-09.010 is hereby amended as
follows:

"2.08.09.010 Purpose and Authority:

(a) The purpose of this Ordinance is to provide a procedure for the District to issue ~~Builder's~~ Contractor's Business License, establish a fee for the license, and distribute to participating jurisdictions the fees collected by the District.

(b) The authority for the Metropolitan Service District to issue ~~Builder's~~ Contractor's Business License, establish requirements for the issuance of the license, charge a fee for the license, receive reimbursement for administrative expenses incurred in carrying out this program, determine the dollar amount of residential building permits issued within the District and distribute the fees to participating jurisdictions is granted by Oregon Revised Statutes 701.015.

Section 3. Section 2.09.20 is hereby amended as follows:

2.09.020 Definitions:

(a) "~~Builder~~" Contractor or "Landscape Contractor" has the meaning given under ORS ~~701.055~~, 701.005, and ORS 701.015(6)(d), respectively.

(b) "~~Builder's~~ Contractor Business License" means a document issued by the District to a ~~builder~~ contractor or landscape contractor that permits the ~~builder~~ contractor or landscape contractor to conduct business in participating jurisdictions.

(c) "~~Builder's~~ Contractor's Business License Fee" means any fee paid to the District for the issuance of a ~~Builder's~~ Contractor's Business License.

(d) "Business License Tax" means any fee paid by a builder contractor or landscape contractor to a city or county for any form of license that is required by the city or county to conduct business in that jurisdiction. The term does not include any franchise fee or privilege tax imposed by a participating jurisdiction upon a public utility under ORS 221.420 or 221.450 or any provision of a city charter.

(e) "Conducting Business" means to engage in any activity in pursuit of gain including activities carried on by a builder contractor or landscape contractor through officers, agents and employees as well as activities carried on by a builder contractor or landscape contractor on that builder's contractor's or landscape contractor's own behalf.

(f) "Participating Jurisdiction" means any city or county located wholly or partly within the boundaries of the District that has a requirement for a builder contractor or landscape contractor to obtain a business license to conduct business in that jurisdiction, and the fee for this license is not based on or measured by adjusted net income.

(g) "Principal Place of Business" means the location of the central administrative office in this state of a builder contractor or landscape contractor conducting business in this District.

(h) "Residential Building Permit" means any permit issued for the construction or alteration of a residential structure issued by a governing body authorized under ORS 455.150."

Section 4. Section 2.09.030 is hereby amended as follows:

"2.09.030 Eligibility and License Issuance: Any builder contractor or landscape contractor wishing to conduct business in any participating jurisdiction shall be issued a Builder's Contractor's Business License if subsections (a) and (b) are met by the builder contractor or landscape contractor:

~~(a) (1) Presents proof to the district that the builder has paid the business license tax imposed by each participating jurisdiction in which the builder has an office; or~~

(a) Presents proof to the District that the contractor or landscape contractor has paid the business license tax imposed by the city when:

(1) The principal place of business of the contractor or landscape contractor is within the city; or

~~(2) Presents proof that the builder has an office only outside the boundaries of a participating jurisdiction; and~~

(2) Presents proof that contractor or landscape contractor has paid the business tax imposed by city because the contractor or landscape contractor derives gross receipts of \$125,000 or more from business conducted within the boundaries of the city during the calendar year for which the business license tax is owed.

- (b) (1) Presents proof that ~~builder~~ ~~contractor~~ or ~~landscape contractor~~ is currently registered with the State of Oregon ~~Builder's Construction Contractor's Board~~, or the State of Oregon ~~Landscape Contractor's Board~~.
- (2) Completes an application as required by Section 2.09.070 of this chapter;
- (3) Pays the ~~Builder's Contractor's~~ Business License fee established in Section 2.09.100 of this chapter; and
- (4) Meets all other license requirements provided under this chapter."

Section 5. Section 2.09.040 is hereby amended as follows:
"2.09.040 Denial of Issuance:

(a) The District shall refuse to issue a license for any one of the following reasons:

- (1) Fraud, misrepresentation or false statement made in the applications at the time of application.
- (2) Failure to present proof at the time of application that the applicant has met all other license requirements provided under this chapter.
- (3) Failure to pay the ~~Builder's Contractor's~~ Business License fee established under Section 2.09.100 of this chapter.

(b) Notice of denial of a application shall be given in writing to the applicant setting forth the grounds of the denial.

Such notice shall be mailed to the applicant at the address that appears on the application for the license. This action of denial may be appealed as provided in Section 2.09.150 140 of this chapter."

Section 6. Section 2.09.050 is hereby amended as follows:

"2.09.050 Exemptions: ~~A builder that is required to be licensed by a city within the boundaries of the District that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city may not obtain and possess a Builder's Business License in lieu of that jurisdiction's business license tax or business license.~~

(a) A contractor or landscape contractor that is required to be licensed by a city within the boundaries of the District that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city may not obtain and possess a Contractor's Business License in lieu of that jurisdiction's business license tax or business license.

(b) Certain persons furnishing materials, improving personal property, owner builders, or persons otherwise licensed may be exempt from registration under this chapter under ORS 701.010.*

Section 7. Section 2.09.060 is hereby amended as follows:

"2.09.060 License Applicability:

(a) If a builder contractor or landscape contractor has paid any business license tax imposed by participating

jurisdictions in which the builder contractor or landscape contractor has an office the builder contractor or landscape contractor may apply for a Builder's Contractor's Business License from the District.

(b) If a builder contractor or landscape contractor has been issued a Builder's Contractor's Business License by the District, the builder contractor or landscape contractor may conduct business without any other business license in participating jurisdictions in which the builder:

- (1) Has no office;
- (2) Has not derived gross receipts of \$100,000 \$125,000 or more from business conducted within the boundary of the participating jurisdiction during the calendar year for which the business license is owed."

Section 8. Section 2.09.070 is hereby amended as follows:

"2.09.070 Application for License: To obtain a Builder's Contractor's Business License, a builder contractor or landscape contractor must make application in person or by mail to the District upon forms provided and prescribed by the District. The completed application shall be filed with the fee described in Section 2.09.100 of this chapter with the District before a builder contractor or landscape contractor is issued a Builder's Contractor's Business License."

Section 9. Section 2.09.080 is hereby amended as follows:

"2.09.080 Application Contents: Each application for a ~~Builder's~~ Contractor's Business License received by the District shall contain:

- (a) The name of the business making application.
- (b) The name of a contact person in the business.
- (c) The address of the principal place of business.
- (d) The telephone number of the business.
- (e) State of Oregon ~~Builder's~~ Construction Contractor's Board registration number, or State Landscape Contractor's Board.
- (f) Date of application.
- (g) The signature of the ~~builder~~ contractor or landscape contractor making the application.
- (h) Such other information as the District shall determine."

Section 10. Section 2.09.090 is hereby amended as follows:

"2.09.090 Validity of the License:

(a) The license shall be valid from the date of issuance to the ~~day immediately preceding the date of issuance in the following year.~~ first day of the month in the following year; if issued after the middle of any month, the license shall be valid to the first day of the of the following month of that year. The license shall not be issued for a portion of a year.

(b) Before the expiration of the ~~Builder's~~ Contractor's Business License, the District shall notify the ~~builder~~

~~contractor or landscape contractor~~ to whom the license was issued of the approaching expiration. Within 90 days prior to the expiration date, the notice shall be mailed to the builder ~~contractor or landscape contractor~~ to whom the license was issued at the address shown on the original application for the license maintained by the District.

(c) The District is not required to notify the builder ~~contractor or landscape contractor~~ of an approaching expiration if the builder's ~~contractor's or landscape contractor's~~ license has been revoked under Section 2.09.140 ~~130~~ of this chapter, or if the builder ~~contractor or landscape contractor~~ has failed to notify the District of a change of address."

Section 11. Section 2.09.100 is hereby amended as follows:
"2.09.100 Fee: The fee to be paid by any builder ~~contractor or landscape contractor~~ for a ~~Builder's Contractor's~~ Business License is \$110 and is non-refundable."

Section 12. Section 2.09.110 is hereby amended as follows:
"2.09.110 License: Each ~~Builder's Contractor's~~ Business License issued under this chapter shall state upon its face the following:

- (a) The name of the licensee.
- (b) The address of the licensee.
- (c) A unique license number established by the District.
- (d) The date of issuance.
- (e) The date of expiration.

(f) Such other information as the District shall determine."

Section 13. Section 2.09.120 is hereby deleted:

~~"2.09.120 Replacement License:~~

~~(a) A replacement Builder's Business License shall be issued upon receipt by the District of a completed application for a replacement license and payment of a \$20 fee to replace any otherwise valid license previously issued which has been lost, destroyed or mutilated. The expiration date for the replacement license shall be the same date as provided on the original license issued to the builder.~~

~~(b) Each application for a replacement shall contain:~~

- ~~(1) The name of the business making application.~~
- ~~(2) The name of a contact person in the business.~~
- ~~(3) The address of the principal place of business.~~
- ~~(4) The telephone number of the business.~~
- ~~(5) State of Oregon Builder's Board registration number.~~
- ~~(6) Date of application.~~
- ~~(7) Such other information as the District shall determine.~~

~~(Ordinance No. 88-248, Sec. 1)~~

Section 14. Section 2.09.130 ~~120~~ is hereby amended as follows:

"2.09.130 120 Renewal: Each ~~builder~~ ~~contractor or landscape contractor~~ requesting renewal of a license must make application, as described in Section 2.09.070 of this chapter, to the District upon forms provided and prescribed by the District. The completed application for renewal of the ~~Builder's~~ ~~Contractor's~~ Business License shall be filed with the fee described in Section 2.09.100 of this chapter with the District before a renewal license is issued."

Section 15. Section 2.09.140 is hereby amended as follows:

"2.09.140 130 Revocation:

(a) A license issued under this chapter may be revoked by the District, after notice, for any of the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for the license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying out the licensed activity.
- (3) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
- (4) Failure to comply with the ordinances and resolutions of a jurisdiction within the boundaries of the District in which the license holder is conducting business authorized by this license.

(b) Notice of revocation of a license shall be given in writing to the licensee setting forth the grounds of the complaint. Such notice shall be mailed by certified mail at least ten (10) working days before the date of revocation to the licensee at the address that appears on the application for the license being revoked. Revocation shall be effective ten (10) working days after notice of revocation."

Section 16. Section 2.09.~~150~~ ~~140~~ is hereby amended as follows:

"2.09.~~150~~ ~~140~~ Appeal of a Revoked License or Denied Application:

Any ~~builder contractor or landscape contractor~~ aggrieved by the action of the District in denying an application for or revocation of a ~~Builder's Contractor's~~ Business License is entitled to appeal action under the provisions of Metro Code Chapter 2.05."

Section 17. Section 2.09.~~160~~ ~~150~~ is hereby amended as follows:

"2.09.~~160~~ ~~150~~ Penalty: Any ~~builder contractor or landscape contractor~~ who fails to comply with or violates any provision of this Chapter is subject to penalties under Section 1.01.110 of this Code. In the event that a provision of this Chapter is violated by a firm or corporation, the officer or ~~builder contractor or landscape contractor~~ responsible for the violation shall be subject to the penalty provided in Section 1.01.110 of this Code."

Section 18. Section 2.09.~~170~~ 160 is hereby amended as follows:

"2.09.~~170~~ 160 Distribution of Fees: The District shall distribute the ~~Builder's~~ Contractor's Business License fees collected by the District under this chapter to participating jurisdictions after the District has received reimbursement for administrative expenses incurred in carrying out the provisions of this chapter. At least once a year, each participating jurisdiction shall receive a share of the ~~Builder's~~ Contractor's Business License fees collected by the District based on a ratio of the ~~total of the dollar amount~~ number of residential building permits issued by ~~all~~ each participating jurisdictions to the total ~~dollar amount~~ number of residential building permits issued during that year by ~~each~~ all participating jurisdictions."

Section 19. Section 2.09.~~180~~ 170 is hereby amended as follows:

"2.09.~~180~~ 170 Regulations: The Executive Officer may establish such other ~~Builder's~~ Contractor's Business License regulations, not inconsistent with this chapter, as may be necessary and expedient."

Section 20. Section 2.09.~~190~~ 180 is hereby amended as follows:

"2.09.~~190~~ 180 Operative Date: For the purpose of administering this program, entering into intergovernmental agreements with participating jurisdictions, collecting fees and issuing licenses, this ordinance is operative immediately upon passage."

Section 21. Section 2.09.200 is hereby deleted:

~~"2.09.200 Effective Date: No Builder's Business License shall
be effective before July 1, 1988."~~

~~(Ordinance No. 88-248, Sec. 1)~~

Adopted by the Council of the Metropolitan Service District
this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

Meeting Date: October 24, 1991
Agenda Item No. 6.2

ORDINANCE NO. 91-393A

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 91-393A, FOR THE PURPOSE OF AMENDING ORDINANCE NO. 88-266B ADOPTING THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO IDENTIFY OPTIONS FOR IMPLEMENTING LOCAL GOVERNMENT FACILITY SITING STANDARDS

Date: October 16, 1991

Presented by: Councilor Gardner

Committee Recommendation: At the October 15 meeting, the Committee voted unanimously to recommend Council adoption of Ordinance No. 91-393A. Voting in favor: Councilors DeJardin, Gardner, McFarland, McLain and Wyers.

Committee Issues/Discussion: Ordinance No. 91-393A would amend the Regional Solid Waste Management Plan (RSWMP) to provide procedures and options for local adoption of clear and objective siting standards for solid waste facilities. The ordinance was considered by the Solid Waste Committee at meetings in April and May in conjunction with the adoption of a model siting ordinance for the siting of solid waste facilities in local jurisdictions (Resolution No. 91-1415). Legal and drafting questions concerning the resolution and model ordinance raised subsequent to these meetings resulted in the rereferral of the ordinance to the committee. The ordinance and the model siting ordinance have been amended to address these issues.

Committee discussion focused on the need to make minor additional amendments to the proposed RSWMP changes. Committee staff noted that two amendments previously approved by the committee had not been included in the revised documents submitted for committee consideration. In addition, Rich Carson, Planning Director, noted the need for two additional amendments, one to clarify intent and one to correct a typographical omission.

As a result, the committee adopted the following amendments:

1) In the "Policy Implementation" section dealing with intergovernmental agreements, the second sentence should read, "The basis for Metro determining that no sites are available for such facilities would be local findings and conclusions ..."

2) In the "Policy Implementation" section dealing with the implementation process a new sentence is added which provides that "If adoption of other clear and objective standards in addition to or in lieu of those in the model ordinance are proposed, findings and conclusions supporting the use of such other standards will be provided to Metro by the local government." The intent of this language is to allow Metro to review and comment on such alternative proposals early in the development process.

3) In the "Policy Implementation" section dealing with the implementation process, the fourth sentence would be revised to read: "Local implementation of the policy [may] will occur before or during the comprehensive plan periodic review process." The intent of this change is to set a time certain when compliance with requirements of the RSWMP Chapter must be completed by each local government in the region.

Committee members generally agreed that these amendments responded to concerns raised during earlier committee consideration of the ordinance.

Councilor Wyers asked Mr. Carson if he felt if the ordinance had adequate "teeth" to insure compliance by local governments. Carson responded that the requirements of the ordinance would be workable and enforceable.



METRO

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

Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: October 9, 1991

Re: Ordinance No. 91-393A, For the Purpose of Amending Ordinance No. 88-266B adopting the Regional Solid Waste Management Plan to Identify Options For Implementing Local Government Facility Siting Standards

Ordinance No. 91-393A is scheduled to be considered by the committee at the October 15 meeting.

Background

Ordinance No. 91-393A would amend the Regional Solid Waste Management Plan (RSWMP) to provide procedures and options for local adoption of clear and objective siting standards for solid waste facilities. The ordinance was considered by the committee at meetings in April and May in conjunction with the adoption of a model siting ordinance for the siting of solid waste facilities in local jurisdictions (Resolution No. 91-1415). Legal and drafting questions raised subsequent to these meetings resulted in the rereferral of the ordinance to the committee. The ordinance and the model siting ordinance have been amended to address these issues.

Issues and Questions

The committee may wish to address the following issues and questions concerning the ordinance:

1) The committee made two amendments to the original proposed RSWMP changes. These amendments were inadvertently not included in the proposed changes filed by staff for reconsideration by the committee. The amendments are:

On page 4 of the "RSWMP Chapter 16 Proposed Amendments, dated 10-1-91", on the first line, the sentence should read, "The basis for Metro determining that no sites are"

On page 5 of the proposed amendments, on line 6, the sentence should read, "Local implementation of the policy [may] shall occur before or during the comprehensive plan periodic process."

The committee should consider reviewing the rationale behind the amendments and readopting them.

2) Staff has added an additional amendment to the ordinance. On the bottom of page 4 and the top of page 5, a sentence has been added to provide that if the local jurisdiction intends to adopt standards in addition to or in lieu of those in the model ordinance, they must provide supporting findings and conclusions to Metro prior to adoption. The committee may wish to ask staff to explain the intent and effect of this language.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|--|---|-----------------------|
| FOR THE PURPOSE OF AMENDING |) | ORDINANCE NO. 91-393A |
| ORDINANCE NO. 88-266B ADOPTING |) | |
| THE REGIONAL SOLID WASTE MANAGEMENT |) | Introduced by |
| PLAN TO IDENTIFY OPTIONS FOR |) | Rene Cusma |
| IMPLEMENTING LOCAL GOVERNMENT FACILITY |) | Executive Officer |
| SITING STANDARDS |) | |

WHEREAS, Metropolitan Service District Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan as a functional plan; and

WHEREAS, There is a need to clarify how a city or county may implement Policy 16.2 of the Plan to provide appropriate zoning for siting solid waste facilities; now therefore;

THE COUNCIL OF THE 'METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That the Regional Solid Waste Management Plan is amended as shown in Exhibit A to this ordinance.
2. That Chapter 16 of the Regional Solid Waste Management Plan (Local Government Solutions) as amended by Exhibit A shall supersede and take precedence over any prior ordinance or resolution previously adopted that are inconsistent with its provisions.

ADOPTED by the Council of the Metropolitan Service District on the _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

ATTACHMENT "A"

CHAPTER 16 - LOCAL GOVERNMENT SOLUTIONSPOLICIES

- 16.0 The implementation of the solid waste management plan shall give priority to solutions developed at the local level that are consistent with all plan policies.
- 16.1 Each local government shall exercise its responsibilities for solid waste solutions in its area, in ways consistent with the regional plan.
- 16.2 Each local government shall provide appropriate zoning to allow planned solid waste facilities or enter into intergovernmental agreements with others to assure such zoning. Whether by outright permitted use, conditional use or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities.

* * * * *

PURPOSE INTRODUCTION

Oregon's Statewide Planning Goal No. 11 (Public Facilities and Services), established per ORS Chapter 197, requires that all local governments provide for solid waste disposal sites in their comprehensive land use plans in order to meet current and long-range needs. The Regional Solid Waste Management Plan includes a policy framework developed through a regional decision-making process which establishes the means to satisfy Goal 11 requirements.

BACKGROUND/ANALYSIS

Policy 16.0 recognizes the significant role that local jurisdictions perform in implementing the regional plan. Cities and counties have the responsibility for solid waste collection. They also are responsible for administering local land use provisions which regulate siting of needed solid waste facilities. Policy 16.0 recognizes that cities and counties are closest to both local industry and citizen constituents and, therefore, prioritizes city and county solutions that will ensure effective design and operation of programs established by the Regional Solid Waste Management Plan.

Successful implementation of the Pplan requires commitment to do so by the cities and counties. That commitment is established through Policies 16.1 and 16.2. Policy 16.1 requires each local government to participate in the programs established by the Plan. Policy 16.2 defines that commitment, in part, by requiring each city and county to provide appropriate zoning to allow siting of solid waste facilities within its boundaries.

~~It is recognized that existing zoning in cities and counties may permit solid waste facilities either as an outright permitted use or as a conditional use. However, it will be desirable for local jurisdictions to work cooperatively, both among themselves and with Metro to establish clear and objective zoning standards for solid waste facilities.~~

~~As a starting point to carry out Policy 16.2, the solid waste Facilities/Zoning Matrix in this chapter lists the existing zoning districts in which operational solid waste facilities are located by facility type. The matrix is derived from Appendix E of the Solid Waste Management Plan Inventory, an informational appendix to the plan. Many types of facilities are located in industrial, transitional timber and exclusive farm use zones, but some facilities are also located in commercial, residential, and public works districts. Section IV of the Inventory describes the existing facilities and notes that surrounding land uses range from industrial, agricultural and forestry to commercial and residential.~~

The operational characteristics and size of solid waste facilities are the principal determinants of the appropriate zone in which to locate solid waste facilities. Establishment of clear and objective zoning standards will control how facilities may be physically located in relation to surrounding uses on appropriate sites. Potential external effects of siting solid waste facilities include litter, noise, and impact on transportation facilities that can be addressed by local jurisdictions through the land use process.

CONCLUSION

~~The attached matrix is provided as a starting point to assist local governments in carrying out Policy 16.2 of this Plan.~~

POLICY IMPLEMENTATION

Model Ordinance -- One option for local government implementation of Policy 16.2 is using the model ordinance for siting solid waste facilities. The model includes a siting process as well as clear and objective siting standards. Adapting the model for local use includes specifying in which zones solid waste facilities will be allowed and deciding which clear and objective standards will apply to such facilities. A local government may use its own process or develop its own clear and objective siting standards as long as local regulations do not effectively prohibit solid waste facilities.

Mitigation Agreements -- Under Policy 8.4 of this Plan, mitigation agreements are another option to implement Policy 16.2. This option simplifies amendment of local land use regulations to allow solid waste facilities. A local government may specify in which zones solid waste facilities will be allowed and sign a mitigation agreement with Metro specifying siting standards and mitigation measures applicable to such facilities. The siting standards in the model ordinance may be used as a basis for preparing clear and objective standards for inclusion in a mitigation agreement.

Intergovernmental Agreements -- An intergovernmental agreement with Metro may be used by a local government if there are no sites within the jurisdiction appropriate for one or more types of solid

waste facilities. The basis for Metro determining that no sites are available for such facilities would be local findings and conclusions based on this Plan, state or federal regulations, local comprehensive plan land use designations, and/or solid waste facility locational criteria. The local government would adopt clear and objective zoning provisions and/or use a mitigation agreement for other types of solid waste facilities which are not subject to an intergovernmental agreement with Metro.

Technical Assistance -- Metro will prepare and update, as needed, the following materials as technical appendices to this Plan: A model ordinance for siting solid waste facilities, a model mitigation agreement, a model intergovernmental agreement, guidelines for using these models, solid waste facility locational criteria, and other materials. Metro will provide assistance, upon request, to local governments in their efforts to implement Policy 16.2. Assistance will include preparation and distribution of technical materials, training and other services.

Implementation Process -- Local governments will provide copies of proposed solid waste facility mitigation or intergovernmental agreements or zoning provisions to Metro before entering into such agreements or before hearings are held on adoption of such provisions. If adoption of other clear and objective standards in addition to or in lieu of those in the model ordinance are proposed, findings and conclusions supporting the use of such

other standards will be provided to Metro by the local government.
Metro staff will review the materials and provide comments
consistent with the policies of this Plan. Metro review and
comment early in the process is intended to identify potential
problems before a local government takes final action to implement
Policy 16.2. Local implementation of the policy will occur before
or during the comprehensive plan periodic review process.
Implementation would also be timely when a major effort to revise
local land use regulations is initiated by a local government. The
Director of Metro's Planning and Development Department will
provide written notification to each local government that it is in
compliance with Policy 16.2 upon finding that all actions necessary
to implement Policy 16.2 have been completed by the local
government.

Monitoring & Evaluation -- Metro staff will monitor and evaluate
implementation of Policy 16.2 and prepare an annual status report.
The report will summarize what actions were taken in the previous
year by Metro, local governments, and others to implement the
policy. The report will also include a summary of actions
anticipated in the coming year to implement Policy 16.2. This
annual evaluation and local government implementation process will
be conducted consistent with the provisions of Chapter 14 of this
Plan.

SOLID WASTE FACILITIES/ZONING MATRIX¹

Zoning Districts in which Existing Facilities Located

| Types of Solid Waste Facilities | HI | GI | LI | CC | RES | TT | EFU | PWS |
|-----------------------------------|----|----|----|----|-----|----|-----|-----|
| Transfer Stations | X | X | X | | | X | X | X |
| Material Recovery | X | X | | X | X | X | X | |
| Yard Debris Processing | | X | | | X | | | |
| Lumber By Product Processing | | X | | | | | | |
| Low Grade Waste Disposal | | | | | | X | X | X |
| Hazardous Waste Facilities | | | | | | | | |
| Mixed Waste Composting Facilities | | | | | | X | | |
| Energy Recovery Facilities | | | | | | | X | |

- HI = Heavy Industrial
- GI = General Industry/Manufacturing
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ATTACHMENT "A"

CHAPTER 16 - LOCAL GOVERNMENT SOLUTIONS

POLICIES

- 16.0 The implementation of the solid waste management plan shall give priority to solutions developed at the local level that are consistent with all plan policies.
- 16.1 Each local government shall exercise its responsibilities for solid waste solutions in its area, in ways consistent with the regional plan.
- 16.2 Each local government shall provide appropriate zoning to allow planned solid waste facilities or enter into intergovernmental agreements with others to assure such zoning. Whether by outright permitted use, conditional use or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities.

* * * * *

PURPOSE

Oregon's Statewide Planning Goal No. 11 (Public Facilities and Services), established per ORS Chapter 197, requires that all local governments provide for solid waste disposal sites in their comprehensive land use plans in order to meet current and long-range needs. The Regional Solid Waste Management Plan includes a policy framework developed through a regional decision-making process which establishes the means to satisfy Goal 11 requirements.

BACKGROUND/ANALYSIS

Policy 16.0 recognizes the significant role that local jurisdictions perform in implementing the regional plan. Cities and counties have the responsibility for solid waste collection. They also are responsible for administering local land use provisions which regulate siting of needed solid waste facilities. Policy 16.0 recognizes that cities and counties are closest to both local industry and citizen constituents and, therefore, prioritizes city and county solutions that will ensure effective design and operation of programs established by the Regional Solid Waste Management Plan.

Successful implementation of the Plan requires commitment to do so by the cities and counties. That commitment is established through Policies 16.1 and 16.2. Policy 16.1 requires each local government

to participate in the programs established by the Plan. Policy 16.2 defines that commitment, in part, by requiring each city and county to provide appropriate zoning to allow siting of solid waste facilities within its boundaries.

The operational characteristics and size of solid waste facilities are the principal determinants of the appropriate zone in which to locate solid waste facilities. Establishment of clear and objective zoning standards will control how facilities may be physically located in relation to surrounding uses on appropriate sites. Potential external effects of siting solid waste facilities include litter, noise, and impact on transportation facilities that can be addressed by local jurisdictions through the land use process.

POLICY IMPLEMENTATION

Model Ordinance -- One option for local government implementation of Policy 16.2 is using the model ordinance for siting solid waste facilities. The model includes a siting process as well as clear and objective siting standards. Adapting the model for local use includes specifying in which zones solid waste facilities will be allowed and deciding which clear and objective standards will apply to such facilities. A local government may use its own process or develop its own clear and objective siting standards as long as local regulations do not effectively prohibit solid waste facilities.

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* * * * *

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~~As a starting point to carry out Policy 16.2, the solid waste Facilities/Zoning Matrix in this chapter lists the existing zoning districts in which operational solid waste facilities are located by facility type. The matrix is derived from Appendix E of the Solid Waste Management Plan Inventory, an informational appendix to the plan. Many types of facilities are located in industrial, transitional timber and exclusive farm use zones, but some facilities are also located in commercial, residential, and public works districts. Section IV of the Inventory describes the existing facilities and notes that surrounding land uses range from industrial, agricultural and forestry to commercial and residential.~~

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Monitoring & Evaluation -- Metro staff will monitor and evaluate implementation of Policy 16.2 and prepare an annual status report. The report will summarize what actions were taken in the previous year by Metro, local governments, and others to implement the policy. The report will also include a summary of actions anticipated in the coming year to implement Policy 16.2. This annual evaluation and local government implementation process will be conducted consistent with the provisions of Chapter 14 of this Plan.

SOLID WASTE FACILITIES/ZONING MATRIX¹

Zoning Districts in which Existing Facilities Located

| Types of Solid Waste Facilities | HI | GI | LI | GC | RES | TT | EFU | PWS |
|-----------------------------------|----|----|----|----|-----|----|-----|-----|
| Transfer Stations | X | X | X | | | X | X | X |
| Material Recovery | X | X | | X | X | X | X | |
| Yard Debris Processing | | X | | | X | | | |
| Lumber By-Product Processing | | X | | | | | | |
| Low-Grade Waste Disposal | | | | | | X | X | X |
| Hazardous Waste Facilities | | | | | | | | |
| Mixed Waste Composting Facilities | | | | | | X | | |
| Energy Recovery Facilities | | | | | | | X | |

- HI - Heavy Industrial
- GI - General Industry/Manufacturing
- LI - Light Industry/Manufacturing
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¹ Condensed from Appendix E of the Solid Waste Management Plan Inventory. This information is provided as an indicator of the variety of zoning districts in which existing solid waste facilities are located that serve the Metro region. It should not be construed as a recommended facilities/zoning compatibility matrix or policy.

STAFF REPORT

PROPOSED REVISION TO CHAPTER 16 OF THE REGIONAL SOLID WASTE
MANAGEMENT PLAN FOR THE PURPOSE OF CLARIFYING INFORMATIONAL
REQUIREMENTS FOR LOCAL ADOPTION OF CLEAR AND OBJECTIVE SITING
STANDARDS FOR SOLID WASTE FACILITIES

October 1, 1991

By: Richard Carson
Becky Crockett

BACKGROUND

On April 2, 1991, the Council Solid Waste Committee recommended adoption of Ordinance No. 91-393A. It would amend Chapter 16 of the Regional Solid Waste Management Plan to identify options for implementing local government facility siting standards. Final action was postponed by the Council in order to allow revisions to be made to the model ordinance for siting solid waste facilities.

The Solid Waste Policy and Technical Committees and the Land Use Subcommittee have recommended approval of the revised model ordinance as well as the following additional sentence to page 4 of the proposed revisions to Chapter 16 of the Regional Solid Waste Management Plan:

If adoption of other clear and objective standards in addition to or lieu of those in the model ordinance are proposed, findings and conclusions supporting the use of such other standards will be provided to Metro by the local government.

The intent is not to preclude the adoption of "other" clear and objective standards but to provide clarification to Metro concerning why such standards have been proposed.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 91-393A and inclusion of the proposed revision to Chapter 16 of the Regional Solid Waste Management Plan and as given in Attachment "A".

ch16rev3.hsm

Meeting Date: October 24, 1991
Agenda Item No. 7.1

RESOLUTION NO. 91-1415A

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1415A, FOR THE PURPOSE OF RECOGNIZING THE MODEL SOLID WASTE FACILITY SITING ORDINANCE AS MEETING THE REQUIREMENTS OF CHAPTER 16 OF THE REGIONAL SOLID WASTE MANAGEMENT PLAN

Date: October 16, 1991

Presented by: Councilor DeJardin

Committee Recommendation: At the October 15 meeting, the Committee voted unanimously to recommend Council adoption of Resolution No. 91-1415A. Voting in favor: Councilors DeJardin, Gardner, McFarland, McLain and Wyers.

Committee Issues/Discussion: Resolution No. 91-1415A would adopt a model siting ordinance for the siting of solid waste facilities. A local jurisdiction would be in compliance with Chapter 16 of the Regional Solid Waste Management Plan (RSWMP) relating to facility siting if it adopted the model ordinance.

The Solid Waste Committee approved an amended model ordinance at its May 7 meeting. But, prior to consideration by the full Council, the Office of General Counsel and Councilor Gardner raised several legal and drafting issues concerning the proposed model ordinance.

Councilor Gardner raised three issues: 1) the legality and appropriateness of the compliance "options" in the ordinance under which local jurisdictions would adopt several sets of DEQ administrative rules as a part of the siting process, 2) the relative level of flexibility that the ordinance would provide local jurisdictions to deny the siting of a facility, and 3) whether the ordinance would permit a jurisdiction to attach facility ownership criteria as a condition for siting approval. The Office of General Counsel shared Councilor Gardner's concern relating to the required adoption of DEQ standards under the ordinance and also requested time to prepare several technical and organizational amendments to the proposed ordinance.

As a result, the resolution was rereferred to the Solid Waste Committee.

The model ordinance has been substantially revised, including the following significant amendments:

1) Elimination of the compliance options that included adoption of various sets of DEQ administrative rules. The Office of General Counsel advised that requiring adoption of such rules would create a "double jeopardy" situation for applicants, administratively and legally blur the separate state and local approval processes, use state permit requirements to make a local

land use decision and create numerous opportunities for the appeal of local siting decisions.

2) Clearly provide that a local jurisdiction may not require a particular type of ownership as a condition for siting approval.

The committee requested the Office of General Counsel to review the nature of the amendments to the model ordinance. The committee felt comfortable with the technical and organizational amendments and Councilor Gardner indicated that the major amendments discussed above had addressed most of his earlier concerns.

To assist the Council in reviewing the historical development of the resolution, the agenda packet includes the following documents:

1) a memo from Karla Forsythe, dated March 29, providing background information and identifying potential discussion issues

2) a memo from Karla Forsythe, dated April 30, reviewing initial committee discussion of the resolution

3) a memo from Councilor Wyers, dated May 1, raising questions concerning the effect of the resolution on the siting of future solid waste facilities

4) the response of the Office of General Counsel to questions raised by Councilor Gardner relating to the "options" proposed in the ordinance and local restrictions on facility ownership

5) a memo from Todd Sadlo, Senior Assistant Counsel, outlining the amendments to the model ordinance and explaining the rationale behind removing the compliance "options" from the ordinance.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RECOGNIZING THE) RESOLUTION NO. 91-1415 A
MODEL SOLID WASTE FACILITY SITING)
ORDINANCE AS MEETING THE REQUIRE-) Introduced by Rena Cusma,
MENTS OF CHAPTER 16 OF THE REGIONAL) Executive Officer
SOLID WASTE MANAGEMENT PLAN)

WHEREAS, The Metropolitan Service District adopted Ordinance No. 88-266B, which adopted the Regional Solid Waste Management Plan; and

WHEREAS, Policy 16.2 of the Regional Solid Waste Management Plan states that "Each city and county shall provide appropriate zoning to allow planned solid waste facilities or enter into intergovernmental agreements with others to assure such zoning. Whether by outright permitted use, conditional use, or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities."; and

WHEREAS, A model solid waste facility siting ordinance has been developed by staff of the Metropolitan Service District and by a consultant team as one means to meet the intent of the Regional Solid Waste Management Plan, including Policy 16.2; and

WHEREAS, The model solid waste facility siting ordinance was extensively evaluated and revised as the result of reviews by the Land Use Subcommittee, the Solid Waste Technical Committee, the Solid Waste Policy Committee, as well as being circulated for comment to all city managers and planning directors of the cities and counties within the region, and circulated for comment to representatives of the solid waste industry; now, therefore,

BE IT RESOLVED,

1. The model solid waste facility siting ordinance attached hereto as Exhibit "A" conforms to the Regional Solid Waste Management Plan, including its policies, especially Policy 16.2.

2. A city or county that chooses to incorporate the provisions of the model solid waste facility siting ordinance into its zoning code shall be considered to have met the requirements of Policy 16.2 of the Regional Solid Waste Management Plan.

3. A city or county that adopts a substantially revised version of the model solid waste facility siting ordinance, or uses another means to satisfy Chapter 16 of the Regional Solid

Waste Management Plan will need to show that its approach meets the requirements of Policy 16.2, as provided in the Chapter.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

gl
1415

1 MODEL ORDINANCE
2 FOR
3 SITING SOLID WASTE FACILITIES
4
5

6 BEFORE THE [CITY COUNCIL/COUNTY COMMISSION] OF
7 [CITY/COUNTY], OREGON
8
9

10 AN ORDINANCE AMENDING THE)
11)
12 [ZONING ORDINANCE/COMMUNITY DEVELOPMENT]
13 CODE] OF [CITY/COUNTY], OREGON) ORDINANCE NO.
14 REGARDING THE SITING AND USE OF)
15 CERTAIN SOLID WASTE FACILITIES)
16
17

18 WHEREAS, [City/County] desires to provide for the siting of
19 certain solid waste facilities in a manner that protects the
20 environment and the health, safety and welfare of its citizens;
21 and
22

23 WHEREAS, [City/County] has adopted a comprehensive plan that
24 addresses solid waste facilities. It provides: [quote relevant
25 language from local Plan]; and
26

27 WHEREAS, the Metropolitan Service District Regional Solid Waste
28 Management Plan states that "each city and county shall provide
29 appropriate zoning to allow planned solid waste facilities or
30 enter into intergovernmental agreements with others to assure such
31 zoning. Whether by outright permitted use, conditional use or
32 otherwise, appropriate zoning shall utilize only clear and objec-
33 tive standards that do not effectively prohibit solid waste
34 facilities;" and
35

36 WHEREAS, [City/County] desires to fulfill its responsibility to
37 implement the Metro Regional Solid Waste Management Plan within
38 its jurisdiction; and
39

40 WHEREAS, [City/County] adopts the Findings and Conclusions in
41 Support of an Ordinance Regarding Solid Waste Facilities, attached
42 hereto and incorporated herein by reference;
43

44 NOW THEREFORE, The [name of governing body] ordains as follows:
45

46 **Contents**
47

48 Section 1. Solid Waste Facility Definitions
49 Section 2. General Definitions
50 Section 3. Solid Waste Facilities Allowed by Zone

| | | |
|---|------------|---|
| 1 | Section 4. | Approval Criteria and Development Standards |
| 2 | Section 5. | Application Contents |
| 3 | Section 6. | Review Procedures and Burden of Proof |
| 4 | Section 7. | Conditions of Approval and Enforcement |
| 5 | Section 8. | Severability |

6
7
8 **SECTION 1. Solid Waste Facility Definitions**
9

10 **A. Conditionally Exempt Small Quantity Collection Facility.** A
11 facility that receives, sorts, temporarily stores, controls, and
12 processes for safe transport hazardous waste from conditionally
13 exempt generators, as that term is defined in ORS 465.003.
14

15 **B. Demolition landfill.** A land disposal site for receiving,
16 sorting and disposing only land clearing debris, including
17 vegetation and dirt, building construction and demolition debris
18 and inert materials, and similar substances.
19

20 **C. Household hazardous waste depot.** A facility for receiving,
21 sorting, processing and temporarily storing household hazardous
22 waste and for preparing that waste for safe transport to
23 facilities authorized to receive, process, or dispose of such
24 materials pursuant to federal or state law.
25

26 **D. Limited purpose landfill.** A land disposal site for the
27 receiving, sorting and disposing of solid waste material,
28 including but not limited to asbestos, treated petroleum
29 contaminated soil, construction, land clearing and demolition
30 debris, wood, treated sludge from industrial processes, or other
31 special waste material other than unseparated municipal solid
32 waste.
33

34 **E. Resource recovery facility.** A facility for receiving,
35 temporarily storing and processing solid waste to obtain useful
36 material or energy.
37

38 **F. Mixed construction and demolition debris recycling facility.**
39 A facility that receives, temporarily stores, processes, and
40 recovers recyclable material from mixed construction and
41 demolition debris for reuse, sale, or further processing.
42

43 **G. Solid waste composting facility.** A facility that receives,
44 temporarily stores and processes solid waste by decomposing the
45 organic portions of the waste by biological means to produce
46 useful products including, but not limited to, compost, mulch and
47 soil amendments.
48

49 **H. Monofill.** A land disposal site for receiving, sorting and
50 disposing only one type of solid waste material or class of solid

1 N.waste materials for burial, such as a facility which accepts
2 only asbestos.
3

4 I. Municipal solid waste depot. A facility where sealed
5 containers are received, stored up to 72 hours, staged, and/or
6 transferred from one mode of transportation to another.
7

8 J. Small scale specialized incinerator. A facility that
9 receives, processes, temporarily stores, and burns a solid waste
10 product as an accessory use to a permitted use, including
11 incinerators for disposal of infectious wastes as part of a
12 medical facility, but not including mass burn solid waste
13 incinerators, refuse-derived fuel technologies, human or animal
14 remains crematorium, or any energy recovery process that burns
15 unseparated municipal solid waste.
16

17 K. Solid waste facility. Any facility or use defined in
18 Section 1 of this ordinance.
19

20 L. Solid waste transfer station. A facility that receives,
21 processes, temporarily stores and prepares solid waste for
22 transport to a final disposal site, with or without material
23 recovery prior to transfer.
24

25 M. Treatment and storage facility. A facility subject to
26 regulation under the Resource Conservation and Recovery Act, 42
27 USC §§ 6901-6987, for receiving, sorting, treating, and/or
28 temporarily storing hazardous waste, and for processing such waste
29 for safe transport to facilities authorized to receive, treat, or
30 dispose of such materials pursuant to federal or state law.
31 Treatment and storage facilities do not include facilities for on-
32 site disposal of hazardous waste.
33

34 N. Wood waste recycling facility. A facility that receives,
35 temporarily stores and processes untreated wood, which does not
36 contain pressure treated or wood preservative treated wood, in the
37 form of scrap lumber, timbers, or natural wood debris, including
38 logs, limbs, and tree trunks, for reuse, recycling or energy
39 recovery into products such as hogged fuel, fuel pellets, or
40 fireplace logs.
41

42 O. Yard debris depot. A facility that receives yard debris for
43 temporary storage, awaiting transport to a processing facility.
44

45 P. Yard debris processing facility. A facility that receives,
46 temporarily stores and processes yard debris into a soil
47 amendment, mulch or other useful product through grinding and/or
48 controlled biological decomposition.
49
50

1 SECTION 2. General Definitions
2

3 A. Footcandle. A unit of illumination. One footcandle is the
4 intensity of illumination when a source of 1 candlepower
5 illuminates a screen 1 foot away.
6

7 B. Hazardous waste. Has the meaning given that term in ORS
8 466.005.
9

10 C. Hogged fuel. Fuel generated from wood or other waste that
11 has been fed through a machine that reduces it to a practically
12 uniform size of chips, shreds, or pellets.
13

14 D. Inert material. Solid waste material that remains materially
15 unchanged by variations in chemical, environmental, storage, and
16 use conditions reasonably anticipated at the facility.
17

18 E. Leachate. Liquid that has come into direct contact with
19 solid waste and contains dissolved and/or suspended contaminants
20 as a result of such contact.
21

22 F. Level of service (LOS). A measure of the overall comfort
23 afforded to motorists as they pass through a roadway segment or
24 intersection, based on such things as impediments caused by other
25 vehicles, number and duration of stops, travel time, and the
26 reserve capacity of a road or an intersection, (i.e., that portion
27 of the available time that is not used). LOS generally is
28 referred to by the letters A through F, with LOS E or F being
29 generally unacceptable. LOS generally is calculated using the
30 methodology in the *Highway Capacity Manual, Special Report 209*, by
31 the Transportation Research Board (1985).
32

33 G. Lower explosive limit. The minimum concentration of gas or
34 vapor in air that will propagate a flame at 25 degrees Celsius in
35 the presence of an ignition source.
36

37 H. Mixed solid waste. Solid waste that contains recoverable or
38 recyclable materials, and materials that are not capable of being
39 recycled or recovered for further use.
40

41 I. Municipal solid waste. Solid waste primarily from
42 residential, business, and institutional uses.
43

44 J. Non-attainment area. A geographical area of the State which
45 exceeds any state or federal primary or secondary ambient air
46 quality standard as designated by the Oregon Environmental Quality
47 Commission and approved by the U.S. Environmental Protection
48 Agency.
49
50

1 K. Processing. An activity or technology intended to change the
2 physical form or chemical content of solid waste or recycled
3 material including, but not limited to sorting, baling,
4 composting, classifying, hydropulping, incinerating or shredding.

5
6 L. Professional engineer. A professional engineer currently
7 licensed to practice in the state of Oregon. The type of
8 professional engineer may be specified in the ordinance, (e.g.,
9 civil, structural, acoustic, traffic, etc.).

10
11 M. Recycled materials. Solid waste that is transformed into new
12 products in such a manner that the original products may lose
13 their identity.

14
15 N. Recycling. The use of secondary materials in the production
16 of new items. As used here, recycling includes materials reuse.

17
18 O. Rural zone. A land use zone adopted by a unit of local
19 government that applies to land outside a regional urban growth
20 boundary.

21
22 P. Sealed container. A receptacle appropriate for preventing
23 release of its contents, protecting its contents from the entry of
24 water and vectors, and that will prevent the release of noxious
25 odors if the contents are capable of emitting such odors.

26
27 Q. Significant vegetation. A tree exceeding 6 inches in
28 diameter measured 4 feet above grade at the base of the tree or
29 other vegetation more than 4 feet above grade, but not including
30 blackberry or other vines or weeds.

31
32 R. Soil amendment. A material, such as yard waste compost,
33 added to the soil to improve soil chemistry or structure.

34
35 S. Solid waste. Has the meaning given that term in ORS 459.005.

36
37 T. Urban zone. A land use zone adopted by a unit of local
38 government that applies to land inside a regional urban growth
39 boundary.

40
41 U. Wetland. An area that is inundated or saturated by surface
42 or ground water at a frequency and duration sufficient to support,
43 and that, under normal circumstances, does support a prevalence of
44 vegetation typically adapted for life in saturated soil
45 conditions. Wetlands are identified on the Goal 5 inventory of
46 such features or, in the absence of such an inventory, are based
47 on the *Federal Manual for Identifying and Delineating*
48 *Jurisdictional Wetlands (1989)*.

1 SECTION 3. Solid Waste Facilities Allowed by Zone

2
3 A. Solid waste facilities as a [principal/primary] or
4 conditional use.

5
6 1. The following solid waste facilities are permitted as
7 [principal/primary] uses in the [insert zones as determined
8 by the local government], subject only to the applicable
9 provisions of Sections 4 through 7 of this ordinance:

10
11 [List facilities allowed as a principal/primary use.
12 Repeat as necessary for each zone or group of zones. It
13 is suggested that all of the listed solid waste
14 facilities be permitted in rural industrial/commercial
15 and urban industrial zones and that smaller scale uses
16 be permitted in land extensive commercial zones. In
17 rural zones, an urban land use may be subject to
18 statutory and Goal limits. Note: regulations of the
19 underlying zone do not apply unless incorporated into
20 this ordinance.]

21
22 2. The following solid waste facilities are permitted as
23 conditional uses [or equivalent] in the [insert other zones
24 as determined by City/County, subject only to the applicable
25 provisions of Sections 4 through 7 of this ordinance:

26
27 [List facilities allowed as a conditional use. Repeat
28 as necessary for each zone or for groups of zones. It
29 is suggested that all of the listed solid waste
30 facilities not allowed pursuant to Section 3 A.1 be
31 permitted subject to Section 3 A.2 in industrial and
32 land extensive commercial zones. In rural zones, an
33 urban land use may be subject to statutory and Goal
34 limits. Note: other conditional use regulations do not
35 apply to solid waste uses unless incorporated into this
36 ordinance.]

37
38 B. Accessory use solid waste facilities. The following solid
39 waste facilities are permitted, subject to the applicable
40 regulations of the zone, as an accessory use to a permitted or
41 conditional use without being subject to the conditional use
42 review:

43
44 1. Household hazardous waste depot, provided the facility
45 is accessory to a public facility or to a use in an
46 industrial zone.

47
48 2. Small scale specialized incinerator, provided the
49 facility does not accept more than 220 pounds per day of
50 waste from off-site.

1 3. Recycling drop boxes, provided they also comply with
2 Section 4.G.5.
3

4 C. Multiple purpose solid waste facility. A solid waste
5 facility may include more than one kind of facility as defined in
6 Section 1. An application that includes more than one kind of
7 facility is permitted in a given zone only if all of the uses
8 proposed in the facility are permitted in that zone. If any of
9 the uses proposed are allowed only as a conditional use in the
10 zone, then all of the uses proposed shall be considered
11 conditional uses.
12

13 D. Temporary solid waste facility. The following solid waste
14 facilities may be approved as a temporary use in any zone without
15 being subject to conditional use review if the use operates not
16 more than three days per calendar month, subject only to the
17 dimensional requirements of the underlying zone [e.g., setbacks
18 and height] and the applicable provisions of Sections [4A, 4C
19 through 4G, and 4J through 4O] and the appropriate requirements of
20 Sections 5 through 7:
21

22 *[List facilities allowed. It is suggested that a*
23 *demolition debris depot, household hazardous waste*
24 *depot, yard debris depot, and plastics recycling depot*
25 *be allowed as a temporary use in all zones. Local*
26 *governments may want to prohibit temporary solid waste*
27 *facilities in residential zones unless associated with a*
28 *public use. The parts of Section 4 listed for temporary*
29 *facilities are the ones most relevant to such a use.*
30 *Local governments may want to subject such facilities to*
31 *provisions of Section 4 other than those listed above.]*
32

33 E. Prohibited solid waste facility.
34

35 1. Unless allowed by Sections 3.A through 3.D, a solid
36 waste facility is prohibited.
37

38 2. Notwithstanding Sections 3.A through 3.D above, the
39 following solid waste facility [or facilities] [is/are]
40 prohibited in the following zones:
41

42 *[List specific solid waste facilities and zones where*
43 *they are prohibited, such as open space zones, historic*
44 *district zones, environmental or natural resource zones,*
45 *etc.]*
46
47
48
49
50

1 **SECTION 4. Development Standards**
2

3 Table 1 lists the development standards that apply to each
4 kind of solid waste use defined in Section 1. If an application
5 is for a facility that includes more than one kind of use, it is
6 subject to the standards that apply to all uses in the facility.
7

8 In the left-hand column of Table 1 is a list of the solid
9 waste facilities regulated by this ordinance. Across the top of
10 the table are the subjects regulated by the ordinance. They are
11 listed in the order in which they appear after the table. To
12 identify the standards that apply to a given facility, identify
13 the facility in the left-hand column and read across the row. A
14 dot "." at the intersection of a row and column indicates that the
15 facility listed in the left-hand column is subject to the
16 standard at the top of the column. An "x" at the intersection of
17 a row and column indicates that the facility listed in the left-
18 hand column is not subject to the standard at the top of the
19 column.
20

21 Some criteria and standards incorporate by reference state
22 and federal regulations that are included as appendices to the
23 ordinance or are incorporated by reference in those appendices.
24 The [City/County] approval authority applies those state and
25 federal regulations as though it is the state or federal agency
26 responsible for administering them. The approval authority uses
27 the procedure in this ordinance that applies to the application
28 for the solid waste facility in question rather than using the
29 procedure provided in the state and federal regulations. Local
30 review does not substitute for state or federal review required by
31 regulations in the appendices, and local action does not bind
32 state or federal agencies about matters of state or federal
33 jurisdiction.
34




35 **A. Wetlands, habitat and natural area impacts.**
36

37 1. The applicant shall identify and describe the
38 significance and functional value of wetlands on the site and
39 protect those wetlands from adverse effects of the
40 development. A facility complies with this standard if it
41 complies with Section 4.A.1.a or b below:
42

43 a. The facility will not reduce the area of wetlands
44 on the site, and development will be separated from such
45 wetlands by a minimum of [60] feet, which shall be
46 retained in its existing condition or enhanced for
47 compatibility with the wetland. The setback may be
48 reduced to as little as [x] feet if the applicant shows
49 such lesser setback will not adversely affect the
50

Table 1 – Development Standards Applicable to Facilities

| Proposed use | Code section | Wetlands, habitat and natural area impacts | Vibration impacts | Landscaping and site design impacts | Historic resource impacts | Operating impacts | Signage impacts | Outdoor storage impacts | Litter impacts | Vector control impacts | Fire protection and explosion | Traffic circulation and access | Floodplain conditions | Topographic conditions | Geologic and soil conditions | Noise impacts | Odor impacts | Ground and surface water impacts | Methane gas impacts | Air quality impacts |
|---|--------------|--|-------------------|-------------------------------------|---------------------------|-------------------|-----------------|-------------------------|----------------|------------------------|-------------------------------|--------------------------------|-----------------------|------------------------|------------------------------|---------------|--------------|----------------------------------|---------------------|---------------------|
| Conditionally exempt small quantity collection facility | | | | | | | | | | | | | | | | | | | | |
| Demolition landfill | | | | | | | | | | | | | | | | | | | | |
| Household hazardous waste depot | | | | | | | | | | | | | | | | | | | | |
| Limited purpose landfill | | | | | | | | | | | | | | | | | | | | |
| Mixed construction/demolition debris recycling facility | | | | | | | | | | | | | | | | | | | | |
| Monofill | | | | | | | | | | | | | | | | | | | | |
| Municipal solid waste depot | | | | | | | | | | | | | | | | | | | | |
| Resource recovery facility | | | | | | | | | | | | | | | | | | | | |
| Small-scale specialized incinerator | | | | | | | | | | | | | | | | | | | | |
| Solid waste composting facility | | | | | | | | | | | | | | | | | | | | |
| Solid waste transfer station | | | | | | | | | | | | | | | | | | | | |
| Treatment and storage facility | | | | | | | | | | | | | | | | | | | | |
| Wood waste recycling facility | | | | | | | | | | | | | | | | | | | | |
| Yard debris depot | | | | | | | | | | | | | | | | | | | | |
| Yard debris processing facility | | | | | | | | | | | | | | | | | | | | |

-  Applicable standards
-  Standards not applicable
-  Standards will be developed in the future

1 wetland, provided Section 4.C does not require more than
2 the requested setback. Lack of adverse effect can be
3 demonstrated by showing the following among other means:
4

5 (1) A natural condition such as topography, soil,
6 vegetation or other feature isolates the area of
7 development from the wetland;
8

9 (2) Impact mitigation measures will be designed,
10 implemented, and monitored to provide effective
11 protection against harm to the wetland from
12 sedimentation, erosion, loss of surface or ground
13 water supply, or physical trespass; and/or
14

15 (3) A lesser setback complies with federal and
16 state permits, or standards that will apply to
17 state and federal permits, if required.
18

19 b. Where existing wetlands are eliminated by the
20 facility, the applicant will develop or enhance an area
21 of wetland on the site or in the same drainage basin
22 that is at least equal to the area and functional value
23 of wetlands eliminated.
24

25 2. The applicant shall provide appropriate plans and text
26 that identify and describe the significance and functional
27 value of natural features on the site [*if identified in the*
28 *Comprehensive Plan or the Goal 5 inventory or if in a natural*
29 *resource zone or equivalent*], and protect those features from
30 impacts of the development or mitigate adverse effects that
31 will occur. A facility complies with this standard if:
32

33 a. The site does not contain an endangered or
34 threatened plant or animal species or a critical habitat
35 for such species identified by federal or state
36 government [*and does not contain significant natural*
37 *features identified in the Comprehensive Plan if the*
38 *local Comprehensive Plan includes an inventory and*
39 *assessment of such features*];
40

41 b. The facility will comply with applicable
42 requirements of the [*natural resource zone*] if one
43 applies to the site;
44

45 c. The applicant will excavate and store topsoil
46 separate from subsurface soil, and shall replace the
47 topsoil over disturbed areas of the site not covered by
48 buildings or pavement or provide other appropriate
49 medium for re-vegetation of those areas, such as yard
50 debris compost;

1 d. The applicant will retain significant vegetation in
2 areas that will not be covered by buildings or pavement
3 or disturbed by excavation for the facility; will
4 replant areas disturbed by the development and not
5 covered by buildings or pavement with native species
6 vegetation unless other vegetation is needed to buffer
7 the facility; will protect disturbed areas and adjoining
8 habitat from potential erosion until replanted
9 vegetation is established; and will provide a plan or
10 plans identifying each area and its proposed use; and
11

12 e. Development associated with the facility will be
13 set back from the edge of a significant natural area
14 [identified by Comprehensive Plan] by a minimum of [60]
15 feet, and the setback area shall be retained in its
16 existing condition or enhanced for compatibility with
17 the natural area. The setback may be reduced to as
18 little as [x] feet if the applicant shows such lesser
19 setback will not adversely affect the natural area,
20 provided Section 4.C does not require more than the
21 requested setback. Lack of adverse effect can be
22 demonstrated by showing the same sort of evidence as in
23 Section 4.A.1.a above.
24

25 B. Vibration impacts. The facility shall not cause vibrations
26 that exceed 0.002g peak at a property line, except vibration from
27 construction and from vehicles that leave the site and except for
28 vibrations that last five minutes or less per day, based on a
29 written statement certified by a professional engineer.
30

31 C. Landscaping and site design impacts.
32

33 1. Except as noted in Section 4.C.2, the facility shall
34 comply with the setback requirements and height limits of the
35 underlying zone. However, if the facility adjoins a
36 commercial zone, the minimum setback shall be [100] feet,
37 and if the facility adjoins a residential or open space zone,
38 the minimum setback shall be [200] feet.
39

40 2. Structures, exterior storage and processing areas, and
41 vehicle maneuvering and parking are prohibited in setbacks
42 required pursuant to Section 4.C.1 above, except that:
43

44 a. The approval authority may reduce the required
45 setback if it finds that a lesser setback will not
46 adversely affect the privacy, use, or visual character
47 of existing uses on adjoining land, based on the scale
48 and design of the use or structure(s), landscaping and
49 buffers, or on the topography, vegetation, or other
50 natural features of the site;

1 b. Minor building features such as eaves, chimneys,
2 fire escapes, bay windows, uncovered stairs, wheelchair
3 ramps, and uncovered decks no more than 3 feet above
4 grade may extend up to 20 percent into a required
5 setback;

6
7 c. Attached mechanical structures such as heat pumps,
8 air conditioners, emergency generators, and water pumps
9 may extend into a required setback, except adjoining or
10 across a street from an abutting residential zone;

11
12 d. Fences, walls, berms, landscaping, access drives,
13 and an entry sign(s) are permitted in the setback; and

14
15 e. Notwithstanding the preceding, structures shall be
16 situated so they comply with the Uniform Building Code
17 adopted in Oregon.

18
19 3. Exterior building surfaces shall be finished. Metal
20 used on the exterior of the building shall be anodized or
21 painted; galvanized or coated steel shall not be left
22 unpainted.

23
24 4. Buildings with walls containing more than 2,500 square
25 feet above grade shall incorporate fascias, canopies,
26 arcades, or multiple colors or building materials to break up
27 large wall surfaces visually into areas of 1,000 square feet
28 or less, unless it would be contrary to the purpose of the
29 wall, such as for retaining earth or for structural support.

30
31 5. Attached mechanical structures and roof-mounted
32 equipment shall be screened from ground-level view at
33 adjoining public streets and property zoned residential or
34 open space. Screening may include landscaping, sight
35 obscuring fencing or other features.

36
37 6. The facility shall not cause glare or lights to shine
38 off site in excess of 0.5 footcandles onto non-industrial
39 zoned land, based on a written statement certified by a
40 professional engineer.

41
42 7. Structures shall not obstruct scenic views or vistas
43 identified in the Comprehensive Plan, although structures may
44 be visible from off site.

45
46 8. Major activity areas of the site, such as loading and
47 delivery areas, shall be oriented away from adjoining land
48 zoned for residential or open space uses.

1 9. At least 20 percent of the facility site shall be
2 landscaped with living vegetation in an appropriate medium,
3 such as yard debris compost. Landscaped areas shall have a
4 permanent irrigation system equipped with automatic controls.
5 Where landscaping is situated in required setbacks or adjoins
6 buildings and other structures, it shall include evergreen
7 species at least 6 feet above grade at planting and situated
8 not farther apart than the radius of the crown of a mature
9 specimen. The approval authority may waive or reduce the
10 level of landscaping where necessary to allow sight distance
11 for vehicular traffic, to enable views of signs or other
12 features of the facility that should be visible to enhance
13 the function of the facility, or to protect solar access to
14 adjoining property. The approval authority may require
15 larger or more numerous trees where necessary to reduce the
16 potential adverse visual effects of a facility. Existing
17 significant vegetation shall be retained, where feasible, and
18 may substitute for other required vegetation. Landscaping in
19 setbacks and parking lots counts toward the 20 percent.
20

21 10. All utilities will be underground, except that electric
22 and telephone lines may be above ground if such features are
23 above ground on adjoining land or land in the immediate
24 vicinity.
25

26 D. Historic resource impacts. The facility shall not adversely
27 affect historic resources listed in the comprehensive plan [or
28 *inventory of historic resources adopted by [City/County]*]. A
29 facility complies with this standard if the site and adjoining
30 land do not contain an identified historic resource and are not in
31 an historic district. If the site or adjoining land contains such
32 a resource, then the applicant shall show the facility design
33 preserves the historic resource character.
34

35 E. Operating impacts.
36

37 1. Exterior activities are prohibited between 10 p.m. and
38 7 a.m. daily except that vehicles may continue to enter and
39 exit the site and maintenance may be conducted at all hours
40 if they do not violate applicable provisions of Sections [4B,
41 C.6 and 8, K.2 and O] during any hours.
42

43 2. For a solid waste transfer station, most solid waste may
44 be stored in an open pit or floor inside a building for up to
45 24 hours or in a sealed container on the site for up to 72
46 hours. Separated recycled materials may be stored on the
47 site for up to 30 days in unsealed containers.
48
49
50

1 F. Signage impacts.
2

3 1. Signs shall comply with sign regulations of the zone,
4 except as provided herein.
5

6 2. If the facility is open to the public, the applicant
7 shall provide a sign(s) at each public entrance to the
8 facility that is clearly legible and visible from the
9 adjoining public road. The sign shall identify the name of
10 the facility, the name and telephone number of the operator,
11 and hours of operation of the facility. The entry sign(s)
12 may be up to 32 square feet per side and up to 10 feet above
13 grade, unless the zone allows larger signs. Directional
14 information to orient drivers shall be included on the entry
15 sign(s) or on interior signs.
16

17 3. A sign(s) describing recommended access routes to the
18 facility, materials accepted, instructions for correct
19 preparation of accepted materials, recycling services, and
20 fees for disposing materials shall be posted at the facility.
21 Signs interior to the site shall be coordinated and
22 consistent in appearance.
23

24 4. Signs that use recycled materials, including recycled
25 plastic, are encouraged. Sign quality and appearance shall
26 be appropriate to the character of the area, as determined by
27 the approval authority.
28

29 G. Outdoor storage impacts.
30

31 1. No mixed solid waste or recovered material shall be
32 stored outside in unsealed containers, except:
33

34 a. In a landfill or composting facility approved for
35 that purpose;
36

37 b. Solid waste or recovered material that is inert; or
38

39 c. As otherwise allowed in this Section 4.G. In all
40 circumstances, outdoor storage of hazardous waste is
41 prohibited.
42

43 2. Source-separated materials other than yard debris and
44 wood waste shall be stored in containers in an area enclosed
45 on at least three sides and roofed except that, in a rural
46 zone, such materials shall be enclosed on any side visible
47 from adjoining public or private property and roofed.
48

49 3. Wood waste, yard debris, and solid waste in sealed
50 containers may be stored outdoors if it complies with the

1 applicable dimensional and design standards. Yard debris
2 shall be removed from the site on at least a weekly basis.
3

4 4. Storage areas larger than 2 cubic yards for recovered
5 materials shall be enclosed.
6

7 5. Drop boxes for recyclable materials on the site of a
8 solid waste facility shall be painted and maintained in good
9 repair, situated on a paved surface and emptied before
10 collected items exceed the height of the box or within five
11 days of becoming full. The applicant shall post a notice on
12 any recycling drop box, stating that only domestic recyclable
13 or reusable materials, such as paper, cardboard, glass, tin,
14 aluminum, plastic and clothing are permitted. The notice
15 shall also state that yard debris, appliances, or other large
16 items that may be repairable, recyclable or reusable are
17 prohibited, unless the box is designed for that purpose. The
18 name and telephone number of the operator shall also be
19 posted on the box.
20

21 6. Outdoor storage areas shall not be visible when viewed
22 from a height of 5 feet at the edge of the property, except
23 as provided above. A facility complies with this standard
24 when outdoor storage is enclosed within a sight obscuring
25 fence, wall, berm, or landscaping at least 6 feet high but
26 not more than 10 feet high. A wood fence is sight obscuring
27 when attached vertical or horizontal fence boards are
28 separated by not more than 1/4-inch. A metal fence
29 consisting of chain link or woven fabric is sight obscuring
30 when water and insect resistant wood or plastic slats are
31 inserted in the fence material so they are separated by not
32 more than 3/8-inch. Landscaping is sight obscuring when it
33 includes evergreen material at least 6 feet high and not more
34 than 2 feet on center at planting.
35

36 H. Litter impacts.
37

38 1. For purposes of litter control, an area described as the
39 "Primary Impact Area" shall be established around the
40 proposed facility. The Primary Impact Area is the area
41 within which litter and illegally dumped solid waste is
42 presumed to be a result of the presence of a solid waste
43 facility. Illegally dumped waste consists of solid waste in
44 excess of two cubic yards at a given location, and litter
45 includes lesser amounts of solid waste at a given location.
46

47 2. The Primary Impact Area shall extend at least one-half
48 mile from the facility boundary along primary routes to the
49 facility, as identified in the traffic study. The approval
50 authority may expand the Primary Impact Area based on

1 specific conditions or if otherwise warranted based on annual
2 review of illegal dumping and litter patterns in the area.
3

4 3. Except as specified in subsection 5. of this section,
5 the applicant shall submit to [City/County] a plan to
6 eliminate litter in the Primary Impact Area. The plan shall
7 include at least the following:
8

9 a. A proposed delineation of the Primary Impact Area.
10

11 b. Appropriate gates, signs and other traffic control
12 devices to direct traffic to the facility along approved
13 routes that, to the extent possible, avoid public parks,
14 residential and retail districts and major public
15 attractions;
16

17 c. Establishment of a patrol to remove litter along
18 designated routes within the Primary Impact Area on a
19 schedule that, in the opinion of the approval authority,
20 is sufficient to prevent accumulation of litter;
21

22 d. Provisions for the removal of illegally dumped
23 waste within the primary impact area within 24 hours of
24 discovery;
25

26 e. Provisions to make available written information
27 that describes access routes to the facility, fees for
28 wastes permitted at the facility, surcharges for
29 delivery of uncovered loads, if appropriate, and
30 recycling incentives; and
31

32 f. For a landfill, a description of measures to be
33 used to minimize blowing of litter from the site, such
34 as periodic application of cover material, spraying with
35 liquid, or use of portable fencing.
36

37 4. The facility operator shall be responsible for the cost
38 of collecting, removing and disposing of litter and illegally
39 dumped waste within the Primary Impact Area. In addition,
40 the operator shall take reasonable measures to assist the
41 [City/County] in identifying sources of illegal waste. If
42 the [City/County] identifies a source of illegal waste, the
43 [City/County] may take measures to reimburse the operator for
44 the cost of collection and proper disposal of the waste.
45

46 5. The requirements of this Section 4.H. shall not apply to
47 a facility that is not open to the public and receives waste
48 only in sealed containers, or to any facility involved
49 exclusively in recycling.
50

1 I. Vector control impacts. For any facility where solid waste
2 could sustain or attract rodents or insects, because of the solid
3 waste in question or the environmental characteristics of the
4 site, the applicant shall submit and implement a plan to reduce
5 the potential for rodent and insect propagation using methods
6 designed to minimize nuisance conditions and health hazards.
7

8 J. Fire protection and explosion. The facility shall comply
9 with the Uniform Fire Code (UFC) as adopted by [City/County] and
10 the Uniform Building Code (UBC) adopted in Oregon. Facilities
11 that accept hazardous waste shall comply with UFC Article 80.
12

13 K. Traffic circulation and access.
14

15 1. Access requirements for a facility shall be based on the
16 number and type of vehicle trips generated by the facility.
17 The number of trips generated per day shall be based on the
18 most recent version of the *Trip Generation Manual* of the
19 Institute of Traffic Engineers, except that the applicant may
20 submit a trip generation study certified by a professional
21 traffic engineer of other similar facilities as the basis for
22 trip generation by the proposed facility. If a proposed
23 facility is not listed in the *Trip Generation Manual* and a
24 trip generation study of other similar facilities is not
25 available, then the number and type of vehicle trips
26 generated by the proposed facility shall be based on the
27 figures for the use most similar to the proposed facility for
28 which the *Trip Generation Manual* contains data.
29

30 2. The applicant shall identify designated routes for
31 vehicular traffic generated by the proposed facility and
32 shall provide written information to facility users
33 describing and promoting use of those routes. Designated
34 routes shall be selected to minimize traffic on nonarterial
35 streets and shall not include streets in residential zones if
36 nonresidential streets provide access.
37

38 3. For a facility that generates more than 200 vehicle
39 trips per day, the applicant shall submit a traffic study by
40 a professional traffic engineer that shows the facility will
41 not cause traffic volumes that exceed the capacity of the
42 street based on the [*street standards or holding capacity*
43 *assumptions of the transportation master plan of*
44 *[City/County]*], or that cause any intersection affected by
45 that traffic to have a Level of Service [E or] F. If the
46 proposed facility will cause street capacity to be exceeded
47 or create a level of service [E or] F at any intersection,
48 the applicant shall propose street modifications acceptable
49 to [City/County] to meet the requirements of this subsection.
50 Unless otherwise provided by agreement with [City/County],

1 all expenses related to street improvements necessitated by
2 the proposed facility shall be borne by the applicant.
3

4 4. A facility in an urban zone shall provide for a
5 deceleration/turn lane at proposed access points to separate
6 facility-bound traffic from other traffic if deemed warranted
7 by the traffic study required in Section 4.K.3. The lane
8 shall accommodate at least two stacked vehicles and shall
9 taper at a ratio of not less than 25:1 to match the standard
10 roadway width.
11

12 L. Floodplain conditions. The facility will comply with the
13 applicable floodplain zone regulations of [cite City/County code
14 or ordinance]. All solid waste stored in a floodplain zone shall
15 be enclosed in a structure with a finished floor elevation at
16 least 1 foot above the 100-year base flood elevation as determined
17 by Federal Emergency Management Agency maps or by a survey by a
18 professional land surveyor licensed in the state of Oregon.
19

20 M. Topographic conditions. The facility shall comply with the
21 [slope hazard] regulations of [cite City/County code or
22 ordinance].
23

24 N. Geologic and soil conditions. The facility shall comply with
25 the [geologic/soil hazard] regulations of [cite City/County code
26 or ordinance].
27

28 O. Noise impacts.
29

30 1. If the facility site is not in an industrial zone or
31 does not exclusively adjoin land in an industrial zone, or if
32 it adjoins a noise sensitive use, such as a residence,
33 hospital, or school [or substitute specific sites identified
34 in the Comprehensive Plan] the applicant shall submit to
35 [City/County] a study by a professional acoustical engineer
36 of expected noise levels at the facility site boundary,
37 including at the site boundary adjoining any residential or
38 noise sensitive use.
39

40 2. In all instances, the applicant shall operate the
41 facility in compliance with applicable noise standards in OAR
42 Chapter 340, Division 35 [or cite more stringent
43 [City/County] standards], and noise mitigation requirements
44 if any, imposed by the approval authority as conditions for
45 approval.
46

47 3. Outdoor amplified sound systems are prohibited.
48
49
50

1 P. Odor impacts.

2
3 1. The applicant shall demonstrate that the facility:

4
5 a. Will incorporate the best practicable design and
6 operating measures to reduce the potential for odors
7 detectable off-site from such things as waste stored or
8 being processed on site, spillage of waste, venting of
9 dust, residual amounts of waste in operating areas of
10 the site, and vehicle odors in stacking, maneuvering and
11 staging areas; and

12
13 b. Will not cause unusual or annoying odors,
14 considering the density of the surrounding population,
15 the duration of the emissions, and other factors
16 relevant to the impact of such emissions.

17
18 2. Open burning of solid waste will not be allowed, unless:

19
20 a. Open burning is consistent with standards of the
21 ODEQ; or

22
23 b. The facility is outside the area where open burning
24 is banned, and a permit is not required by ODEQ.

25
26 Q. Ground and surface water impacts.

27
28 1. The applicant shall demonstrate that the facility will:

29
30 a. Collect all waste water from production, washing
31 down of equipment and vehicles, and similar activities
32 and discharge the water to a public sanitary sewer if:

33
34 (1) The sewer adjoins or can be extended to the
35 site, based on applicable rules of the sewer
36 service provider, and

37
38 (2) The sewer has the capacity to accommodate
39 waste water from the facility as determined by the
40 sewer service provider or by a professional civil
41 engineer; or

42
43 b. Incorporate an alternative sanitary waste disposal
44 method that is or will be approved by ODEQ; or

45
46 c. Incorporate an alternative waste disposal method
47 that is consistent with applicable water quality
48 standards and will not cause drinking water supplies to
49 violate applicable water quality standards; or

50

1 d. Not generate waste water, and will divert and/or
2 contain storm water so that it does not enter solid
3 waste on the site.
4

5 2. Prior to construction of the facility, the applicant
6 shall obtain all required permits relating to discharges of
7 waste water and storm water from the facility. The operator
8 of the facility shall comply with all directives of state and
9 federal agencies related to protection of ground and surface
10 water resources potentially affected by the facility.
11

12 3. At the request of the approval authority, the applicant
13 shall submit to the approval authority copies of any
14 groundwater self-monitoring programs and analyses of
15 potential surface and groundwater impacts related to the
16 facility that are required to be submitted to the ODEQ.
17

18 4. At the request of the approval authority, an applicant
19 for a landfill, mixed waste compost facility, wood waste
20 recycling facility, yard debris depot or processing facility
21 shall submit copies of its leachate collection and treatment
22 plan and program prepared by a professional civil engineer
23 for submittal to the ODEQ, if one has been required by the
24 ODEQ.
25

26 5. An applicant for a household hazardous waste depot,
27 hazardous waste treatment and storage facility, material
28 recovery facility, solid waste depot or transfer station
29 shall submit and implement a plan and program prepared by a
30 professional civil engineer to collect, pretreat and dispose
31 waste water from the floor or operating area of such facility
32 and to prevent surface water from mixing with solid waste
33 spills.
34

35 6. The applicant shall submit and implement a plan prepared
36 by a professional civil engineer to reduce the amount of
37 waste water caused by hosing down equipment, tipping areas,
38 platforms and other facility features, such as by using high
39 pressure/low flow washing systems, compressed air or vacuum
40 equipment for cleaning.
41

42 7. The applicant shall submit and implement a plan prepared
43 by a professional civil engineer or landscape architect to
44 collect storm water from all impervious areas of the site and
45 to properly manage storm water. The applicant shall comply
46 with state and federal regulations governing storm water
47 discharges, and obtain required storm water discharge permits
48 in a timely fashion. To the extent consistent with a storm
49 water discharge permit issued for the facility, storm water
50 shall be managed in the following manner:

1 a. Storm water disposal shall comply with the storm
2 drainage master plan of the [City/County/USA] [and with
3 applicable basin-wide storm water management plans, such
4 as the Johnson Creek or Tualatin River Storm Water
5 Management Plans], as determined by the [City/County
6 Engineer/USA].
7

8 b. If there is not a storm drainage master plan for
9 the area of the facility, then storm water shall be
10 discharged to a storm sewer if it is available or can be
11 extended to the site, [based on the applicable rules of
12 the storm sewer service provider,] and if it has
13 adequate capacity to accommodate storm water from the
14 site, as determined by [the sewer service provider or] a
15 professional civil engineer or landscape architect.
16

17 c. If a storm sewer with adequate capacity is not
18 available, the applicant shall:
19

20 (1) Retain storm water on-site; and/or
21

22 (2) Detain storm water on-site and discharge it
23 from the site at no greater rate than before
24 development of the facility; or
25

26 (3) Discharge storm water at full rate to public
27 drainage features, such as a roadside ditch or
28 regional drainage facility, if there is adequate
29 capacity to accommodate it as determined by a
30 professional civil engineer or landscape architect.
31 If discharging water at full rate would exceed the
32 capacity of downstream drainage features, the
33 applicant shall:
34

35 (a) Provide a detention pond or ponds to
36 contain water in excess of the system's
37 capacity; and/or
38

39 (b) Identify improvements to downstream
40 drainage features necessary to accommodate the
41 increased volume or rate of flow without
42 adversely affecting adjoining property and
43 either:
44

45 (i) Provide such improvements before
46 operation of the facility, or
47

48 (ii) Contribute necessary funds to the
49 [City/County/USA] so that the
50

1 [City/County/USA] can undertake such
2 improvements.
3

4 (c) If off-site improvements are required to
5 accommodate storm water from the site, prior
6 to issuance of a building permit for the
7 facility, the applicant and the
8 [City/County/USA] shall execute an agreement
9 to pay back the applicant for the cost of
10 improvements to the extent those improvements
11 exceed the storm drainage needs generated by
12 the facility.
13

14 8. Except as otherwise provided by the storm drainage
15 master plan of the [City/County/USA], the collection and
16 disposal system shall be sized to accommodate peak flows from
17 a 25-year storm event, based on the flow from the area that
18 includes the site and the basin that drains onto it, assuming
19 permitted development of that area, as determined by a
20 professional civil engineer or landscape architect.
21

22 9. Before storm water is discharged from the site or into
23 the ground, the applicant will direct it through features to
24 remove sediment, grease and oils, and water soluble materials
25 in the water. Such features shall comply with the storm
26 drainage standards of the [City/County/USA].
27

28 10. The applicant shall submit and implement a plan prepared
29 by a professional civil engineer or landscape architect to
30 reduce the potential for erosion along natural and
31 constructed drainageways and across slopes during and after
32 construction.
33

34 11. For a landfill, the approval authority may require that
35 the applicant submit a copy of its closure plan as prepared
36 for submittal to the ODEQ.
37

38 R. Methane gas impacts.
39

40 1. The applicant shall submit a statement from a
41 professional engineer that the facility will not generate
42 significant quantities of methane gas emissions; or
43

44 2. The applicant shall submit and implement a methane gas
45 control program prepared by a professional engineer that
46 describes how:
47

48 a. The facility will not generate methane gas in
49 excess of 25 percent of the lower explosive limit for
50

1 methane in facility structures or in excess of the lower
2 explosive limit at the facility boundary;

3
4 b. The gas shall be collected and vented,
5 incinerated, or put to or prepared for a productive use;
6 and
7

8 c. Methane will be measured in structures and at the
9 facility boundary, consistent with applicable ODEQ
10 standards.
11

12 S. Air quality impacts. A facility shall not cause detrimental
13 air quality impacts. A facility complies with this standard if
14 the applicant obtains all required Air Contaminant Discharge
15 Permits and the facility is operated in conformance with all
16 applicable ODEQ air quality standards and requirements.
17

18 T. Treatment and Storage facilities (Hazardous Waste). The
19 applicant for a proposed treatment and storage facility shall
20 comply with Oregon Administrative Rules Chapter 340, Division 120,
21 and any other applicable state or federal law, by obtaining all
22 state and federal permits necessary for operation of the facility.
23
24

25 SECTION 5. Application Contents

26
27 A. In addition to submitting application forms provided by the
28 [City/County], the applicant shall describe at least the following
29 features of the proposed facility:
30

31 1. Capacity and projected life.

32
33 2. The population or industries to be served.
34

35 3. The amount of solid waste that is expected to be
36 accommodated at the facility from the population or
37 industries to be served, including maximum daily and monthly
38 amounts and average annual volume and weight of waste to be
39 received.
40

41 4. For a landfill, planned future uses of the site after
42 closure.
43

44 5. The quantity of each type of waste stream projected to
45 be accommodated at the facility. Examples of waste streams
46 include domestic waste, commercial and institutional waste,
47 industrial waste, construction and demolition waste,
48 agricultural waste, sewage sludge, and contaminated clean-up
49 materials.
50

1 6. The operating characteristics of the facility, including
2 equipment used, hours of operation, and volume, distribution,
3 and type of traffic associated with the use, and a traffic
4 study if required by Section 4 of this ordinance.
5

6 7. The kind or kinds of facility or facilities proposed,
7 based on the definitions in Section 1.
8

9 B. The applicant shall submit the following information as part
10 of the application, unless the [planning director] finds that,
11 given the scale and nature of the facility, a requested item will
12 not materially aid the approval authority in reviewing the
13 proposal, and the item is not otherwise required to be submitted
14 under this ordinance.
15

16 1. A written description of the location of the site with
17 respect to known or easily identifiable landmarks and access
18 routes to and from the area the facility will serve.
19

20 2. A legal description of the tract or tracts to be used
21 for the facility.
22

23 3. Except for an accessory facility, a map or maps showing
24 the location of the site, existing and approved land uses
25 within a minimum [250]-foot radius of the boundary of the
26 site inside the regional urban growth boundary or within a
27 minimum [500]-foot radius of the site outside the regional
28 urban growth boundary; public water supply wells, surface
29 waters, access roads within that radius; historic sites,
30 areas of significant environmental concern or resources, or
31 significant environmental features identified in the
32 comprehensive plan within the applicable radius; other
33 existing or approved man-made or natural features relating to
34 the facility; and a north arrow, bar scale, and drawing date.
35

36 4. Except for an accessory use or temporary facility, an
37 aerial photograph of the site and the area within the
38 relevant radius with the boundary of the site outlined.
39

40 5. Except for an accessory or temporary facility, a map or
41 maps showing the existing topography of the site with contour
42 intervals not to exceed 2 feet if slopes are less than
43 5 percent, not to exceed 5 feet if slopes are more than
44 5 percent, and not to exceed 10 feet if slopes are more than
45 20 percent; natural features of the site including water
46 bodies and wetlands; the boundary of the 100-year floodplain
47 based on Federal Emergency Management Agency data; public
48 easements of record; man-made features including buildings,
49 utilities, fences, roads, parking areas, and drainage
50 features; boundaries of existing waste disposal areas and

1 soil borrow areas, if any; locations of borings, piezometers,
2 monitoring wells, test pits, water supply wells, and facility
3 monitoring or sampling points and devices; a benchmark; and a
4 north arrow, bar scale, and drawing date.
5

6 6. For a landfill, data regarding average annual and
7 monthly precipitation and evaporation and prevailing wind
8 direction and velocity, based on data from the National
9 Oceanic and Atmospheric Administration or other federal or
10 state agency, or from on-site measurements.
11

12 7. For a landfill, information regarding minimum, maximum
13 and average annual flow rates and monthly variations of
14 streams on the site, based on stream gaging data collected by
15 the US Geological Service or other federal or state agency
16 supplemented with reliable site specific data as available.
17

18 8. A map or maps showing and describing the type and size
19 of existing vegetation on the site, and identifying
20 vegetation to be removed and retained.
21

22 9. A grading plan showing site elevations when grading is
23 completed, including any modifications to drainage channels
24 and any required retaining walls or other means of retaining
25 cuts or fills.
26

27 10. A site plan showing proposed structures, signs, parking,
28 outdoor storage, landscaping, berms, fencing, and other
29 features of the facility.
30

31 11. Responses to the applicable standards of Section 4 of
32 this ordinance.
33

34 12. If other local, state or federal permits are required
35 for construction and operation of the proposed facility:
36

37 a. The applicant shall submit a copy of such
38 permit(s); or
39

40 b. The applicant shall submit:
41

42 (1) A schedule for submitting the required
43 applications; a description of the requirements of
44 the laws and regulations applicable to such other
45 local, state or federal permits; a summary of how
46 the applicant proposes to comply with the
47 requirements; a list of which regulations require
48 local land use approval; and a list of potentially
49 conflicting local, state or federal standards; and
50

1 (2) A copy of any application filed for another
2 local, state or federal permit for the proposed
3 facility within 10 working days after it is filed
4 with the local, state or federal agency; and
5

6 (3) A copy of any written correspondence or
7 published notice from the local, state or federal
8 agency regarding that application within 10 working
9 days after the applicant receives that
10 correspondence or notice from the local, state or
11 federal agency.
12
13

14 **SECTION 6. Review Procedures and Burden of Proof**
15

16 A. Before filing an application pursuant to this ordinance, an
17 applicant shall submit to [City/County] a request for a
18 pre-application conference pursuant to [incorporate relevant
19 section of the local ordinance], unless waived by the [planning
20 director].
21

22 B. Before accepting an application as complete, the [planning
23 director] may decide additional expertise is warranted to evaluate
24 it due to exceptional circumstances, the complexity of the
25 proposed facility, or its potential impacts. The [planning
26 director] may hire a professional engineer with the necessary
27 expertise to make a written evaluation of specific application
28 elements required pursuant to the ordinance.
29

30 1. The written evaluation shall be available no later than
31 30 days after the applicant submits a deposit to pay for the
32 work. Within 10 days after the written evaluation is
33 available, the [planning director] shall determine whether
34 the application is complete and advise the applicant in
35 writing accordingly, listing any additional information
36 required to make the application complete.
37

38 2. The [planning director] shall draft a work program and
39 estimate the cost of hiring a professional engineer with the
40 necessary expertise for the written evaluation and shall
41 advise the applicant of that cost, which shall not exceed
42 [10] times the application fee [or other reasonable limit]
43 unless approved by the applicant. The applicant shall
44 deposit a sum equal to the estimated cost of such services
45 before the application is deemed complete. If the cost of
46 such services is less than estimated, [City/County] shall
47 refund any excess to the applicant. If the cost of such
48 services is more than estimated, [City/County] shall bill the
49 applicant for such additional cost; provided, the cost of
50 such services shall not exceed [110%] of the estimated cost

1 unless the applicant or the [City/County] agrees in writing
2 to assume such additional cost.
3

4 3. This provision does not authorize the [City/County] to
5 collect money from an applicant for independent evaluation of
6 ongoing operations or performance review of a facility. A
7 fee may be required pursuant to Section 7.F before renewal,
8 but not at time of application or approval.
9

10 C. Except as provided in Section 6.B, within 10 working days
11 after receipt of an application, [City/County] shall determine
12 whether the application is complete. If [City/County] determines
13 the application is not complete, [City/County] shall send the
14 applicant a written statement explaining why the application is
15 not complete and listing standards for which information is not
16 provided or is not responsive. If [City/County] determines an
17 application is complete, it shall send the applicant a written
18 statement to that effect.
19

20 D. An application for a solid waste facility under this
21 ordinance is complete if any written evaluation required under
22 Section 6.B. has been completed, and if, in the opinion of the
23 planning director,
24

25 1. The application includes substantial evidence that the
26 proposed facility will comply with the applicable development
27 standards in Section 4 or conditions that may be necessary to
28 ensure compliance; or
29

30 2. The application includes substantial evidence that the
31 proposed facility is likely to comply with the applicable
32 development standards in Section 4, identifies any necessary
33 evidence not yet submitted, and provides a reasonable
34 schedule for its submission;
35

36 *[If the local land use regulations do not authorize the*
37 *planning director to exercise discretion to determine whether an*
38 *application includes substantial evidence, then subsections 1 and*
39 *2 above should be revised so that an application is deemed*
40 *complete if it contains information that addresses the applicable*
41 *development standards in Section 4 and the appendices incorporated*
42 *therein, and any written evaluation required under Section 6B is*
43 *completed.]*
44

45 3. The application includes information required to be
46 submitted under Section 5 of this ordinance, except to the
47 extent waived by the [planning director/approval authority].
48
49
50

1 E. [City/County] shall provide public notice and an opportunity
2 for submission of written information and/or for a public hearing
3 to consider compliance with the terms of this ordinance as
4 required under [state law or local Code hearing requirements].
5

6 F. An applicant for a solid waste facility bears the burden of
7 proving that a facility complies with this ordinance. The
8 following presumptions and procedures apply when evaluating
9 compliance with that burden of proof.

10 1. An applicant is rebuttably presumed to have met the
11 burden of proof if the application includes substantial
12 evidence that the facility will comply with the standards for
13 establishment of the facility in Section 4 and conditions
14 proposed by the [planning director/ approval authority] to
15 insure such compliance.
16

17 2. Substantial evidence can be rebutted only by evidence of
18 equal or greater probative value. For instance, testimony
19 from a professional engineer about a given subject in which
20 an engineer has expertise may be rebutted only by testimony
21 or evidence from another professional engineer or a person
22 similarly qualified about that subject. Testimony from an
23 expert witness regarding matters relevant to the expertise of
24 the witness cannot be rebutted by testimony from a non-expert
25 witness. This subsection does not limit what may be
26 introduced as testimony; it affects the weight to be accorded
27 that testimony.
28

29 3. If evidence of equal probative value is offered that a
30 given facility does and does not comply with a given standard
31 or that a proposed condition is or is not adequate to ensure
32 compliance, the approval authority shall weigh the evidence,
33 identify which evidence it accepts as the basis for its
34 decision, and explain why that evidence is accepted and why
35 the contrary evidence is rejected.
36

37 4. The approval authority shall issue all necessary land
38 use compatibility statements to the applicant or to
39 applicable local, state, or federal agencies, and a final
40 decision with appropriate findings, conclusions and
41 conditions of approval if, after the appropriate review
42 process, it finds there is substantial evidence that the
43 facility complies with all applicable provisions of this
44 ordinance [and [City/County] laws incorporated by reference],
45 subject to appropriate conditions, and that such evidence was
46 not effectively rebutted and does not need to be
47 supplemented.
48
49
50

1 5. If, after a public hearing [or another initial level of
2 review; for instance, the close of the public record
3 following public notice and an opportunity to file written
4 comments], the approval authority finds that:
5

6 a. There is substantial evidence that the facility
7 complies with some applicable provisions of this
8 ordinance and such evidence was not rebutted and does
9 not need to be supplemented to resolve disputes;
10

11 b. There is not substantial evidence that the facility
12 complies with one or more applicable provisions of this
13 ordinance, or evidence necessary for approval was
14 rebutted or requires augmenting to resolve disputes; and
15

16 c. It is likely that the applicant will provide the
17 remaining necessary substantial evidence within six
18 months [or 1 year if the local code prohibits
19 re-application for a denied project for 1 year], the
20 approval authority shall:
21

22 (1) Issue a written final decision approving the
23 proposed facility in concept that, among other
24 things:
25

26 (a) Identifies standards with which the
27 application complies and provide findings and
28 conclusions showing why it complies, based on
29 substantial evidence in the record, and
30 subject to appropriate conditions of approval;
31

32 (b) Identifies evidence the applicant must
33 submit to show the proposed facility complies
34 with other applicable provisions of this
35 ordinance, imposes a schedule for its
36 submission, and includes any requirements
37 pursuant to Section 6.B above; and
38

39 (c) Describes how that substantial evidence
40 will be reviewed, including any public notice
41 and hearing requirements.
42

43 (2) Issue all necessary land use compatibility
44 statements to the applicant or to applicable local,
45 state, or federal agencies.
46

47 6. The approval authority shall issue a final decision that
48 denies the application if, after the appropriate review
49 process, it finds that:
50

1 a. The record does not contain substantial evidence
2 that the facility complies with all applicable
3 provisions of this ordinance or could comply given the
4 imposition of conditions, in which case the decision
5 shall identify the section(s) about which the record
6 does not contain substantial evidence; or
7

8 b. There is more persuasive and at least equally
9 substantial evidence contrary to evidence that the
10 proposed use complies with applicable standards of this
11 ordinance or could comply given the imposition of
12 conditions, in which case the decision shall identify
13 the provisions for which evidence against the facility
14 overwhelmed the evidence in favor, and
15

16 c. The applicant declines to supplement the record
17 regarding standards identified pursuant to Sections
18 6.F.6.a and b. above, or it is not likely that
19 substantial evidence necessary to address standards
20 identified pursuant to Sections 6.F.6.a and b. above
21 will be available within six months after the date of
22 the decision [*or 1 year if the local code prohibits*
23 *re-application for a denied project for 1 year*].
24
25

26 SECTION 7. Conditions of Approval and Enforcement

27
28 A. The approval authority may approve an application for a
29 facility subject to conditions of approval. Conditions of
30 approval shall be reasonably related to impacts of the facility,
31 the requirements of this ordinance and provisions incorporated
32 herein. In no instance may an approval authority impose as a
33 condition of approval a requirement that a facility be publicly or
34 privately owned. All facilities approved pursuant to this
35 ordinance shall be subject to a condition requiring that
36 landscaping, air and water quality structures and devices, signs,
37 structures, paved areas, and other features of the facility be
38 maintained in good condition and that such features be replaced if
39 they fail to survive or are rendered ineffective over time.
40

41 B. Conditions of approval may require an applicant to submit a
42 written statement or permit from state or federal agencies
43 responsible for administering a regulation to which the proposed
44 facility is subject, if the record does not contain such a
45 statement or permit.
46

47 1. Such a condition may fulfill provisions of Sections 4.0
48 through 4.T that the facility comply with state or federal
49 regulations, subject to a further condition that the
50 applicant submit a written statement or permit showing the

1 proposed facility complies with the applicable state or
2 federal regulation before a building permit is issued for the
3 facility; and
4

5 2. Such a condition shall require appropriate review and
6 allow modification of the decision and conditions of approval
7 regarding the application if a state or federal permit
8 substantially changes a proposed facility from what was
9 approved by [City/County] in ways relevant to applicable
10 provisions of Section 4.
11

12 C. All facilities approved pursuant to this ordinance shall
13 comply with applicable state and federal regulations as a
14 condition of approval. Approval of a facility pursuant to this
15 ordinance does not preclude imposition of more stringent state or
16 federal regulations adopted after the effective date of this
17 ordinance.
18

19 D. Any facility that is required to obtain a franchise or
20 license from the Metropolitan Service District (Metro) shall
21 obtain the franchise or license and provide a copy of it to
22 [City/County] before a [building/occupancy] permit is issued for
23 the facility.
24

25 E. [City/County] shall enforce the conditions of approval
26 pursuant to [cite the relevant local law]. If Metro issues a
27 franchise or license for the facility, [City/County] shall send to
28 Metro a copy of any written correspondence or notices
29 [City/County] sends to the applicant regarding enforcement of
30 conditions of approval. Metro may remedy violations of conditions
31 of approval regarding the facility and charge the franchisee or
32 licensee for the cost of such remedial action unless provided
33 otherwise in the franchise or license.
34

35 F. [City/County] may periodically conduct a performance review
36 of an approved facility to determine whether it continues to
37 comply with the criteria and standards then applicable and to
38 modify conditions of approval that apply to the facility so that
39 it continues to comply. The approval authority shall specify the
40 time for any performance review. [City/County] may impose a fee
41 for performance review.
42

43 /////
44 /////
45
46
47
48
49
50

1 SECTION 8. Severability
2

3 If any part of this ordinance is for any reason held to be invalid
4 or unconstitutional, the remainder of this ordinance shall
5 continue in full force and effect.
6
7

8
9 Adopted this _____ day of _____, 1991.
10 [City Council/Board of Commissioners] of
11 [City/County]
12 By: _____
13

14
15
16
17 Approved as to form:

18
19 City Attorney/County Counsel]

20 _____
21 [Legal Counsel]
22

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METRO

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

Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: October 9, 1991

Re: Resolution No. 91-1415A, For the Purpose of Recognizing the Model Solid Waste Facility Siting Ordinance as Meeting the Requirements of Chapter 16 of the Regional Solid Waste Management Plan

Resolution No. 91-1415A is scheduled for consideration by the committee at the October 15 meeting.

Background

Resolution No. 91-1415A would adopt a model siting ordinance for the siting of solid waste facilities. At its May 7 meeting, the committee recommended Council adoption of the resolution. Prior to Council consideration of the resolution, Councilor Gardner and the General Counsel's office raised several issues concerning the drafting of the model siting ordinance. The resolution was rereferred to committee to have these issues addressed.

To assist the committee members in reviewing the issues addressed during the initial consideration of the resolution I am including several documents in the agenda packet, including:

- 1) a memo from Karla Forsythe, dated March 29, 1991, providing background information and identifying potential discussion issues,
- 2) a memo from Karla Forsythe, dated April 30, 1991, reviewing initial committee discussion of the resolution,
- 3) a memo from Chair Wyers, dated May 1, 1991, raising questions concerning the effect of the resolution on the siting of future solid waste facilities, and
- 4) the response of the General Counsel's office to questions raised by Councilor Gardner relating to the "options" proposed in the ordinance and local restrictions on facility ownership.

The agenda packet also includes a memo from Todd Sadlo, Senior Assistant Counsel, that outlines the types of amendments that have been proposed and the rationale for removing the options from the model ordinance.

Issues and Questions

The committee may wish to address the following issues and questions:

1) Mr. Sadlo's memo notes that several "technical" and "style" amendments have been made. The committee may wish to ask for a brief explanation of the types of amendments made and their intent or effect.

2) Mr. Sadlo's memo notes that changes were made in response to correspondence from Oregon Waste Systems. The committee may wish to review the nature of these amendments.

3) Prohibition of conditions relating to facility ownership have been added to the model ordinance. The committee may wish to review the intent of this amendment.



METRO

Memorandum

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

TO: Council Solid Waste Committee

FROM: Karla Forsythe, ^{XLF} Council Analyst

DATE: March 29, 1991

RE: Resolution No. 91-1415 (Agenda Item 2, 4/2/91 Solid Waste Committee Meeting)

Under Policy 16.2 of the Regional Solid Waste Management Plan, "each city and county shall provide appropriate zoning to allow planned solid waste facilities or enter into intergovernmental agreements with others to assure such zoning. Whether by outright permitted use, conditional use or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities."

As a way of helping localities provide appropriate zoning, Planning and Development staff has coordinated development of a model zoning ordinance for localities to consider and adopt. By approving Resolution No. 91-1415, which will be considered by the Committee on April 2, 1991, the Council would be stating that the model ordinance meets the intent of the Plan.

Localities would not be required to adopt the model ordinance in order to meet Plan requirements. Other ways in which localities could comply with the Plan are addressed in Ordinance No. 91-393, also before the Committee at the April 2, 1991 meeting.

The basic question before the Committee is whether the model ordinance contains clear and objective standards that do not effectively prohibit solid waste facilities, in which case the model ordinance will be considered appropriate zoning to allow planned solid waste facilities.

Summary of model ordinance

The model ordinance identifies 16 types of solid waste facilities which a locality might have to site. Under the structure of the model ordinance, a locality would classify a facility as a principal/primary, conditional, temporary or prohibited use. The ordinance leaves open the issue of which type of facility should fall into which category; this decision would remain with each locality (see Section 3, page 7).

RESOLUTION NO. 91-1415
March 29, 1991
Page Two

The model ordinance also lists specific criteria to be used in approving facilities. These are the "clear and objective standards", which include natural area impacts, vibration, site design, historic resources, operating impacts, signage, outdoor storage, litter, vector control, fire protection, traffic, floodplain, topography, geologic conditions, noise, odor, water, methane gas, and air quality.

The model ordinance also specifies information an applicant for solid waste facility siting must submit, and sets out the review procedure. Under Section 6. F., an applicant must prove that a facility complies with the ordinance, and is presumed to have done so if the application includes substantial evidence of compliance. The ordinance also sets out the procedure for setting conditions of approval, and what factors conditions of approval may address.

The bulk of the model ordinance is attributable to the appendices, which primarily contain DEQ regulations.

Questions

1. Since solid waste facilities owned or franchised by Metro would be sited in accordance with this model ordinance, does the Solid Waste Department concur that the standards are clear and objective?
2. In remarks to the Solid Waste Policy Advisory Committee, Stephanie Hallock from DEQ raised concerns about the consequences of detailed environmental review at both the local and DEQ level. Does the potential for duplicative review and/or inconsistent results raise issues for Metro?
3. Is there a potential for a locality to effectively prohibit solid waste facilities by the manner in which it establishes the underlying zoning under Section 3?

c: Rich Carson, Planning and Development Director
Bob Martin, Solid Waste Director
Mark Turpel, Senior Regional Planner



METRO

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

Memorandum

TO: Council Solid Waste Committee
FROM: Karla Forsythe, ^{CLF} Council Analyst
DATE: April 30, 1991
RE: Resolution No. 91-1415 - Interim Report

At the April 2, 1991 meeting, the Council Solid Waste Committee considered Resolution No. 91-1415, For the Purpose of Recognizing the Model Solid Waste Facility Siting Ordinance as Meeting the Requirements of Chapter 16 of the Regional Solid Waste Management Plan. After hearing a presentation from Planning and Development Department staff, the Committee discussed the Resolution but did not take a vote, pending further discussion at the May 7, 1991 Committee meeting.

Since the initial discussion on the Resolution took place a month ago, I have prepared this interim report to assist the Committee in reviewing issues raised during the previous discussion.

Committee discussion/issues - April 2, 1991

Councilor McFarland indicated that she needed information showing that the proposed ordinance really accomplishes what is needed, and is not too loosely drafted.

Rich Carson, Planning and Development Director, said that when the Regional Solid Waste Management Plan was adopted, Metro agreed to provide a model facility siting ordinance. He said the model ordinance has received extensive review.

Councilor McLain inquired whether the model includes a timeline.

Mr. Carson explained that the backstop is the periodic review of each jurisdiction's comprehensive plan. Plans are reviewed for 24 cities and three counties, and a schedule has been established. He said Washington County has agreed to initiate the model ordinance immediately.

Councilor Gardner said that the definitions do not seem to include a facility which would handle commingled recyclables, or an organic composting facility. Mark Turpel, Senior Regional Planner, said

RESOLUTION NO. 91-1415
Interim Report
Page Two

that the facilities were defined so each could definition could stand alone, but that facilities could be combined on one site. Mr. Carson noted that Metro has no authority over recycling centers, and that organic compost falls within mixed solid waste.

Councilor Gardner asked if the model ordinance provides standards similar in detail and complexity to other industrial uses. Mr. Carson said there is not a great deal of information about standards in this area, and that this ordinance could serve as a model for the Northwest. Mr. Turpel said staff's objective was to substantially narrow the discretion of localities. Staff decided problems could be avoided by referencing existing state standards.

Councilor Gardner said he was not comfortable including DEQ standards in this code, because it seems to blend land use and permitting. Mr. Carson said DEQ does not want localities making DEQ decisions. Mr. Turpel added that several jurisdictions are concerned because citizens are raising these health and safety issues, and are not satisfied when they are told DEQ will resolve them.

Councilor McFarland asked if there are so many options that a community could get out of siting a facility. Mr. Turpel responded that some localities have no available land. Mr. Carson said that the model has been drawn as narrowly as possible, but there is no guarantee that a way can't be found around it.

Councilor McFarland asked if it would be possible to rewrite the definitions section to address the concern about mixed solid waste composting.

Councilor McLain noted that section 7F, which allows a city or county to conduct a period performance review of a facility to determine whether it continues to comply with applicable standards, is drafted in permissive rather than mandatory language. Mr. Turpel said that if a community accepts a facility as a conditional use, it has the ability to go back and review the conditions and tighten them. Councilor McLain noted that implementation and review is part of effective model ordinance language.

Bob Martin, Solid Waste Director, indicated he had reviewed the standards and believes they are clear and objective.

Councilor McFarland opened the public hearing. Jeanne Roy, Recycling Advocates, requested that the committee amend definition

RESOLUTION NO. 91-1415
Interim Report
Page Three

G, "mixed solid waste composting facility". She indicated her preference for source separated composting.

Councilor Gardner noted that language in Section 3 suggests appropriate zoning for solid waste facilities but does not require inclusion within a particular zone. He asked if a locality could exclude a facility even if it has industrial land. Mr. Turpel said localities will make Findings and Conclusions, which Metro will review. The ordinance sets out alternatives to consider.

The Committee discussed adopting mandatory language regarding local review of conditional uses. Larry Shaw, Legal Counsel, said that tightening the language would require periodic review. He said that the purpose behind using the word "may" is to limit local review to standards contained in the ordinance, and not to allow a locality to impose different standards. Mr. Turpel added that a locality could permit a facility outright, and that the conditional use process would be used if there are additional community concerns.

Councilor Gardner stated his concern that the complexity of the ordinance makes it possible to make the process so cumbersome that a facility without political support could not be sited, and that the ordinance could be used to not permit siting.

Councilor McFarland asked if staff could draft the amendments, and bring the model ordinance back to the committee for further discussion.

Mr. Carson indicated that would be possible. In response to Councilor Gardner, he said that under Oregon law, decisions must be made in 120 days. The model ordinance attempts to provide clear and objective standards which are achievable, and which can be addressed within the state-mandated time frame.

Councilor DeJardin agreed that the ordinance should not be moved from committee unless supported by a majority vote, and indicated his support for staff's work.

Councilors Gardner and McLain asked staff to look at zoning ordinances elsewhere in the region and the country, to see if others take the approach of incorporating permitting regulations.



METRO

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

Memorandum

TO: Council Solid Waste Committee

FROM: Judy Wyers, ^{Chair} Chair

DATE: May 1, 1991

RE: Questions regarding Resolution No. 91-1415

At the May 7, 1991 Committee meeting, I plan to ask staff to address several questions regarding the above Resolution, by which the Council would recognize the model facility siting ordinance as meeting the intent of the Regional Solid Waste Management Plan. The Council would also be stating that a city or county which chooses to adopt the provisions of the model ordinance will have met the requirements of Plan Policy 16.2, which establishes a local government solutions policy.

Specifically, the policy states that each city and county shall provide appropriate zoning to allow planned solid waste facilities, or enter into intergovernmental agreements with others to assure such zoning. The policy further states that whether by outright permitted use, conditional use or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities.

The model ordinance now before the Committee was developed by staff so that localities can adopt a pre-existing model for clear and objective standards, rather than starting from scratch.

It has been my understanding that the Council adopted Policy 16.2 based on the assumption that localities would take affirmative steps to adopt zoning which allowed rather than prohibited these facilities. Concurrently, the Council agreed through Policy 16.2 that solid waste solutions developed at the local level will be given priority, as long as they are consistent with Plan policies.

Planning and Development staff has stated that Washington County will immediately begin work to implement this model ordinance. However, a facility issue with siting implications is before the Committee and Council at this time. The Council is being asked to first adopt a proposed solution which recommends sites in specific geographic areas, before localities have changed their zoning to accommodate solid waste facilities.

MEMORANDUM
May 1, 1991
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Given my understanding of the situation, I will be asking Planning and Development staff to answer the following questions: what facilities are expected to be proposed over the next few years, and in what general locations? What steps will be taken to ensure that appropriate zoning is in place prior to the siting process? How will the model ordinance impact the process for planning transfer stations for the western part of the region?

c: Rich Carson
Mark Turpel



METRO

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

Handwritten mark

June 20, 1991

The Honorable Tanya Collier
Presiding Officer
Metropolitan Service District
2000 S. W. First Avenue
Portland, OR 97201-5398

Dear Presiding Officer:

Re: Resolution No. 91-1415
(Model Solid Waste Facility Siting Ordinance)

This Office has reviewed the Model Ordinance in order to answer certain questions raised by Councilor Gardner.

In conducting that review, we have determined that the Ordinance contains numerous technical drafting errors which need to be corrected. These concerns are independent of the concerns raised by Councilor Gardner. We recommend that Resolution No. 91-1415 be re-referred by the Council to the Solid Waste Committee in order for these errors to be corrected in an appropriate forum.

We are independently responding to Councilor Gardner. At the time this matter is reconsidered by the Council Solid Waste Committee the issues raised by his question which we have determined are a matter of balancing policy and legal concerns may also be addressed.

I have discussed this recommendation with the office of the Executive Officer, and the Director of Planning & Development, and understand that they have no objection to the Council referring the matter back to the Council Solid Waste Committee in order for this Office to assist the department and the Committee in making the necessary corrections.

Yours very truly,

Daniel B. Cooper,
General Counsel

gl1400

cc: Rena Cusma
Rich Carson

Executive Officer
Rena Cusma

Metro Council

Tanya Collier
Presiding Officer
District 9

Jim Gardner
Deputy Presiding
Officer
District 3

Susan McLain
District 1

Lawrence Bauer
District 2

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

Sandi Hansen
District 12




METRO

2000 S.W. First Avenue
Portland, OR 97201-5394
503 221-1646

Memorandum

COPY

Date: June 20, 1991
To: Councilor Jim Gardner
From: Todd Sadlo, Senior Assistant Counsel 
Regarding: RESOLUTION NO. 91-1415, MODEL SOLID WASTE FACILITY SITING ORDINANCE

This memo addresses your questions to Daniel B. Cooper, General Counsel, dated May 15, 1991, concerning the potential consequences of adopting Resolution No. 91-1415, establishing a Model Solid Waste Facility Siting Ordinance. Your questions are as follows:

1. Could a local jurisdiction apply the standards in the model ordinance in a procedural or substantive way that would preclude a favorable siting decision for a politically unpopular solid waste facility?
2. If a local jurisdiction conditioned approval of a facility on a particular form of facility ownership, would the conditional use approval be in compliance with the provisions of the model zoning ordinance? Would such a condition be legally sustainable?

Resolution No. 91-1415 declares that the proposed model ordinance meets policy 16.2 of the Regional Solid Waste Management Plan (RSWMP). Policy 16.2 states that "Whether by outright permitted use, conditional use or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities."

Question No. 1: Answer and Discussion

The answer to your first question is yes, with the following explanation.

To begin, the only land use ordinance that a local jurisdiction would not be able to apply in a manner that would effectively prohibit a politically unpopular facility is an ordinance that would allow the facility outright in an available zone. The model ordinance applies approval criteria whether the facility is

Councilor Jim Gardner
Page 2
June 20, 1991

a "permitted" use or subject to conditions, and therefore requires the exercise of discretion by a local jurisdiction. Discretion can always be exercised to deny an application, leading to prohibitive procedural delays or substantive preclusion of a facility. Moreover, even if a local jurisdiction approved an application, opponents can appeal a discretionary land use decision, potentially leading to the same result.

You have specific concerns regarding Options 1 and 4 in the model ordinance, in which a local jurisdiction would adopt DEQ permit requirements as land use approval criteria. As you know, this Office shares your concern that by including such an option in a "model" ordinance, Metro indicates its approval of standards that may be difficult to apply in the land use arena.

We cannot conclude that the use of pollution control permit requirements as land use approval standards violates policy 16.2 by effectively prohibiting facilities. There are, however, policy questions related to encouragement of the use of Options 1 or 4 that require an understanding of the legal context in which they would be applied.

The central concern with using pollution control permit requirements as land use approval criteria is that they were not designed for such use, and are therefore ill suited for the type of review to which discretionary land use decisions are subject. The DEQ permitting system was designed as a give-and-take negotiation between the applicant and agency administrators. The level of tests and studies required, modeling and equipment can vary greatly between similar applications and is often not as clear-cut and numerical as simply applying a formula. DEQ decisions can often be made administratively and would not be subject to a hearing unless appealed. Appeal of an administrative DEQ decision would be to the Environmental Quality Commission, then to the Court of Appeals and Oregon Supreme Court.

Discretionary land use decisions require notice to surrounding property owners and the opportunity for a hearing. Unless a solid waste facility is permitted outright, subject only to rigidly numerical site-design review standards, approval of a proposed site is a discretionary decision subject to notice and an opportunity for a hearing.

If Options 1 or 4 are utilized by a local government in any land use proceeding, the local government will need to determine which of the numerous statements and clauses in the Oregon Administrative Rules are approval criteria that apply to the proposal. It must then determine whether there is substantial

Councilor Jim Gardner
Page 3
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evidence in the record addressing all relevant criteria, and adopt appropriate findings demonstrating correct application of the findings to the criteria. The model ordinance requires the applicant to submit necessary information and to "identify and describe" compliance with various criteria, but there would still be a heavy burden on local officials and their staffs to correctly apply the DEQ standards.

Most jurisdictions do not have staff expertise in pollution control regulations, engineering and modeling. The initial decision-maker in land use proceedings, which is most often a planning commission or hearings officer, may be overwhelmed. Since the applicant is most likely the only source of extensive information regarding the compliance of the project with pollution control regulations, the decision-maker may get only half the story, and turn to the DEQ as the only potentially free source of information. Yet, as we know, DEQ is not interested in reviewing the application until a land use compatibility statement has been issued by the local government. (OAR 340-18-050)

Since the applicant will under most circumstances be required to demonstrate compliance with applicable pollution control statutes in applying for state permits, adopting the regulations as land use approval criteria is probably not a substantive hurdle to siting a facility. That means that an applicant with enough money for consultants and attorneys is likely to prevail in the end, even under Option 1 or 4 of the model ordinance. Transforming pollution control permit requirements into land use approval criteria may nevertheless impose a significant procedural hurdle, because it provides food for appeals and remands. Opponents will be able to make many additional allegations of error related to which administrative rules are approval criteria, which rules are relevant, whether there is substantial evidence to support the findings made, and whether the findings demonstrate compliance. It is more than just a duplication of the review afforded by DEQ, it is a different type of review, leading to potentially different and conflicting results. The analysis applied and conclusions drawn by DEQ may differ markedly from the analysis and conclusions of the local planning authority.

Furthermore, to avoid potential problems with improper delegation of authority, the model ordinance states that the administrative rules adopted as part of the ordinance will apply to an application, even if the DEQ or EPA has amended its rules. If a local government fails to scrupulously monitor state agency rule adoption, outdated state and federal rules may be imposed as land use standards applicable to a proposed facility.

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A distrust of the DEQ, and state agency coordination rules that require a local jurisdiction to act first, are offered as justifications for Options 1 and 4 of the model ordinance. The result, however, is that local planners and decision-makers would be asked to review technical documents generally beyond their expertise, and justify their decisions through the land use appeals process. A local jurisdiction wishing to deny a facility will have greater opportunities to do so, and a "friendly" jurisdiction may be obstructed in its efforts to site a facility over the objections of opponents. While use of these options does not inherently offend policy 16.2 of the RSWMP, it provides a significant additional hurdle to an applicant attempting to construct a solid waste facility.

It should be noted that even if state agency regulations are not included as approval criteria in the model ordinance, local governments would be free to adopt such criteria anyway, and would still appear to be in conformance with Chapter 16 of the RSWMP. The policy concern is not, therefore, that a local government might adopt the model ordinance and succeed in using it to "effectively prohibit" facilities, but that there will be a perception that Metro believes that wholesale adoption of pollution control regulations as land use standards is a desirable way to review proposals to site solid waste facilities.

I hope the above discussion of the legal ramifications of a local government's use of Option 1 or 4 of the model ordinance aids in what is essentially a policy judgment by the Metro Council.

Question No. 2: Answer and Discussion

The model ordinance would not allow a local jurisdiction to condition approval of a facility on a particular form of facility ownership. Section 7 of the ordinance states that "Conditions of approval shall be reasonably related to impacts of the facility and the requirements of this ordinance and provisions incorporated herein." None of the applicable criteria relate to facility ownership, and facility ownership does not appear to be rationally related to potential land use impacts of a facility. The answer to the first part of question 2 is therefore, no. A simple amendment to Section 7 would clarify this point by providing that: "In no instance may an approval authority impose as a condition for approval a requirement that a facility be publicly or privately owned."

The second part of your question assumes that a local jurisdiction has accepted an application for development of a solid waste facility, and imposes as a condition of approval a requirement that the facility be either publicly or privately

Councilor Jim Gardner
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owned. This would be an awkward way of imposing an ownership requirement because it would potentially require an applicant to expend considerable resources before being told that it must transfer ownership of the facility before the application can be approved. A jurisdiction could reach a similar result by adopting an ordinance stating that all, or specific types of solid waste facilities must be either publicly or privately owned.

Such a condition or ordinance would raise constitutional questions. First, a claim might be made that the jurisdiction has established two specific classes of individuals, public and private, and has denied one or the other "equal protection of the laws." (U.S. Const. amend. XIV) There does not appear to be a "suspect class" or "fundamental interest" involved in such a classification, so its appropriateness under the U.S. Constitution would be judged under a rational basis or minimum rationality test. See generally, U.S. Railroad Retirement Bd. v. Fritz, 449 US 166, 401 S Ct 453, 66 L Ed2d 368 (1980); New Orleans v. Dukes, 427 US 297, 303, 96 S Ct 2513, 49 L Ed2d 511 (1976); Cleburne v. Cleburne Living Center, Inc., 473 US 432, 105 S Ct 3249, 87 L Ed2d 313, 320 (1985). Under this test, the burden on a challenger is to demonstrate that the classification does not have a "rational relationship to a legitimate state interest." Governments are given "wide latitude" when social or economic legislation is at issue, but will not be allowed to apply a "classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational." Cleburne, supra, 87 L Ed2d at 320 In Cleburne, the court overturned application of a requirement that a mentally retarded group home obtain a special permit, when other boarding houses and hospitals were allowed in the same zone outright.

A similar claim under the Oregon Constitution would be that the ordinance denies equal "privileges and immunities" to a certain class of individuals. (Or. Const. art. I, sec. 20) Under the Oregon Constitution, courts weigh the stated governmental interest in treating classes of individuals differently, against the importance of the interest being infringed upon. See, e.g., Olsen v. State ex rel Johnson, 276 Or 9, 554 P2d 139, 145 (1976), Hunter v. State, 84 Or App 698, 701-702, 735 P2d 1225.

The constitutional implications of an ownership condition cannot be more fully established without knowing the governmental interest or public policy that is intended to be promoted by such a condition or restriction. Your memorandum does not provide such information, and I am hesitant to guess. Hopefully, the above discussion will provide you with the necessary framework for evaluating the propriety of an ownership requirement. If

Councilor Jim Gardner
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June 20, 1991

there is a legitimate public policy goal, an ownership restriction helps to meet the goal, and the importance of the public goal outweighs the development interests infringed upon, the ownership interest would be upheld. If the model ordinance prohibits such a restriction then the matter will be clarified.

If you have further questions regarding this memorandum, please don't hesitate to contact me.

2017

cc: Rich Carson
Karla Forsythe ✓

METRO**Memorandum**

Planning and Development
2000 S.W. First Avenue
Portland, OR 97201-5398
(503) 221-1646

DATE: October 1, 1991
TO: Council Solid Waste Committee
FROM: *RC* Richard Carson, Director, Planning and Development Department
SUBJECT: Model Ordinance For Siting Solid Waste Facilities

On May 7, 1991, the Council Solid Waste Committee voted to recommend Council adoption of Resolution No. 91-1415. On May 15, 1991, Councilor Jim Gardner raised two legal questions in a memo to Daniel Cooper, General Counsel. On June 20, 1991, Daniel Cooper made a request to Tanya Collier, Presiding Officer, that Resolution 91-1415 be re-referred by the Council to the Solid Waste Committee to allow the Office of Legal Counsel to prepare technical amendments to the model ordinance.

A memo explaining the changes from Todd Sadlo, Office of General Counsel, to Judy Wyers, Chair of the Council Solid Waste Committee, dated September 30, 1991, is attached for your information. The Solid Waste Policy Committee, Solid Waste Technical Committee and the Land Use Subcommittee have recommended approval of the revised model ordinance for siting solid waste facilities.

The most significant change to the model ordinance was removal of the appendices (DEQ rules) and options 1, 2 and 4. The original options included:

1. DEQ rules as local, land use approval standards;
2. DEQ rules as informational requirements;
3. DEQ rules not included; and
4. A hybrid of the first three options where use of a particular option would be decided on a case by case basis for each of the fifteen facility types included in the model ordinance.

The revised model ordinance dated September 20, 1991, includes technical amendments suggested by the Planning and Development Department and the Office of General Counsel on September 11, 1991. These amendments were approved by the Solid Waste Policy Committee at their meeting on September 20, 1991.

Two versions of Resolution No. 91-1415A and the revised model ordinance are attached -- Clean drafts and versions showing the recommended changes (additions and deletions).

swmorev2.hsm



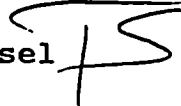
METRO

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

Memorandum

Date: September 30, 1991

To: Councilor Judy Wyers, Chair
Council Solid Waste Committee

From: Todd Sadlo, Senior Assistant Counsel 

Regarding: MODEL SOLID WASTE FACILITY SITING ORDINANCE
REVISIONS

Attached is a copy of the proposed Model Solid Waste Facility Siting Ordinance, and attendant Resolution, as revised by the Office of General Counsel. On May 7, 1991, the Council Solid Waste Committee recommended adoption of Resolution No. 91-1415, which recognized the original model as meeting the requirements of Chapter 16 of the Regional Solid Waste Management Plan. Councilor Gardner then requested a legal opinion regarding the potential impact of certain options included in the original draft. This Office also noted several technical problems with the draft and requested that review by the full Council be delayed until corrections could be made.

This Office completed its proposed amendments, and the revised draft was presented to the Land Use Subcommittee, Solid Waste Technical Committee, and Solid Waste Policy Committee. Several additional technical amendments were made through this process, and all three Committees approved the revised draft.

The following changes have been made to the draft originally approved by the Council Solid Waste Committee:

1. Technical changes, many to Definitions;
2. Style changes;
3. Reorganization of some sections;
4. Removal of the "options" for incorporating state pollution control permit requirements as approval criteria (please see following explanation). As modified, a local jurisdiction may request that pollution control permit applications be submitted for informational purposes, but will not be independently

reviewing the conformance of those applications to state permit requirements;

5. Changes to respond to written comments submitted by Jim Benedict (Oregon Waste Systems) in a letter dated May 6, 1991 (these can all be characterized as "technical" amendments);
6. Prohibition of conditions relating to facility ownership has been added to Section 7;
7. References to "approval criteria" have been deleted, because they may have led to a jurisdiction denying a permit based on failure of the applicant to meet a "criteria," rather than imposing a condition that would alleviate the concern. (See Simonson v. Marion County, LUBA No. 90-171, 06/21/91.) Modifications attempt to clarify that all of the standards can potentially be met through compliance with reasonable conditions; and
8. Other miscellaneous changes (please see draft).

Removal of "Options"

As submitted to the Council Solid Waste Committee, options 1 and 4 of the model ordinance would have allowed local jurisdictions to impose state and federal pollution control permit requirements as land use approval criteria. It is recommended that these options be removed, and they have been removed from the attached draft. The concern of this Office is that pollution control permit requirements were not designed to be used as land use approval standards. Several problems are inherent in the approach of options 1 and 4:

- * Level of tests, modeling and equipment required by DEQ may vary from locally imposed requirements, creating confusion for the applicant and local administrators, and fueling appeals;
- * Analysis applied and conclusions drawn by DEQ may differ markedly from the analysis and conclusions of the local planning authority, because land use review and pollution control permit review are substantially different procedures;
- * It will be difficult for local jurisdictions to determine which of the numerous statements and clauses

Councilor Judy Wyers, Chair
Council Solid Waste Committee
Page 3
September 30, 1991

in the Oregon Administrative Rules (OAR) are approval standards that apply to the proposal, fueling appeals;

- * How a local government views the standards and evidence would be reviewed by LUBA as a land use decision, and how DEQ views the standards and (potentially different) evidence will be reviewed by DEQ as a pollution control permit application. The potential for conflicting decisions is exacerbated by the potential lag in local adoption of updated rules, which could result in the local government applying standards that are in conflict with current DEQ permitting standards.

Under the attached draft, a local government can require that pollution control permit applications and other supplementary information be submitted with a land use application. Generally, by obtaining and complying with DEQ permit requirements, the applicant will be complying with conditions for issuance of a land use permit.

Option 2 of the proposed ordinance submitted to the Metro Solid Waste Committee would have used administrative rules to collect information so the local government could participate in state or federal agency actions regarding the proposed facility. The attached draft eliminates option 2 because local jurisdictions can require submittal of permit information as part of the land use application. If a local jurisdiction is interested in participating in state or federal permit proceedings, it should obtain updated copies of administrative rules at the time the application is received, rather than adopt in ordinance form administrative rules that may soon become outdated.

Please contact me if you have questions or concerns regarding the attached draft.

TSS
1028

Attachments

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RECOGNIZING THE)
MODEL SOLID WASTE FACILITY SITING)
ORDINANCE AS MEETING THE REQUIRE-)
MENTS OF CHAPTER 16 OF THE REGIONAL)
SOLID WASTE MANAGEMENT PLAN)

RESOLUTION NO. 91-1415

Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Metropolitan Service District ~~approved~~ ~~adopted~~ Ordinance No. 88-266B, which adopted the Regional Solid Waste Management Plan; and

WHEREAS, Policy 16.2 of the Regional Solid Waste Management Plan states that "Each city and county shall provide appropriate zoning to allow planned solid waste facilities or enter into intergovernmental agreements with others to assure such zoning. Whether by outright permitted use, conditional use, or otherwise, appropriate zoning shall utilize only clear and objective standards that do not effectively prohibit solid waste facilities."; and

WHEREAS, A model solid waste facility siting ordinance has been developed by staff of the Metropolitan Service District and by a consultant team as one means to meet the intent of the Regional Solid Waste Management Plan, including Policy 16.2; and

WHEREAS, The model solid waste facility siting ordinance was extensively evaluated and revised as the result of reviews by the Land Use Subcommittee, the Solid Waste Technical Committee, the Solid Waste Policy Committee, as well as being circulated for comment to all city managers and planning directors of the cities and counties within the region, and circulated for comment to representatives of the solid waste industry; now, therefore,

BE IT RESOLVED,

1. ~~That~~ The model solid waste facility siting ordinance attached hereto as Exhibit "A" ~~meets the intent of~~ ~~conforms to~~ the Regional Solid Waste Management Plan, including its policies, especially Policy 16.2+.

2. ~~That~~ A city or county which ~~that~~ chooses to incorporate the provisions of the model solid waste facility siting ordinance ~~into its zoning code~~ shall be considered to have met the requirements of Policy 16.2 of the Regional Solid Waste Management Plan.

3. ~~That~~ A city or county which ~~chooses to~~ ~~that~~ ~~adopts a~~ substantially ~~revise~~ ~~revised~~ ~~version of~~ the model solid waste facility siting ordinance, or uses another means to ~~meet the~~ ~~purpose of~~ ~~satisfy~~ Chapter 16 of the Regional Solid Waste

Management Plan will need to show that ~~they meet~~ its approach ~~meets the intent~~ requirements of Policy 16.2, as provided in the Chapter.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1991.

Tanya Collier, Presiding Officer.

gl
1415

1 MODEL ORDINANCE
2 FOR
3 SITING SOLID WASTE FACILITIES
4

5
6 BEFORE THE [CITY COUNCIL/COUNTY COMMISSION] OF
7 [CITY/COUNTY], OREGON
8

9
10 AN ORDINANCE AMENDING THE)
11)
12 [ZONING ORDINANCE/COMMUNITY DEVELOPMENT)
13 CODE] OF [CITY/COUNTY], OREGON) ORDINANCE NO.
14 REGARDING THE SITING AND USE OF)
15 CERTAIN SOLID WASTE FACILITIES)
16

17
18 WHEREAS, [City/County] desires to provide for the siting of
19 certain solid waste facilities in a manner that protects the
20 environment and the health, safety and welfare of its citizens;
21 and
22

23 WHEREAS, [City/County] has adopted a comprehensive plan that
24 addresses solid waste facilities. It provides: [quote relevant
25 language from local Plan]; and
26

27 WHEREAS, the Metropolitan Service District Regional Solid Waste
28 Management Plan states that "each city and county shall provide
29 appropriate zoning to allow planned solid waste facilities or
30 enter into intergovernmental agreements with others to assure such
31 zoning. Whether by outright permitted use, conditional use or
32 otherwise, appropriate zoning shall utilize only clear and objec-
33 tive standards that do not effectively prohibit solid waste
34 facilities;" and
35

36 WHEREAS, [City/County] desires to fulfill its responsibility to
37 implement the Metro Regional Solid Waste Management Plan within
38 its jurisdiction; and
39

40 WHEREAS, [City/County] adopts the Findings and Conclusions in
41 Support of an Ordinance Regarding Solid Waste Facilities, attached
42 hereto and incorporated herein by reference;
43

44 NOW THEREFORE, ~~[City/County] does ordain~~ The [name of governing
45 body] ordains as follows:
46
47
48
49
50

1 **Contents**

2
3 Section 1. Solid Waste Facility Definitions
4 Section 2. General Definitions
5 Section 3. Solid Waste Facilities Allowed by Zone
6 Section 4. Approval Criteria and Development Standards
7 Section 5. Application Contents
8 Section 6. Review Procedures and Burden of Proof
9 Section 7. Conditions of Approval and Enforcement
10 Section 8. Severability

11
12 ~~Appendices 1 through 11~~

13
14
15 **SECTION 1. Solid Waste Facility Definitions**

16
17 A. Conditionally Exempt Small Quantity Collection Facility. A
18 facility that receives, sorts, temporarily stores, controls, and
19 processes for safe transport hazardous materials waste from small
20 quantity generators, each of which produces less than 100 kg
21 (220 lbs.) of hazardous waste per month conditionally exempt
22 generators, as that term is defined in ORS 465.003.

23
24 B. Demolition landfill. A land disposal site for receiving,
25 sorting and disposing only land clearing debris, including
26 vegetation and dirt, building construction and demolition debris
27 and inert materials, and similar substances.

28
29 C. Household hazardous waste depot. A facility for receiving,
30 sorting, processing and temporarily storing household hazardous
31 waste and for preparing that waste for safe transport to an
32 approved transfer, processing or disposal facility facilities
33 authorized to receive, process, or dispose of such materials
34 pursuant to federal or state law.

35
36 D. Limited purpose landfill. A land disposal site for the
37 receiving, sorting and disposing of non-hazardous solid waste
38 material, including but not limited to asbestos, treated petroleum
39 contaminated soil, construction, land clearing and demolition
40 debris, wood, treated sludge from industrial processes, or other
41 specific special waste material other than unseparated municipal
42 solid waste.

43
44 E. Material Resource recovery facility. A facility that
45 receives and sorts mixed solid waste to separate from that waste
46 material that, after having served a useful purpose, still has
47 useful physical or chemical properties, and to process, reuse,
48 recycle the material for the same or other purpose or recover
49 energy. A facility for receiving, temporarily storing and
50 processing solid waste to obtain useful material or energy.

1 F. Mixed construction and demolition debris recycling facility.
2 A facility that receives, temporarily stores, processes, and
3 recovers recyclable material from mixed construction and
4 demolition debris for reuse, sale, or further processing.
5

6 G. Mixed Solid waste composting facility. A facility that
7 receives, stores, and processes solid waste to separate out the
8 recyclable and organic components of the waste and to biologically
9 decompose the organic waste under aerobic or anaerobic conditions
10 into a final product such as compost, mulch, etc. that can be
11 stored, sold or used as a soil amendment or for other useful
12 purposes. A facility that receives, temporarily stores and
13 processes solid waste by decomposing the organic portions of the
14 waste by biological means to produce useful products including,
15 but not limited to, compost, mulch and soil amendments.
16

17 H. Monofill. A land disposal site for receiving, sorting and
18 disposing only one type of solid waste material or class of solid
19 waste materials for burial, such as a facility which accepts only
20 asbestos.
21

22 I. Municipal solid waste depot. A facility where sealed
23 containers are received, stored up to 72 hours, staged, and/or
24 transferred from one mode of transportation to another.
25

26 J. Small scale specialized incinerator. A facility that
27 receives, processes, temporarily stores, and burns a solid waste
28 product as an accessory use to a permitted use, including
29 incinerators for disposal of medical infectious wastes as part of
30 a medical facility, but not including mass burn solid waste
31 incinerators, resource refuse-derived fuel technologies, human or
32 animal remains crematorium, or any energy recovery process that
33 uses burns unseparated municipal solid waste.
34

35 K. Solid waste facility. Any facility or use defined in
36 Section 1 of this ordinance. A recycling drop box and a
37 crematorium are not solid waste facilities.
38

39 L. Solid waste transfer station. A facility that receives,
40 processes, temporarily stores and prepares solid waste for
41 transfer to large vehicles for transport to a final disposal site,
42 with or without material recovery prior to transfer.
43

44 M. Treatment and storage facility. A facility that receives,
45 processes and stores hazardous materials and that complies with
46 subject to regulation under the Resource Conservation and Recovery
47 Act, 42 USC §§ 6901-6987, for receiving, sorting, treating, and/or
48 temporarily storing hazardous waste, and for processing such waste
49 for safe transport to facilities authorized to receive, treat, or
50 dispose of such materials pursuant to federal or state law.

1 Treatment and storage facilities do not include facilities for on-
2 site disposal of hazardous waste.

3
4 N. Wood waste recycling facility. A facility that receives,
5 temporarily stores, and processes untreated wood, which does not
6 contain pressure treated or wood preservative treated wood, in the
7 form of scrap lumber, timbers, or natural wood debris, including
8 logs, limbs, and tree trunks, for reuse, recycling or energy
9 recovery into products such as hog hogg fuel, fuel pellets, or
10 fireplace logs. All raw material shall be untreated wood and
11 shall not contain pressure treated or wood preservative treated
12 wood.

13
14 O. Yard debris depot. A facility that receives yard debris for
15 temporary storage, awaiting transport to a processing facility for
16 processing.

17
18 P. Yard debris processing facility. A facility that receives,
19 temporarily stores and processes yard debris into a soil
20 amendment, mulch or other useful product through grinding and/or
21 controlled biological decomposition.

22
23
24 SECTION 2. General Definitions

25
26 A. Aerobic. A process that uses free atmospheric oxygen.

27
28 B. Anaerobic. A process that does not allow the introduction of
29 free atmospheric oxygen.

30
31 C. Disposal. The discharge, deposit, injection, dumping,
32 spilling, leaking or placing of any solid waste or hazardous waste
33 into or on any land or water so that such solid waste or hazardous
34 waste or any constituent thereof may enter the environment or be
35 emitted into the air or discharged into any waters, including
36 ground water.

37
38 D. A. Footcandle. A unit of illumination. One footcandle is
39 the intensity of illumination when a source of 1 candlepower
40 illuminates a screen 1 foot away.

41
42 E. Gravity (g). The attraction exerted by any mass in space
43 upon any other mass, such as the pull exerted by the earth on the
44 moon or by the sun on the earth.

45
46 F. B. Hazardous waste. Discarded, useless or unwanted material
47 or residues in solid, liquid or gaseous state that cause or
48 significantly contribute to an increase in mortality or an
49 increase in serious irreversible or incapacitating reversible
50 illness or pose a substantial present or potential hazard to human

1 ~~health or the environment when improperly treated, stored,~~
2 ~~transported, disposed of, or otherwise managed. Has the meaning~~
3 ~~given that term in ORS 466.005.~~

4
5 **G. C. Hog Hogged fuel.** Fuel generated from wood or other
6 waste that has been fed through a machine that reduces it to a
7 practically uniform size of chips, ~~or~~ shreds, or pellets.

8
9 **H. D. Inert material.** Solid waste material that remains
10 materially unchanged by variations in chemical, environmental,
11 storage, and use conditions reasonably anticipated at the
12 facility.

13
14 **I. E. Leachate.** Liquid that has come into direct contact with
15 solid waste and contains dissolved and/or suspended contaminants
16 as a result of such contact.

17
18 **J. F. Level of service (LOS).** A measure of the overall
19 comfort afforded to motorists as they pass through a roadway
20 segment or intersection, based on such things as impediments
21 caused by other vehicles, number and duration of stops, travel
22 time, and the reserve capacity of a road or an intersection,
23 (i.e., that portion of the available time that is not used). LOS
24 generally is referred to by the letters A through F, with LOS E or
25 F being generally unacceptable. LOS generally is calculated using
26 the methodology in the *Highway Capacity Manual, Special Report*
27 *209*, by the Transportation Research Board (1985).

28
29 **K. G. Lower explosive limit.** The minimum concentration of gas
30 or vapor in air that will propagate a flame at 25 degrees Celsius
31 in the presence of an ignition source.

32
33 **L. H. Mixed solid waste.** Solid waste that contains
34 recoverable or recyclable ~~and non-recyclable materials and~~
35 ~~materials that are not capable of being recycled or recovered for~~
36 ~~further use.~~

37
38 **M. I. Municipal solid waste.** Solid waste primarily from
39 residential, business, and institutional uses.

40
41 **N. J. Non-attainment area.** A geographical area of the State
42 which exceeds any state or federal primary or secondary ambient
43 air quality standard as designated by the Oregon Environmental
44 Quality Commission and approved by the U.S. Environmental
45 Protection Agency.

46
47 ~~O. Primary impact area. The area in which litter and illegally~~
48 ~~dumped waste a solid waste facility operator win[sic] remove.~~
49 ~~This area shall include primary routes to the facility within~~
50 ~~one-half mile of the facility, based on the traffic study, unless~~

1 ~~a greater distance is required by the approval authority or~~
2 ~~warranted based on annual review of illegal dumping.~~
3

4 **P. K.** Processing. An activity or technology intended to
5 change the physical form or chemical content of solid waste or
6 recycled material including, but not limited to sorting, baling,
7 composting, classifying, hydropulping, incinerating or shredding.
8

9 **Q. L.** Professional engineer. A professional engineer
10 currently licensed to practice in the state of Oregon. The type
11 of professional engineer may be specified in the ordinance, (e.g.,
12 civil, structural, acoustic, traffic, etc.).
13

14 **R. M.** Recycled materials. Solid waste that is transformed
15 into new products in such a manner that the original products may
16 lose their identity.
17

18 **S. N.** Recycling. The use of secondary materials in the
19 production of new items. As used here, recycling includes
20 materials reuse.
21

22 **T. O.** Rural zone. A land use zone adopted by a unit of local
23 government that applies to land outside a regional urban growth
24 boundary.
25

26 **P.** Sealed container. A receptacle appropriate for preventing
27 release of its contents, protecting its contents from the entry of
28 water and vectors, and that will prevent the release of noxious
29 odors if the contents are capable of emitting such odors.
30

31 **U. Q.** Significant vegetation. A tree exceeding 6 inches in
32 diameter measured 4 feet above grade at the base of the tree or
33 other vegetation more than 4 feet above grade, but not including
34 blackberry or other vines or weeds.
35

36 **V. R.** Soil amendment. A material, such as yard waste compost,
37 added to the soil to improve soil chemistry or structure.
38

39 **W. S.** Solid waste. ~~All putrescible and non-putrescible wastes~~
40 ~~including but not limited to garbage, rubbish, refuse, ashes,~~
41 ~~waste paper and cardboard; sewage sludges, septic tank and~~
42 ~~cesspool pumpings or other sludge; commercial, industrial,~~
43 ~~demolition and construction wastes; metal or discarded machinery;~~
44 ~~discarded home and industrial appliances; manure; vegetable or~~
45 ~~animal solid and semi-solid waste, dead animals and other wastes.~~
46 ~~The term does not include hazardous waste.~~ Has the meaning given
47 that term in ORS 459.005.
48
49
50

1 X- T. Urban zone. A land use zone adopted by a unit of local
2 government that applies to land inside a regional urban growth
3 boundary.

4
5 Y- U. Wetland. An area that is inundated or saturated by
6 surface or ground water at a frequency and duration sufficient to
7 support, and that, under normal circumstances, does support a
8 prevalence of vegetation typically adapted for life in saturated
9 soil conditions. Wetlands are identified on the Goal 5 inventory
10 of such features or, in the absence of such an inventory, are
11 based on the *Federal Manual for Identifying and Delineating*
12 *Jurisdictional Wetlands (1989)*.

13
14
15 **SECTION 3. Solid Waste Facilities Allowed by Zone**

16
17 **A. Solid waste facilities as a [principal/primary] or**
18 **conditional use.**

19
20 1. The following solid waste facilities are permitted as
21 [principal/primary] uses in the [insert zones as determined
22 by the local government], subject only to the applicable
23 provisions of Sections 4 through 7 of this ordinance:

24
25 [List facilities allowed as a principal/primary use.
26 Repeat as necessary for each zone or group of zones. It
27 is suggested that all of the listed solid waste
28 facilities be permitted in rural industrial/commercial
29 and urban industrial zones and that smaller scale uses
30 be permitted in land extensive commercial zones. In
31 rural zones, an urban land use may be subject to
32 statutory and Goal limits. Note: regulations of the
33 underlying zone do not apply unless incorporated into
34 this ordinance.]

35
36 2. The following solid waste facilities are permitted as
37 conditional uses [or equivalent] in the [insert other zones
38 as determined by City/County, subject only to the applicable
39 provisions of Sections 4 through 7 of this ordinance:

40
41 [List facilities allowed as a conditional use. Repeat
42 as necessary for each zone or for groups of zones. It
43 is suggested that all of the listed solid waste
44 facilities not allowed pursuant to Section 3 A.1 be
45 permitted subject to Section 3 A.2 in industrial and
46 land extensive commercial zones. In rural zones, an
47 urban land use may be subject to statutory and Goal
48 limits. Note: other conditional use regulations do not
49 apply to solid waste uses unless incorporated into this
50 ordinance.]

1 B. Accessory use solid waste facilities. The following solid
2 waste facilities are permitted, subject to the applicable
3 regulations of the zone, as an accessory use to a permitted or
4 conditional use without being subject to the conditional use
5 review:
6

7 a- 1 Household hazardous waste depot, provided the
8 facility is accessory to a public facility or to a use in an
9 industrial zone.

10 b- 2 Small scale specialized incinerator, provided the
11 facility does not accept more than 220 pounds per day of
12 waste from off-site.
13

14 c- 3 Recycling drop boxes, provided they also comply
15 with Section 4.G.5.
16

17 C. Multiple purpose solid waste facility. A solid waste
18 facility may include more than one kind of facility as defined in
19 Section 1. An application that includes more than one kind of
20 facility is permitted in a given zone only if all of the uses
21 proposed in the facility are permitted in that zone. If any of
22 the uses proposed are allowed only as a conditional use in the
23 zone, then all of the uses proposed shall be considered
24 conditional uses.
25

26 D. Temporary solid waste facility. The following solid waste
27 facilities may be approved as a temporary use in any zone without
28 being subject to conditional use review if the use operates not
29 more than three days per calendar month, subject only to the
30 dimensional requirements of the underlying zone [e.g., setbacks
31 and height] and the applicable provisions of Sections [4A, 4C
32 through 4G, and 4J through 4O] and the appropriate requirements of
33 Sections 5 through 7:
34

35 [List facilities allowed. It is suggested that a
36 demolition debris depot, household hazardous waste
37 depot, yard debris depot, and plastics recycling depot
38 be allowed as a temporary use in all zones. Local
39 governments may want to prohibit temporary solid waste
40 facilities in residential zones unless associated with a
41 public use. The parts of Section 4 listed for temporary
42 facilities are the ones most relevant to such a use.
43 Local governments may want to subject such facilities to
44 other provisions of Section 4 other than those listed
45 above.]
46
47
48
49
50

1 E. Prohibited solid waste facility.

2
3 1. Unless allowed by Sections 3.A through 3.D, a solid
4 waste facility is prohibited.

5
6 2. Notwithstanding Sections 3.A through 3.D above, the
7 following solid waste facility [or facilities] [is/are]
8 prohibited in the following zones:

9
10 *[List specific solid waste facilities and zones where*
11 *they are prohibited, such as open space zones, historic*
12 *district zones, environmental or natural resource zones,*
13 *etc.]*

14
15
16 **SECTION 4. ~~Approval Criteria and Development Standards~~**

17
18 Table 1 lists which ~~approval criteria and the~~ development
19 standards that apply to each kind of solid waste use defined in
20 Section 1. If an application is for a facility that includes more
21 than one kind of use, it is subject to the ~~criteria and~~ standards
22 that apply to all uses in the facility.

23
24 In the left-hand column of Table 1 is a list of the solid
25 waste facilities regulated by this ordinance. Across the top of
26 the table are the subjects regulated by the ordinance. They are
27 listed in the order in which they appear after the table. To
28 identify which ~~criteria and the~~ standards that apply to a given
29 facility, identify the facility in the left-hand column and read
30 across the row. A dot "." at the intersection of a row and column
31 indicates that the facility listed in the left-hand column is
32 subject to the ~~approval criterion or~~ standard at the top of the
33 column. An "x" at the intersection of a row and column indicates
34 that the facility listed in the left-hand column is not subject to
35 the ~~criterion or~~ standard at the top of the column.

36
37 Some criteria and standards incorporate by reference state
38 and federal regulations that are included as appendices to the
39 ordinance or are incorporated by reference in those appendices.
40 The [City/County] approval authority applies those state and
41 federal regulations as though it is the state or federal agency
42 responsible for administering them. The approval authority uses
43 the procedure in this ordinance that applies to the application
44 for the solid waste facility in question rather than using the
45 procedure provided in the state and federal regulations. Local
46 review does not substitute for state or federal review required by
47 regulations in the appendices, and local action does not bind
48 state or federal agencies about matters of state or federal
49 jurisdiction.

DEVELOPMENT STANDARDS

TABLE 1 - APPROVAL CRITERIA APPLICABLE TO FACILITIES

Page 11 March 19 1991 draft
METRO Model Solid Waste Facility Siting Ordinance

Page 10 8/6/91 DRAFT 9/20/91 DRAFT

| Code section | Wetlands, habitat and natural area impacts | Vibration impacts | Landscaping and site design impacts | Historic resource impacts | Operating impacts | Signage impacts | Outdoor storage impacts | Litter impacts | Vector control impacts | Fire protection and explosion | Traffic circulation and access | Floodplain conditions | Topographic conditions | Geologic and soil conditions | Noise impacts ^{2(f)} | Odor impacts ^{2(g)} | Ground and surface water impacts ^{2(4,5,6,7)} | Methane gas impacts ^{2(f)} | Air quality impacts ^{2(e,9,10)} |
|---|--|-------------------|-------------------------------------|---------------------------|-------------------|-----------------|-------------------------|----------------|------------------------|-------------------------------|--------------------------------|-----------------------|------------------------|------------------------------|-------------------------------|------------------------------|--|-------------------------------------|--|
| Proposed use | | | | | | | | | | | | | | | | | | | |
| Cond exmpt sm quan collect facil ¹ | | | | | | | | | | | | | | | | | | | |
| Demolition landfill | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . |
| Household hazardous waste depot | . | x | . | . | . | . | . | . | . | . | . | . | . | . | x | . | . | x | . |
| Limited purpose landfill | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . |
| Material recovery facility | . | . | . | . | . | . | . | . | . | . | . | . | . | . | x | . | . | x | . |
| Mixed c/d debris recycling facility | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | x | . |
| Mixed waste composting facility | . | . | . | . | . | . | . | . | . | . | . | . | . | . | x | . | . | x | . |
| Monofill ^{Solid} | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . |
| Municipal solid waste depot | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | x | . |
| Small scale specialized incinerator | . | x | . | . | . | . | . | . | . | . | . | . | . | . | x | . | . | x | . |
| Solid waste transfer station | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | x | . |
| Treat, storage & disposal facility ¹ | . | x | . | . | . | . | . | . | . | . | . | . | . | . | x | . | . | x | . |
| Wood waste recycling facility | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | x | . |
| Yard debris depot | . | x | . | . | . | . | . | . | . | . | . | . | . | . | x | . | . | x | . |
| Yard debris processing facility | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | . | x | . |

Resources

Treatment and

- applicable standard
- x standard not applicable
- ¹ standards for conditionally exempt small quantity collection facilities will be developed in the future
- ² incorporates local and state or federal regulations in appendix number(s) in brackets
- ³ incorporates state or federal regulations in appendix number(s) in brackets
- ⁴ a T,S,D facility also is subject to standards and criteria in appendix II

1 ~~[Local governments can use the model ordinance in 4 ways: (1) with~~
2 ~~the appendices as approval criteria, (2) with the appendices as~~
3 ~~information requirements, (3) without the appendices, or (4) in~~
4 ~~combination. The appendices contain state or federal regulations~~
5 ~~that apply to some or all solid waste uses. They should be~~
6 ~~updated to keep current (see §6.C).~~

7
8 ~~Option 1: The model ordinance is written assuming the~~
9 ~~appendices are approval criteria.~~

10
11 ~~Option 2: The appendices can be used to collect information so~~
12 ~~that the local government can prepare to participate in state or~~
13 ~~federal agency actions regarding the proposed facility. To use the~~
14 ~~appendices as information requirements, modify the preceding~~
15 ~~paragraph, Sections 4.0 through 4.T, and Sections 6D and F to~~
16 ~~require information only.~~

17
18 ~~Option 3: The appendices can be deleted, deferring to the~~
19 ~~responsible agency whether a proposed facility complies with them.~~
20 ~~To use option 3, delete the last paragraph in the text above, the~~
21 ~~... Methane gas impacts" and "Air quality impacts" columns and~~
22 ~~the superscripts and bracketed numbers on Table 1, and Sections~~
23 ~~4.R through 4.T and 6.C, and modify Sections 4.0 through 4.Q and~~
24 ~~Sections 6D and F to delete reference to the appendices.~~

25
26 ~~Option 4: To use the model ordinance with a combination of~~
27 ~~approaches, modify the last paragraph in the text above and Table~~
28 ~~1 to include a rule, notes or symbols to identify what appendices~~
29 ~~apply to what facilities and change Sections 6D and F accordingly.~~
30 ~~For instance, applicable standards could vary with the kind of~~
31 ~~facility using option 4. A local government could decide that all~~
32 ~~landfills and solid waste transfer stations should be subject to~~
33 ~~the standards in all the appendices. Or a facility could be~~
34 ~~subject to only certain appendices; for instance, an incinerator~~
35 ~~could be subject to the air quality provisions in appendices 9~~
36 ~~through 11, because it is likely to have air quality impacts, but~~
37 ~~not subject to noise or water quality standards in other~~
38 ~~appendices, because such impacts are not likely.~~

39
40 ~~Or a facility could be subject to the appendices if it exceeds a~~
41 ~~certain measure of land use intensity or has a certain impact on~~
42 ~~land resources, defined in terms of the number of vehicle trips~~
43 ~~generated by the facility, by the capacity of the facility, or by~~
44 ~~the area of the site to be developed. Therefore, a facility would~~
45 ~~be subject to standards in the appendices if it would generate~~
46 ~~more than 200 vehicle trips per day, would have a capacity of~~
47 ~~200 cubic yards of material per day, or would involve development~~
48 ~~of an area of an acre or more.]~~

1 A. Wetlands, habitat and natural area impacts.

2
3 1. The applicant shall identify and describe the
4 significance and functional value of wetlands on the site and
5 protect those wetlands from adverse effects of the
6 development. A facility complies with this standard if it
7 complies with Section 4.A.1.a or b below:
8

9 a. The facility will not reduce the area of wetlands
10 on the site, and development will be separated from such
11 wetlands by a minimum of [60] feet, which shall be
12 retained in its existing condition or enhanced for
13 compatibility with the wetland. The setback may be
14 reduced to as little as [x] feet if the applicant shows
15 such lesser setback will not adversely affect the
16 wetland, provided Section 4.C does not require more than
17 the requested setback. Lack of adverse effect can be
18 demonstrated by showing the following among other means:
19

20 (1) A natural condition such as topography, soil,
21 vegetation or other feature isolates the area of
22 development from the wetland;
23

24 (2) Impact mitigation measures will be designed,
25 implemented, and monitored to provide effective
26 protection against harm to the wetland from
27 sedimentation, erosion, loss of surface or ground
28 water supply, or physical trespass; and/or
29

30 (3) A lesser setback complies with federal and
31 state permits, or standards that will apply to
32 state and federal permits, if required.
33

34 b. Where existing wetlands are eliminated by the
35 facility, the applicant will develop or enhance an area
36 of wetland on the site or in the same drainage basin
37 that is at least equal to the area and functional value
38 of wetlands eliminated.
39

40 2. The applicant shall provide appropriate plans and text
41 that identify and describe the significance and functional
42 value of natural features on the site [if identified in the
43 Comprehensive Plan or the Goal 5 inventory or if in a natural
44 resource zone or equivalent], and protect those features from
45 impacts of the development or mitigate adverse effects that
46 will occur. A facility complies with this standard if:
47

48 a. The site does not contain an endangered or
49 threatened plant or animal species or a critical habitat
50 for such species identified by federal or state

1 government [and does not contain significant natural
2 features identified in the Comprehensive Plan if the
3 local Comprehensive Plan includes an inventory and
4 assessment of such features]; and
5

6 b. The facility will comply with applicable
7 requirements of the [natural resource zone] if one
8 applies to the site; and
9

10 c. The applicant will excavate and store topsoil
11 separate from subsurface soil, and shall replace the
12 topsoil over disturbed areas of the site not covered by
13 buildings or pavement or will provide other appropriate
14 medium for re-vegetation of those areas, such as yard
15 debris compost; and
16

17 d. The applicant will retain significant vegetation in
18 areas that will not be covered by buildings or pavement
19 or disturbed by excavation for the facility; will
20 replant areas disturbed by the development and not
21 covered by buildings or pavement with native species
22 vegetation unless other vegetation is needed to buffer
23 the facility; will protect disturbed areas and adjoining
24 habitat from potential erosion until replanted
25 vegetation is established; and will provide a plan or
26 plans identifying each area and its proposed use; and
27

28 e. Development associated with the facility will be
29 set back from the edge of a significant natural area
30 [identified by Comprehensive Plan] by a minimum of [60]
31 feet, which and the setback area shall be retained in
32 its existing condition or enhanced for compatibility
33 with the natural area. The setback may be reduced to as
34 little as [x] feet if the applicant shows such lesser
35 setback will not adversely affect the natural area,
36 provided Section 4.C does not require more than the
37 requested setback. Lack of adverse effect can be
38 demonstrated by showing the same sort of evidence as in
39 Section 4.A.1.a above.
40

41 B. Vibration impacts. The facility shall not cause vibrations
42 that exceed 0.002g peak at a property line, except vibration from
43 construction and from vehicles that leave the site and except for
44 vibrations that last five minutes or less per day, based on a
45 written statement certified by a professional engineer.
46

47 C. Landscaping and site design impacts.
48

49 1. Except as noted in Section 4.C.2, the facility shall
50 comply with the setback requirements and height limits of the

1 underlying zone, provided, However, if the facility adjoins
2 a commercial zone, the minimum setback shall be [100] feet,
3 provided further, and if the facility adjoins a residential
4 or open space zone, the minimum setback shall be [200] feet.
5

6 2. Structures, exterior storage and processing areas, and
7 vehicle maneuvering and parking are prohibited in setbacks
8 required pursuant to Section 4.C.1 above, provided except
9 that:

10 a. The approval authority may reduce the required
11 setback if it finds that a lesser setback will not
12 adversely affect the privacy, use, or visual character
13 of existing uses on adjoining land, based on the scale
14 and design of the use or structure(s), landscaping and
15 buffers, or on the topography, vegetation, or other
16 natural features of the site;
17

18 b. Minor building features such as eaves, chimneys,
19 fire escapes, bay windows, uncovered stairs, wheelchair
20 ramps, and uncovered decks no more than 3 feet above
21 grade may extend up to 20 percent into a required
22 setback;
23

24 c. Attached mechanical structures such as heat pumps,
25 air conditioners, emergency generators, and water pumps
26 may extend into a required setback, except adjoining or
27 across a street from an abutting residential zone;
28

29 d. Fences, walls, berms, landscaping, access drives,
30 and an entry sign(s) are permitted in the setback; and
31

32 e. Notwithstanding the preceding, structures shall be
33 situated so they comply with the Uniform Building Code
34 adopted in Oregon.
35

36 3. Exterior building surfaces shall be finished. Metal
37 used on the exterior of the building shall be anodized or
38 painted; galvanized or coated steel shall not be left
39 unpainted.
40

41 4. Buildings with walls containing more than 2,500 square
42 feet above grade shall incorporate fascias, canopies,
43 arcades, or multiple colors or building materials to break up
44 large wall surfaces visually into areas of 1,000 square feet
45 or less, unless it would be contrary to the purpose of the
46 wall, such as for retaining earth or for structural support.
47

48 5. Attached mechanical structures and roof-mounted
49 equipment shall be screened from view from ground-level view
50

1 at adjoining public streets and property zoned residential or
2 open space. Screening may include landscaping, sight
3 obscuring fencing or other features.
4

5 6. The facility shall not cause glare or lights to shine
6 off site in excess of 0.5 footcandles onto non-industrial
7 zoned land, based on a written statement certified by a
8 professional engineer.
9

10 7. Structures shall not obstruct scenic views or vistas
11 identified in the Comprehensive Plan, although structures may
12 be visible from off site.
13

14 8. Major activity areas of the site, such as loading and
15 delivery areas, shall be oriented away from adjoining land
16 zoned for residential or open space uses.
17

18 9. At least 20 percent of the facility site shall be
19 landscaped with living vegetation in an appropriate medium,
20 such as yard debris compost. Landscaped areas shall have a
21 permanent irrigation system equipped with automatic controls.
22 Where landscaping is situated in required setbacks or adjoins
23 buildings and other structures, it shall include evergreen
24 species at least 6 feet above grade at planting and situated
25 not farther apart than the radius of the crown of a mature
26 specimen. The approval authority may waive or reduce the
27 level of landscaping where necessary to allow sight distance
28 for vehicular traffic, to enable views of signs or other
29 features of the facility that should be visible to enhance
30 the function of the facility, or to protect solar access to
31 adjoining property. The approval authority may require
32 larger or more numerous trees where necessary to reduce the
33 potential adverse visual effects of a facility. Existing
34 significant vegetation shall be retained, where feasible, and
35 may substitute for other required vegetation. Landscaping in
36 setbacks and parking lots counts toward the 20 percent.
37

38 10. All utilities will be underground, ~~provided, except that~~
39 electric and telephone lines may be above ground ~~to the~~
40 extent ~~if~~ such features are above ground on adjoining land or
41 land in the immediate vicinity.
42

43 **D. Historic resource impacts.** The facility shall not adversely
44 affect historic resources listed in the comprehensive plan [or
45 *inventory of historic resources adopted by [City/County]*]. A
46 facility complies with this standard if the site and adjoining
47 land do not contain an identified historic resource and are not in
48 an historic district. If the site or adjoining land contains such
49 a resource, then the applicant shall show the facility design
50 preserves the historic resource character.

1 E. Operating impacts.
2

3 1. Exterior activities are prohibited between 10 p.m. and
4 7 a.m. daily, ~~provided except that~~, vehicles may continue to
5 enter and exit the site and maintenance may be conducted at
6 all hours if they do not violate applicable provisions of
7 Sections [4B, C.6 and 8, K.2 and O] during any hours.
8

9 2. For a solid waste transfer station, most solid waste may
10 be stored in an open pit or floor inside a building for up to
11 24 hours or in a sealed container on the site for up to 72
12 hours. Separated recycled materials may be stored on the
13 site for up to 30 days in unsealed containers.
14

15 F. Signage impacts.
16

17 1. Signs shall comply with sign regulations of the zone,
18 except as provided herein.
19

20 2. If the facility is open to the public, ~~then the~~
21 applicant shall provide a sign(s) at the ~~each public~~
22 entrance(s) to the facility that is clearly legible and
23 visible from the adjoining public road. The sign shall
24 identify the name of the facility, the name and telephone
25 number of the operator, and hours of operation of the
26 facility. The entry sign(s) may be up to 32 square feet per
27 side and up to 10 feet above grade, unless the zone allows
28 larger signs. Directional information to orient drivers
29 shall be included on the entry sign(s) or on interior signs.
30

31 3. A sign(s) describing recommended access routes to the
32 facility, materials accepted, instructions for correct
33 preparation of accepted materials, recycling services, and
34 fees for disposing materials shall be posted at the facility.
35 ~~Signs that use recycled materials, including recycled~~
36 ~~plastic, are encouraged. Signs interior to the site shall be~~
37 ~~coordinated and consistent in appearance.~~
38

39 4. ~~Signs that use recycled materials, including recycled~~
40 ~~plastic, are encouraged. Sign quality and appearance shall~~
41 ~~be appropriate to the character of the area, as determined by~~
42 ~~the approval authority.~~
43

44 G. Outdoor storage impacts.
45

46 1. ~~Outdoor storage of mixed solid waste or recovered~~
47 ~~materials is prohibited, except in a landfill or composting~~
48 ~~facility approved for that purpose, or unless a professional~~
49 ~~engineer certifies in writing that the material is chemically~~
50 ~~inert. Outdoor storage of hazardous materials is prohibited.~~

1 No mixed solid waste or recovered material shall be stored
2 outside in unsealed containers, except:

3
4 a. In a landfill or composting facility approved for
5 that purpose;

6
7 b. Solid waste or recovered material that is inert; or

8
9 c. As otherwise allowed in this Section 4.G. In all
10 circumstances, outdoor storage of hazardous waste is
11 prohibited.

12
13 2. Source-separated materials other than yard debris and
14 wood waste shall be stored in containers in an area enclosed
15 on at least three sides and roofed, ~~provided except that~~, in
16 a rural zone, such materials shall be enclosed on any side
17 visible from adjoining public or private property and roofed.

18
19 3. Wood waste, yard debris, and ~~compacted~~ solid waste in
20 sealed containers may be stored outdoors if it complies with
21 the applicable dimensional and design standards. Yard debris
22 shall be removed from the site on at least a weekly basis.

23
24 4. Storage areas larger than 2 cubic yards for recovered
25 materials shall be enclosed.

26
27 5. ~~Recycling~~-Drop boxes for recyclable materials on the
28 site of a solid waste facility shall be painted and
29 maintained in good repair, ~~shall be situated on a paved~~
30 ~~surface, and shall be emptied before collected items exceed~~
31 the height of the box or within five days of becoming full.
32 The applicant shall post a notice on any recycling drop box,
33 stating that only domestic recyclable or reusable materials,
34 such as paper, cardboard, glass, tin, aluminum, plastic and
35 clothing are permitted. The notice shall also state that
36 yard debris, appliances, or other large items that may be
37 repairable, recyclable or reusable are prohibited, unless the
38 box is designed for that purpose. The name and telephone
39 number of the operator shall also be posted on the box.

40
41 6. Outdoor storage areas shall not be visible when viewed
42 from a height of 5 feet at the edge of the property, except
43 as provided above. A facility complies with this standard
44 when outdoor storage is enclosed within a sight obscuring
45 fence, wall, berm, or landscaping at least 6 feet high but
46 not more than 10 feet high. A wood fence is sight obscuring
47 when attached vertical or horizontal fence boards are
48 separated by not more than 1/4-inch. A metal fence
49 consisting of chain link or woven fabric is sight obscuring
50 when water and insect resistant wood or plastic slats are

1 inserted in the fence material so they are separated by not
2 more than 3/8-inch. Landscaping is sight obscuring when it
3 includes evergreen material at least 6 feet high and not more
4 than 2 feet on center at planting.
5

6 H. Litter impacts.
7

8 ~~1. Except for a facility receiving material exclusively in~~
9 ~~enclosed containers and not open to the public, or a facility~~
10 ~~involved exclusively in recycling, the applicant shall submit~~
11 ~~to [City/County] a plan to eliminate litter in the primary~~
12 ~~impact area, unless a greater distance is specified pursuant~~
13 ~~to Section 4.H.1.b below. The operator shall be responsible~~
14 ~~for the cost of collecting, removing and disposing of litter~~
15 ~~and illegally dumped waste within the primary impact area.~~
16 ~~The plan must include at least the following:~~
17

18 ~~a. For a facility open to the public, appropriate~~
19 ~~gates, signs and other traffic control devices to direct~~
20 ~~traffic to the facility along approved routes that avoid~~
21 ~~public parks, residential and retail districts and major~~
22 ~~public attractions to the extent possible;~~
23

24 ~~b. A delineation of the primary impact area in which~~
25 ~~the operator will remove litter and illegally dumped~~
26 ~~waste at the cost of the operator. The primary impact~~
27 ~~area shall extend at least 1/2 mile from the edge of the~~
28 ~~facility boundary along primary routes to the facility~~
29 ~~identified in the traffic study. Illegally dumped waste~~
30 ~~consists of material in excess of 2 cubic yards at a~~
31 ~~given location; litter includes lesser amounts of~~
32 ~~material at a given location. The area within which the~~
33 ~~applicant is responsible for clean-up may be adjusted~~
34 ~~over time based on where illegal dumping actually~~
35 ~~occurs;~~
36

37 ~~c. The establishment of a patrol to remove litter at~~
38 ~~least twice each day, seven days each week along~~
39 ~~designated routes within the primary impact area;~~
40

41 ~~d. Provisions for the removal of illegally dumped~~
42 ~~waste within the primary impact area within 24 hours of~~
43 ~~discovery;~~
44

45 ~~e. For a facility open to the public, provisions to~~
46 ~~make available written information that describes access~~
47 ~~routes to the facility, fees for wastes permitted at the~~
48 ~~facility, and recycling incentives; and~~
49
50

1 ~~f. For a landfill, a description of measures to be~~
2 ~~used to minimize blowing of litter from the site, such~~
3 ~~as periodic application of cover material, spraying with~~
4 ~~liquid, or use of portable fencing.~~
5

6 ~~2. The operator shall take reasonable measures to assist~~
7 ~~the [City/County] to identify the source of illegal waste.~~
8 ~~If the [City/County] identifies the source of the waste, the~~
9 ~~[City/County] may take measures to reimburse the operator for~~
10 ~~the cost of collection and removal of the waste.~~
11

12 1. For purposes of litter control, an area described as the
13 "Primary Impact Area" shall be established around the
14 proposed facility. The Primary Impact Area is the area
15 within which litter and illegally dumped solid waste is
16 presumed to be a result of the presence of a solid waste
17 facility. Illegally dumped waste consists of solid waste in
18 excess of two cubic yards at a given location, and litter
19 includes lesser amounts of solid waste at a given location.
20

21 2. The Primary Impact Area shall extend at least one-half
22 mile from the facility boundary along primary routes to the
23 facility, as identified in the traffic study. The approval
24 authority may expand the Primary Impact Area based on
25 specific conditions or if otherwise warranted based on annual
26 review of illegal dumping and litter patterns in the area.
27

28 3. Except as specified in subsection 5. of this section,
29 the applicant shall submit to [City/County] a plan to
30 eliminate litter in the Primary Impact Area. The plan shall
31 include at least the following:
32

33 a. A proposed delineation of the Primary Impact Area.
34

35 b. Appropriate gates, signs and other traffic control
36 devices to direct traffic to the facility along approved
37 routes that, to the extent possible, avoid public parks,
38 residential and retail districts and major public
39 attractions;
40

41 c. Establishment of a patrol to remove litter along
42 designated routes within the Primary Impact Area on a
43 schedule that, in the opinion of the approval authority,
44 is sufficient to prevent accumulation of litter;
45

46 d. Provisions for the removal of illegally dumped
47 waste within the primary impact area within 24 hours of
48 discovery;
49
50

1 e. Provisions to make available written information
2 that describes access routes to the facility, fees for
3 wastes permitted at the facility, surcharges for
4 delivery of uncovered loads, if appropriate, and
5 recycling incentives; and
6

7 f. For a landfill, a description of measures to be
8 used to minimize blowing of litter from the site, such
9 as periodic application of cover material, spraying with
10 liquid, or use of portable fencing.
11

12 4. The facility operator shall be responsible for the cost
13 of collecting, removing and disposing of litter and illegally
14 dumped waste within the Primary Impact Area. In addition,
15 the operator shall take reasonable measures to assist the
16 [City/County] in identifying sources of illegal waste. If
17 the [City/County] identifies a source of illegal waste, the
18 [City/County] may take measures to reimburse the operator for
19 the cost of collection and proper disposal of the waste.
20

21 5. The requirements of this Section 4.H. shall not apply to
22 a facility that is not open to the public and receives waste
23 only in sealed containers, or to any facility involved
24 exclusively in recycling.
25

26 I. Vector control impacts. For any facility where solid waste
27 could sustain or attract rodents or insects, because of the solid
28 waste in question or the environmental characteristics of the
29 site, the applicant shall submit and implement a plan to reduce
30 the potential for rodent and insect propagation using the best
31 available technology methods designed to minimize nuisance
32 conditions and health hazards.
33

34 J. Fire protection and explosion. The facility shall comply
35 with the Uniform Fire Code (UFC) as adopted by [City/County] and
36 the Uniform Building Code (UBC) adopted in Oregon. Facilities
37 that accept hazardous materials waste shall comply with UFC
38 Article 80.
39

40 K. Traffic circulation and access.
41

42 1. Access requirements for a facility shall be based on the
43 number and type of vehicle trips generated by the facility.
44 The number of trips generated per day shall be based on the
45 most recent version of the *Trip Generation Manual* of the
46 Institute of Traffic Engineers, provided, except that the
47 applicant may submit a trip generation study certified by a
48 professional traffic engineer of other similar facilities as
49 the basis for trip generation from by the proposed facility.
50 If a proposed facility is not listed in the *Trip Generation*

1 Manual and a trip generation study of other similar
2 facilities is not available, then the number and type of
3 vehicle trips generated by the proposed facility shall be
4 based on the figures for the use most similar to the proposed
5 facility for which the *Trip Generation Manual* contains data.
6

7 2. The applicant shall identify designated routes for
8 vehicular traffic generated by the proposed facility and
9 shall provide written information to facility users
10 describing and promoting use of those routes. Designated
11 routes shall be selected to minimize traffic on nonarterial
12 streets and shall not use ~~include~~ streets in residential
13 zones if nonresidential streets provide access.
14

15 3. For a facility that generates more than 200 vehicle
16 trips per day, the applicant shall submit a traffic study by
17 a professional traffic engineer that shows the facility will
18 not cause traffic volumes that exceed the capacity of the
19 street based on the [street standards or holding capacity
20 assumptions of the transportation master plan of
21 [City/County]], or that cause any intersection affected by
22 that traffic to have a Level of Service [E or] F. If the
23 proposed facility will cause street capacity to be exceeded
24 or create a level of service [E or] F at any intersection,
25 the applicant shall propose street modifications acceptable
26 to [City/County] to meet the requirements of this subsection.
27 Unless otherwise provided by agreement with [City/County],
28 all expenses related to street improvements necessitated by
29 the proposed facility shall be borne by the applicant.
30

31 4. A facility in an urban zone shall provide for a
32 deceleration/turn lane at proposed access points to separate
33 facility-bound traffic from other traffic if deemed warranted
34 by the traffic study required in Section 4.K.3. The lane
35 shall accommodate at least two stacked vehicles and shall
36 taper at a ratio of not less than 25:1 to match the standard
37 roadway width.
38

39 L. Floodplain conditions. The facility will comply with the
40 applicable floodplain zone regulations of [cite City/County code
41 or ordinance]. All solid waste stored in a floodplain zone shall
42 be enclosed in a structure with a finished floor elevation at
43 least 1 foot above the 100-year base flood elevation as determined
44 by Federal Emergency Management Agency maps or by a survey by a
45 professional land surveyor licensed in the state of Oregon.
46

47 M. Topographic conditions. The facility shall comply with the
48 [slope hazard] regulations of [cite City/County code or
49 ordinance].
50

1 N. Geologic and soil conditions. The facility shall comply with
2 the [geologic/soil hazard] regulations of [cite City/County code
3 or ordinance].

4
5 O. Noise impacts.

6
7 1. If the facility site is not in an industrial zone or
8 does not ~~exclusively~~ adjoin land ~~exclusively~~ in an industrial
9 zone, or if it adjoins a noise sensitive use, such as a
10 residence, hospital, or school [or substitute specific sites
11 identified in the Comprehensive Plan], ~~then~~ at the
12 applicant shall submit to [City/County] a study by a
13 professional acoustical engineer of ~~expected~~ noise levels at
14 the facility site boundary, including at the site boundary
15 adjoining any residential or noise sensitive use, ~~and~~.

16
17 ~~or 2. In all instances, the applicant shall show operate~~
18 ~~the facility will not cause noise in excess of the in~~
19 ~~compliance with applicable noise standards in Appendix 1 in~~
20 ~~OAR Chapter 340, Division 35 [or cite more stringent~~
21 ~~[City/County] standards], based on accepted noise modeling~~
22 ~~procedures and worst case assumptions when all noise sources~~
23 ~~on the site are operating simultaneously [or other applicable~~
24 ~~{City/County} standard} and noise mitigation requirements if~~
25 ~~any, imposed by the approval authority as conditions for~~
26 ~~approval.~~

27
28 ~~e. If the facility may exceed applicable noise~~
29 ~~standards, based on the results of the noise model, then~~
30 ~~the applicant shall submit a noise mitigation program~~
31 ~~prepared by a professional acoustical engineer that~~
32 ~~shows the facility will comply with the applicable noise~~
33 ~~standards as operated.~~

34
35 ~~2. If the facility site is in an industrial zone,~~
36 ~~exclusively adjoins land exclusively in an industrial zone,~~
37 ~~and does not adjoin a noise sensitive use [identified in the~~
38 ~~Comprehensive Plan], then the applicant shall show the~~
39 ~~facility will not cause noise in excess of the noise~~
40 ~~standards in Appendix 1 [or more stringent {City/County}~~
41 ~~standards], based on a written statement certified by a~~
42 ~~professional acoustical engineer.~~

43
44 3. Outdoor amplified sound systems are prohibited.

45
46 P. Odor impacts.

47
48 1. The ~~applicant shall demonstrate that the~~ facility:
49
50

- 1 a. Will incorporate the best practicable design and
2 operating measures to reduce the potential for odors
3 detectable off-site from such things as waste stored or
4 being processed on site, spillage of waste, venting of
5 dust, residual amounts of waste in operating areas of
6 the site, and vehicle odors in stacking, maneuvering and
7 staging areas ~~by such means as listed in Appendix 2~~; and
8
9 b. Will not cause unusual or annoying odors,
10 considering the density of the surrounding population,
11 the duration of the emissions, and other factors
12 relevant to the impact of such emissions.
13

14 2. Open burning of solid waste will not ~~occur~~ be allowed,
15 unless:

- 16
17 a. Open burning is consistent with ~~the standards in~~
18 ~~Appendix 3~~ of the ODEQ; or
19
20 b. The facility is outside the area where open burning
21 is banned, and a permit is not required by ~~the Oregon~~
22 Department of Environmental Quality (ODEQ).
23

24 Q. Ground and surface water impacts.

25
26 1. The applicant shall demonstrate that the facility shall
27 will:

- 28
29 a. Collect all waste water from production, washing
30 down of equipment and vehicles, and similar activities
31 and discharge the water to a public sanitary sewer if:
32
33 (1) The sewer adjoins or can be extended to the
34 site, based on applicable rules of the sewer
35 service provider, and
36
37 (2) The sewer has the capacity to accommodate
38 waste water from the facility as determined by the
39 sewer service provider or by a professional civil
40 engineer; or
41
42 b. Provide ~~Incorporate~~ an alternative sanitary waste
43 disposal method that is or will be approved by ODEQ; or
44
45 c. Provide ~~Incorporate~~ an alternative waste disposal
46 method that is consistent with ~~the applicable water~~
47 ~~quality standards in Appendix 4~~ and will not cause
48 drinking water supplies to violate ~~the applicable water~~
49 ~~quality standards in Appendix 5~~; or
50

1 d. ~~Not provide water for production activities,~~
2 ~~vehicle washing, or sanitary waste and generate waste~~
3 ~~water, and will divert and/or contain storm water so~~
4 ~~that it does not enter solid waste on the site.~~
5

6 ~~2. Where there is substantial evidence that the facility~~
7 ~~could cause the ground or surface water in the vicinity of~~
8 ~~the facility to violate applicable standards in Appendices 4~~
9 ~~or 5, the approval authority may require an applicant to~~
10 ~~submit and implement a ground water self-monitoring program~~
11 ~~prepared by a professional civil engineer, which includes~~
12 ~~among other things:~~
13

14 a. ~~An ODEQ-certified laboratory analysis of existing~~
15 ~~ground water quality in the aquifer beneath and down~~
16 ~~gradient from the site. The analysis shall show each of~~
17 ~~the constituents for which there are standards in~~
18 ~~Appendix 5 complies with applicable standards in that~~
19 ~~appendix.~~
20

21 b. ~~Drilling one or more ground water monitoring wells~~
22 ~~to sample the uppermost aquifer within 500 feet of the~~
23 ~~boundary of the facility boundary, and providing~~
24 ~~certified laboratory analysis of water samples at least~~
25 ~~monthly to the [City/County]. If such a well or wells~~
26 ~~requires approval by the Oregon Department of Water~~
27 ~~Resources, then the applicant shall obtain such approval~~
28 ~~before a building permit is issued for the facility, and~~
29

30 c. ~~A notification and corrective action plan in the~~
31 ~~event of ground water contamination. If any constituent~~
32 ~~is detected at statistically significant levels above a~~
33 ~~water quality standard, the applicant shall implement~~
34 ~~the plan.~~
35

36 ~~2. Prior to construction of the facility, the applicant~~
37 ~~shall obtain all required permits relating to discharges of~~
38 ~~waste water and storm water from the facility. The operator~~
39 ~~of the facility shall comply with all directives of state and~~
40 ~~federal agencies related to protection of ground and surface~~
41 ~~water resources potentially affected by the facility.~~
42

43 ~~3. At the request of the approval authority, the applicant~~
44 ~~shall submit to the approval authority copies of any~~
45 ~~groundwater self-monitoring programs and analyses of~~
46 ~~potential surface and groundwater impacts related to the~~
47 ~~facility that are required to be submitted to the ODEQ.~~
48

49 ~~3- 4. At the request of the approval authority, an~~
50 ~~applicant for a landfill, mixed waste compost facility, wood~~

1 waste recycling facility, yard debris depot or processing
2 facility shall submit a copies of its leachate collection and
3 treatment plan and program prepared by a professional civil
4 engineer eonsistent with the applicable standards in
5 Appendix 6. A leachate collection and treatment plan and
6 program is not required if solid waste will be covered,
7 enclosed or stored in containers so that storm water does not
8 enter it for submittal to the ODEQ, if one has been required
9 by the ODEQ.

10
11 ~~4~~ 5. An applicant for a household hazardous waste
12 collection facility depot, hazardous waste treatment and
13 storage facility, material recovery facility, solid waste
14 depot or transfer station shall submit and implement a plan
15 and program prepaT.red by a professional civil engineer to
16 collect, pretreat and dispose waste water from the floor or
17 operating area of such facility and to prevent surface water
18 from mixing with solid waste spills.

19
20 ~~5~~ 6. The applicant shall submit and implement a plan
21 prepared by a professional civil engineer to reduce the
22 amount of waste water caused by hosing down equipment,
23 tipping areas, platforms and other facility features, such as
24 by using high pressure/low flow washing systems, compressed
25 air or vacuum equipment for cleaning.

26
27 ~~6~~ 7. The applicant shall submit and implement a plan
28 prepared by a professional civil engineer or landscape
29 architect to collect storm water from all impervious areas of
30 the site and to dispose of properly manage storm water. The
31 applicant shall comply with state and federal regulations
32 governing storm water discharges, and obtain required storm
33 water discharge permits in a timely fashion. To the extent
34 consistent with a storm water discharge permit issued for the
35 facility, storm water shall be disposed managed in the
36 following manner:

37
38 a. Storm water disposal shall comply with the storm
39 drainage master plan of the [City/County/USA] [and with
40 applicable basin-wide storm water management plans, such
41 as the Johnson Creek or Tualatin River Storm Water
42 Management Plans], as determined by the [City/County
43 Engineer/USA].

44
45 b. If there is not a storm drainage master plan for
46 the area of the facility, then storm water shall be
47 discharged to a storm sewer if it is available or can be
48 extended to the site, [based on the applicable rules of
49 the storm sewer service provider,] and if it has
50 adequate capacity to accommodate storm water from the

1 site, as determined by [the sewer service provider or] a
2 professional civil engineer or landscape architect.
3

4 c. If a storm sewer with adequate capacity is not
5 available, then the applicant shall:
6

7 (1) Retain storm water on-site; and/or
8

9 (2) Detain storm water on-site and discharge it
10 from the site at no greater rate than before
11 development of the facility; or
12

13 (3) Discharge storm water at full rate to public
14 drainage features, such as a roadside ditch or
15 regional drainage facility, if there is adequate
16 capacity to accommodate it as determined by a
17 professional civil engineer or landscape architect.
18 Where it discharging water at full rate would
19 exceed the capacity of downstream drainage
20 features, then the applicant shall:
21

22 (a) Provide a detention pond or ponds to
23 contain water in excess of the system's
24 capacity; and/or
25

26 (b) Identify improvements to downstream
27 drainage features necessary to accommodate the
28 increased volume or rate of flow without
29 adversely affecting adjoining property and
30 either:
31

32 (i) Provide such improvements before
33 operation of the facility, or
34

35 (ii) Contribute necessary funds to the
36 [City/County/USA] so that the
37 [City/County/USA] can undertake such
38 improvements.
39

40 (c) If off-site improvements are required so
41 to accommodate storm water from the site, can
42 be accommodated, then, before prior to
43 issuance of a building permit for the
44 facility, the applicant and the
45 [City/County/USA] shall execute an agreement
46 to pay back the applicant for the cost of
47 improvements to the extent those improvements
48 exceed the storm drainage needs generated by
49 the facility.
50

1 ~~{Effective November 1991, ODEQ will require a discharge~~
2 ~~permit for industrial storm water drainage control. That permit~~
3 ~~or the regulations for that permit may substitute for the specific~~
4 ~~provisions above.}~~
5

6 ~~7- 8.~~ Except as otherwise provided by the storm drainage
7 master plan of the [City/County/USA], the collection and
8 disposal system shall be sized to accommodate peak flows from
9 a 25-year storm event, based on the flow from the area that
10 includes the site and the basin that drains onto it, assuming
11 permitted development of that area, as determined by a
12 professional civil engineer or landscape architect.
13

14 ~~8- 9.~~ Before storm water is discharged from the site or
15 into the ground, the applicant will direct it through
16 features to remove sediment, grease and oils, and water
17 soluble materials in the water. Such features shall comply
18 with the storm drainage standards of the [City/County/USA].
19

20 ~~9- 10.~~ The applicant shall submit and implement a plan
21 prepared by a professional civil engineer or landscape
22 architect to reduce the potential for erosion along natural
23 and constructed drainageways and across slopes during and
24 after construction.
25

26 ~~10- 11.~~ For a landfill, the approval authority may require
27 that the applicant shall submit a copy of its closure plan as
28 prepared for submittal to the ODEQ that is consistent with
29 the standards in Appendix 7 and that shows surface and ground
30 water will be protected against pollution after the facility
31 is closed.
32

33 R. Methane gas impacts.
34

35 1. The applicant shall submit a statement from a
36 professional engineer that the facility will not cause
37 generate significant quantities of methane gas emissions; or
38

39 2. The applicant shall submit and implement a methane gas
40 control program prepared by a professional engineer that
41 shows describes how:
42

43 a. The facility will not cause generate methane gas in
44 excess of 25 percent of the lower explosive limit for
45 methane in facility structures or in excess of the lower
46 explosive limit at the facility boundary; and
47

48 b. The gas shall be collected and vented,
49 incinerated, or put to or prepared for a productive use;
50 and

1 c. Methane will be measured in structures and at the
2 facility boundary, consistent with the standards in
3 ~~Appendix 8 applicable ODEQ standards.~~

4
5 S. Air quality impacts. A facility shall not cause detrimental
6 air quality impacts. A facility complies with this standard if
7 the applicant obtains all required Air Contaminant Discharge
8 Permits and the facility is operated in conformance with all
9 applicable ODEQ air quality standards and requirements.

10
11 ~~1. For a facility that includes an incinerator, the~~
12 ~~facility will comply with air quality standards in Appendix~~
13 ~~9.~~

14
15 ~~2. For a facility for which an ODEQ Air Contaminant~~
16 ~~Discharge Permit is required, the facility will comply with~~
17 ~~the standards in Appendix 10; and~~

18
19 ~~3. All facilities shall comply with the standards in~~
20 ~~Appendix 2.~~

21
22 T. Transfer, Treatment and Storage and Disposal facilities
23 (Hazardous Waste). The applicant for a proposed a transfer
24 treatment, and storage, and disposal facility shall comply with
25 the standards in Appendix 11 Oregon Administrative Rules Chapter
26 340, Division 120, and any other applicable state or federal law,
27 by obtaining all state and federal permits necessary for operation
28 of the facility.

29
30
31 **SECTION 5. Application Contents**

32
33 A. In addition to submitting application forms provided by the
34 [City/County], the applicant shall describe at least the following
35 features of the proposed facility:

- 36
37 1. Capacity and projected life.
38
39 2. The population or industries to be served.
40
41 3. The amount of solid waste that is expected to be
42 accommodated at the facility from the population or
43 industries to be served, including maximum daily and monthly
44 amounts and average annual volume and weight of waste to be
45 received.
46
47 4. For a landfill, planned future uses of the site after
48 closure.
49
50

1 5. The quantity of each type of waste stream projected to
2 be accommodated at the facility. Examples of waste streams
3 include domestic waste, commercial and institutional waste,
4 industrial waste, construction and demolition waste,
5 agricultural waste, sewage sludge, and contaminated clean-up
6 materials, etc.
7

8 6. The operating characteristics of the facility, including
9 equipment used, hours of operation, and volume, distribution,
10 and type of traffic associated with the use, and a traffic
11 study if required by Section 4 of this ordinance.
12

13 7. The kind or kinds of facility or facilities proposed,
14 based on the definitions in Section 1.
15

16 B. ~~Unless waived by the [planning director] pursuant to Section~~
17 ~~6.D.3, the application shall include:~~ The applicant shall submit
18 the following information as part of the application, unless the
19 [planning director] finds that, given the scale and nature of the
20 facility, a requested item will not materially aid the approval
21 authority in reviewing the proposal, and the item is not otherwise
22 required to be submitted under this ordinance.
23

24 1. A written description of the location of the site with
25 respect to known or easily identifiable landmarks and access
26 routes to and from the area the facility will serve.
27

28 2. A legal description of the tract or tracts to be used
29 for the facility.
30

31 3. Except for an accessory facility, a map or maps showing
32 the location of the site, existing and approved land uses
33 within a minimum [250]-foot radius of the boundary of the
34 site inside the regional urban growth boundary or within a
35 minimum [500]-foot radius of the site outside the regional
36 urban growth boundary; public water supply wells, surface
37 waters, access roads within that radius; historic sites,
38 areas of significant environmental concern or resources, or
39 significant environmental features identified in the
40 comprehensive plan within the applicable radius; other
41 existing or approved man-made or natural features relating to
42 the facility; and a north arrow, bar scale, and drawing date.
43

44 4. Except for an accessory use or temporary facility, an
45 aerial photograph of the site and the area within the
46 relevant radius with the boundary of the site outlined.
47

48 5. Except for an accessory or temporary facility, a map or
49 maps showing the existing topography of the site with contour
50 intervals not to exceed 2 feet if slopes are less than

1 5 percent, not to exceed 5 feet if slopes are more than
2 5 percent, and not to exceed 10 feet if slopes are more than
3 20 percent; natural features of the site including water
4 bodies and wetlands; the boundary of the 100-year floodplain
5 based on Federal Emergency Management Agency data; public
6 easements of record; man-made features including buildings,
7 utilities, fences, roads, parking areas, and drainage
8 features; boundaries of existing waste disposal areas and
9 soil borrow areas, if any; locations of borings, piezometers,
10 monitoring wells, test pits, water supply wells, and facility
11 monitoring or sampling points and devices; a benchmark; and a
12 north arrow, bar scale, and drawing date.
13

14 6. For a landfill, data regarding average annual and
15 monthly precipitation and evaporation and prevailing wind
16 direction and velocity, based on data from the National
17 Oceanic and Atmospheric Administration or other federal or
18 state agency, or from on-site measurements.
19

20 7. For a landfill, information regarding minimum, maximum
21 and average annual flow rates and monthly variations of
22 streams on the site, based on stream gaging data collected by
23 the US Geological Service or other federal or state agency
24 supplemented with reliable site specific data as available.
25

26 8. A map or maps showing and describing the type and size
27 of existing vegetation on the site, and identifying
28 vegetation to be removed and retained.
29

30 9. A grading plan showing site elevations when grading is
31 completed, including any modifications to drainage channels
32 and any required retaining walls or other means of retaining
33 cuts or fills.
34

35 10. A site plan showing proposed structures, signs, parking,
36 outdoor storage, landscaping, berms, fencing, and other
37 features of the facility.
38

39 11. Responses to the applicable ~~criteria~~ standards of
40 Section 4 of this ordinance.
41

42 12. If other local, state or federal permits are required
43 for construction and operation of the proposed facility,
44 then:

45
46 a. The applicant shall submit a copy of such
47 permit(s); or

48
49 b. The applicant shall submit:
50

1 (1) A schedule for submitting the required
2 applications; a description of the requirements of
3 the laws and regulations applicable to such other
4 local, state or federal permits; a summary of how
5 the applicant proposes to comply with the
6 requirements; a list of which regulations require
7 local land use approval; and a list of potentially
8 conflicting local, state or federal standards; and
9

10 (2) A copy of any application filed for another
11 local, state or federal permit for the proposed
12 facility within 10 working days after it is filed
13 with the local, state or federal agency; and
14

15 (3) A copy of any written correspondence or
16 published notice from the local, state or federal
17 agency regarding that application within 10 working
18 days after the applicant receives that
19 correspondence or notice from the local, state or
20 federal agency.
21

22
23 **SECTION 6. Review Procedures and Burden of Proof**
24

25 A. Before filing an application pursuant to this ordinance, an
26 applicant shall submit to [City/County] a request for a
27 pre-application conference pursuant to [incorporate relevant
28 section of the local ordinance], unless waived by the [planning
29 director].
30

31 B. Before accepting an application as complete, the [planning
32 director] may decide additional expertise is warranted to evaluate
33 it due to exceptional circumstances, the complexity of the
34 proposed facility, or its potential impacts. The [planning
35 director] may hire a professional engineer with the necessary
36 expertise to make a written evaluation of specific application
37 elements required pursuant to the ordinance.
38

39 1. The written evaluation shall be available no later than
40 30 days after the applicant submits a deposit to pay for the
41 work. Within 10 days after the written evaluation is
42 available, the [planning director] shall determine whether
43 the application is complete and advise the applicant in
44 writing accordingly, listing any additional information
45 required to make the application complete.
46

47 2. The [planning director] shall draft a work program and
48 estimate the cost of hiring a professional engineer with the
49 necessary expertise for the written evaluation and shall
50 advise the applicant of that cost, which shall not exceed

1 [10] times the application fee [or other reasonable limit]
2 unless approved by the applicant. The applicant shall
3 deposit a sum equal to the estimated cost of such services
4 before the application is deemed complete. If the cost of
5 such services is less than estimated, [City/County] shall
6 refund any excess to the applicant. If the cost of such
7 services is more than estimated, [City/County] shall bill the
8 applicant for such additional cost; provided, the cost of
9 such services shall not exceed [110%] of the estimated cost
10 unless the applicant or the [City/County] agrees in writing
11 to assume such additional cost.
12

13 3. This provision does not authorize the [City/County] to
14 collect money from an applicant for independent evaluation of
15 ongoing operations or ~~periodic~~ performance review of a
16 facility. A fee may be required pursuant to Section 7.F
17 before renewal, but not at time of application or approval.
18

19 C. Except as provided in Section 6.B, within 10 working days
20 after receipt of an application, [City/County] shall determine
21 whether the application is complete. If [City/County] determines
22 the application is not complete, [City/County] shall send the
23 applicant a written statement explaining why the application is
24 not complete and listing ~~criteria and standards~~ for which
25 information is not provided or is not responsive. If
26 [City/County] determines an application is complete, it shall send
27 the applicant a written statement to that effect.
28

29 D. An application for a solid waste facility under this
30 ordinance is complete if any written evaluation required under
31 Section 6.B. has been completed, and if, in the opinion of the
32 planning director, +
33

34 1. ~~If~~ The application includes substantial evidence that
35 the proposed facility will ~~or can~~ comply with the applicable
36 approval ~~criteria and development~~ standards in Section 4 and
37 the ~~appendices incorporated therein, and any written~~
38 ~~evaluation required under Section 6B is completed or~~
39 ~~conditions that may be necessary to ensure compliance; or~~
40

41 2. ~~If~~ The application includes substantial evidence that ~~it~~
42 ~~is possible, likely and reasonable that the proposed facility~~
43 ~~will or can~~ is likely to comply with the applicable approval
44 ~~criteria and development~~ standards in Section 4, ~~and the~~
45 ~~appendices incorporated therein, identifies that any~~
46 ~~necessary evidence not yet submitted, and provides a~~
47 ~~reasonable schedule for its submission, and any written~~
48 ~~evaluation required under Section 6B is completed;~~
49
50

1 [If the local land use regulations do not authorize the
2 planning director to exercise discretion to determine whether an
3 application includes substantial evidence, then subsections 1 and
4 2 above should be revised so that an application is deemed
5 complete if it contains information that addresses the applicable
6 approval criteria and development standards in Section 4 and the
7 appendices incorporated therein, and any written evaluation
8 required under Section 6B is completed.]
9

10 ~~{To incorporate the appendices as information guidelines~~
11 ~~instead of as criteria, Sections 6 D. 1 and 2 could read:~~

12 ~~1. It includes substantial evidence that the proposed~~
13 ~~facility will or can comply with the applicable approval~~
14 ~~criteria and development standards in Section 4 and includes~~
15 ~~information regarding the applicable appendices incorporated~~
16 ~~therein; or~~

17
18 ~~2. It includes substantial evidence that it is possible,~~
19 ~~likely and reasonable that the proposed facility will or can~~
20 ~~comply with the applicable approval criteria and development~~
21 ~~standards in Section 4, identifies that evidence, and~~
22 ~~provides a schedule for its submission and includes~~
23 ~~information regarding the applicable appendices incorporated~~
24 ~~therein.]~~

25
26 3. ~~It~~ ~~The application includes the requirements of~~
27 ~~information required to be submitted under Section 5 of this~~
28 ~~ordinance, except to the extent waived by the [planning~~
29 ~~director/approval authority] determines certain requirements~~
30 ~~of Section 5 are inapplicable or are unwarranted given the~~
31 ~~scale and nature of the proposed facility.~~
32

33 E. [City/County] shall provide public notice and an opportunity
34 for submission of written information and/or for a public hearing
35 to consider compliance with the terms of this ordinance for any
36 matter involving the exercise of factual, policy, or legal
37 judgment. ~~[Note: If the 1991 legislature amends ORS 197 to allow~~
38 ~~exercise of some judgment without public notice and hearing, then~~
39 ~~Section E should be amended accordingly as required under [state~~
40 ~~law or local Code hearing requirements].~~
41

42 F. An applicant for a solid waste facility bears the burden of
43 proving ~~only~~ that a facility complies with this ordinance and
44 ~~provisions it incorporates by reference.~~ The following
45 presumptions and procedures apply when evaluating compliance with
46 that burden of proof.
47

48 1. An applicant is rebuttably presumed to bear ~~have met~~ the
49 burden of proof if the application includes substantial
50 evidence that the facility ~~complies~~ ~~will comply~~ with the

1 applicable ~~criteria and standards~~ for establishment of the
2 facility in Section 4 and the ~~appendices incorporated therein~~
3 and conditions proposed by the ~~(planning director/ approval~~
4 ~~authority)~~ to insure such compliance.
5

6 2. Substantial evidence can be rebutted only by evidence of
7 equal or greater probative value. For instance, testimony
8 from a professional engineer about a given subject in which
9 an engineer has expertise may be rebutted only by testimony
10 or evidence from another professional engineer or a person
11 similarly qualified about that subject. Testimony from an
12 expert witness regarding matters relevant to the expertise of
13 the witness cannot be rebutted by testimony from a non-expert
14 witness. This subsection does not limit what may be
15 introduced as testimony; it affects the weight to be accorded
16 that testimony.
17

18 3. If evidence of equal probative value is offered that a
19 given facility does and does not comply with a given
20 ~~exiterien or standard~~ or that a proposed condition is or is
21 ~~not adequate to ensure compliance, then the approval~~
22 ~~authority shall weigh the evidence, identify which evidence~~
23 ~~it accepts as the basis for its decision, and explain why~~
24 ~~that evidence is accepted and why the contrary evidence is~~
25 ~~rejected.~~
26

27 4. The approval authority shall issue a ~~all necessary~~ land
28 ~~use compatibility statements to the applicant or to~~
29 ~~applicable local, state, or federal agencies, and a final~~
30 ~~decision with appropriate findings, conclusions and~~
31 ~~conditions of approval if, after the appropriate review~~
32 ~~process, it finds there is substantial evidence that the~~
33 ~~facility complies with all applicable provisions in Sections~~
34 ~~4 and 5 and the appendices incorporated therein of this~~
35 ~~ordinance [and [City/County] laws incorporated by reference],~~
36 ~~subject to appropriate conditions, and that such evidence was~~
37 ~~not effectively rebutted and does not need to be~~
38 ~~supplemented.~~
39

40 5. If, after a public hearing ~~[or another initial level of~~
41 ~~review; for instance, the close of the public record~~
42 ~~following public notice and an opportunity to file written~~
43 ~~comments]~~, the approval authority finds that:
44

45 a. There is substantial evidence that the facility
46 complies with some applicable provisions ~~in Sections 4~~
47 ~~and 5 and the appendices incorporated therein, of this~~
48 ~~ordinance and that such evidence was not rebutted and~~
49 ~~does not need to be supplemented to resolve disputes;~~
50 ~~and~~

1 b. There is not substantial evidence that the facility
2 complies with one or more applicable provisions in
3 ~~Sections 4 and 5 and the appendices incorporated therein~~
4 ~~of this ordinance, or that such evidence necessary for~~
5 ~~approval was rebutted or requires augmenting to resolve~~
6 ~~disputes;~~ and
7

8 c. It is ~~possible, likely and reasonable~~ that the
9 applicant will provide ~~new the remaining necessary~~
10 ~~substantial evidence regarding provisions identified~~
11 ~~pursuant to Section 6.F.5.b within six months [or 1 year~~
12 ~~if the local code prohibits re-application for a denied~~
13 ~~project for 1 year], then the approval authority shall:~~
14

15 (1) Issue a written final decision approving the
16 proposed facility in concept that, among other
17 things:

18 (a) Identifies standards with which the
19 application complies and provide findings and
20 conclusions showing why it complies, based on
21 substantial evidence in the record, and
22 subject to appropriate conditions of approval;
23

24 (b) Identifies evidence the applicant must
25 submit to show the proposed facility complies
26 with other applicable provisions of this
27 ordinance, imposes a schedule for its
28 submission, and includes any requirements
29 pursuant to Section 6.B above; and
30

31 (c) Describes how that substantial evidence
32 will be reviewed, including any public notice
33 and hearing requirements.
34

35 (2) Issue a ~~all necessary~~ land use compatibility
36 statements to the applicant or to applicable local,
37 state, or federal agencies.
38

39 6. The approval authority shall issue a final decision that
40 denies the application if, after the appropriate review
41 process, it finds that:
42

43 a. The record does not contain substantial evidence
44 that the facility complies with all applicable
45 provisions in ~~Sections 4 and 5 and the appendices~~
46 ~~incorporated therein, of this ordinance or could comply~~
47 ~~given the imposition of conditions, in which case the~~
48 ~~decision shall identify the section(s) about which the~~
49 ~~record does not contain substantial evidence; or~~
50

1 b. There is more persuasive and at least equally
2 substantial evidence contrary to evidence that the
3 proposed use complies with applicable standards in
4 Sections 4 and 5 and the appendices incorporated therein
5 of this ordinance or could comply given the imposition
6 of conditions, in which case the decision shall identify
7 the provisions for which evidence against the facility
8 overwhelmed the evidence in favor, and
9

10 c. The applicant declines to supplement the record
11 regarding standards identified pursuant to Sections
12 6.F.6.a and b. above, or it is not possible, likely, and
13 reasonable that substantial evidence necessary to
14 address standards identified pursuant to Sections
15 6.F.6.a and b. above will be available within six months
16 after the date of the decision [or 1 year if the local
17 code prohibits re-application for a denied project for 1
18 year].
19

20 ~~{Or, to incorporate the appendices as information guidelines~~
21 ~~instead of as criteria and standards, Sections 6.F.1 and 4~~
22 ~~through 6 should be amended to delete reference to the appendices~~
23 ~~as part of the burden of proof. For instance, Section 6.F.1 could~~
24 ~~read:~~
25

26 ~~1. An applicant is rebuttably presumed to bear the burden~~
27 ~~of proof if the application includes substantial evidence~~
28 ~~that the facility complies with the applicable criteria and~~
29 ~~standards for the facility in Section 4 and includes~~
30 ~~information regarding the appendices incorporated therein.]~~
31

32 ~~G. The appendices of this ordinance should be amended to include~~
33 ~~changes to regulations cited herein at the earliest practicable~~
34 ~~opportunity. If a regulation included in an appendix is amended~~
35 ~~by state or federal agencies and the appendix is not amended when~~
36 ~~an application for a facility is deemed complete, then the~~
37 ~~regulation included in the appendix shall apply to the facility.~~
38 ~~[Subsection G is deleted if appendices are not adopted, seep. 10.]~~
39
40

41 SECTION 7. Conditions of Approval and Enforcement

42
43 A. The approval authority may approve an application for a
44 facility subject to conditions of approval. Conditions of
45 approval shall be reasonably related to impacts of the facility,
46 and the requirements of this ordinance and provisions incorporated
47 herein. In no instance may an approval authority impose as a
48 condition of approval a requirement that a facility be publicly or
49 privately owned. All facilities approved pursuant to this
50 ordinance shall be subject to a condition requiring that

1 landscaping, air and water quality structures and devices, signs,
2 structures, paved areas, and other features of the facility be
3 maintained in good condition and that such features be replaced if
4 they fail to survive or are rendered ineffective over time.
5

6 B. Conditions of approval may require an applicant to submit a
7 written statement or permit from state or federal agencies
8 responsible for administering a regulation to which the proposed
9 facility is subject, if the record does not contain such a
10 statement or permit.
11

12 1. Such a condition may fulfill provisions of Sections 4.0
13 through 4.5 that the facility comply with state or federal
14 regulations—~~incorporated therein~~, subject to a further
15 condition that the applicant submit a written statement or
16 permit showing the proposed facility complies with the
17 applicable state or federal regulation before a building
18 permit is issued for the facility; ~~provided further, and~~
19

20 2. Such a condition shall require appropriate review and
21 allow modification of the decision and conditions of approval
22 regarding the application if a state or federal permit
23 substantially changes a proposed facility from what was
24 approved by [City/County] in ways relevant to applicable
25 provisions of Section 4.
26

27 C. All facilities approved pursuant to this ordinance shall
28 comply with applicable state and federal regulations as a
29 condition of approval. Approval of a facility pursuant to this
30 ordinance does not preclude imposition of more stringent state or
31 federal regulations adopted after the effective date of this
32 ordinance.
33

34 D. Any facility which ~~that~~ is required to obtain a franchise or
35 license from the Metropolitan Service District (Metro) pursuant to
36 ~~ORS Chapter 459~~ shall obtain said the franchise or license and
37 provide a copy of said franchise ~~it~~ to [City/County] before a
38 [building/occupancy] permit is issued for the facility.
39

40 E. [City/County] shall enforce the conditions of approval
41 pursuant to [cite the relevant local law]. If Metro issues a
42 franchise or license for the facility, then—[City/County] shall
43 send to Metro a copy of any written correspondence or notices
44 [City/County] sends to the applicant regarding enforcement of
45 conditions of approval. Metro may remedy violations of conditions
46 of approval regarding the facility and charge the franchisee or
47 licensee for the cost of such remedial action unless provided
48 otherwise in the franchise or license.
49
50

1 F. [City/County] may periodically conduct a periodic performance
2 review of an approved facility to determine whether it continues
3 to comply with the criteria and standards then applicable and to
4 modify conditions of approval that apply to the facility so that
5 it continues to comply. The approval authority shall specify the
6 time for any periodic performance review. [City/County] may impose
7 a fee for periodic performance review.
8
9

10 SECTION 8. Severability

11
12 If any part of this ordinance is for any reason held to be invalid
13 or unconstitutional, the remainder of this ordinance shall
14 continue in full force and effect.
15
16
17

18 Adopted this _____ day of _____, 1991.
19 [City Council/Board of Commissioners] of
20 [City/County]
21 By: _____
22
23
24
25

26 Approved as to form:

27
28 City Attorney/County Counsel]
29 _____
30 [Legal Counsel]
31

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Meeting Date: October 24, 1991
Agenda Item No. 7.2

RESOLUTION NO. 91-1520

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1520, FOR THE PURPOSE OF APPROVING THE ONE PERCENT FOR RECYCLING PROGRAM CRITERIA, APPLICATION AND PROJECT LIST FOR FY 1991-92

Date: October 16, 1991

Presented by: Councilor McLain

Committee Recommendation: At the October 15 meeting, the Committee voted unanimously to recommend Council adoption of Resolution No. 91-1520. Voting in favor: Councilors DeJardin, Gardner, McFarland, McLain and Wyers.

Committee Issues/Discussion: Judith Mandt, Leah Zimmerman, Forrest Soth (a member of the One Percent for Recycling Committee), and Councilor McLain presented background information on how the One Percent for Recycling Program criteria, project list, and application form had been developed for FY 1991-92. Soth noted that the new application form has been simplified to aid those who wish to apply, but do not have access to professional assistance.

Soth noted that, while educational and promotional programs will still be considered, the emphasis this year will be on projects/programs that develop and stabilize markets for new products produced from recycled materials. Mandt and Councilor McLain reviewed the successful workshop that was held to solicit input from those interested in participating in the program.

Councilor McFarland asked whether the One Percent for Recycling Committee had ever considered establishing a process by which grants under the program could be partially or totally repaid if the recipient developed a successful business or process using the grant funds. She noted that repaid funds could be used to establish a revolving fund to provide a permanent source of funding. She and Councilor Wyers suggested that the committee may wish to discuss this approach for future use.

Councilor McLain noted that this was a "living" program that can be modified to address particular recycling needs. The emphasis and evaluation criteria can be constantly reviewed to meet these needs.

Wyers asked Judith Mandt to identify examples of types of "marketing" proposals. Mandt noted that prior projects funded by the program related to development of the Dejashoe, a vermaculture composter and a pelletized product using recycled drywall would be examples of such proposals. Wyers noted that is important to remove even small amounts of recyclable materials from the wastestream particularly those materials that have not been addressed by past recycling projects/programs.



METRO

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

Memorandum

To: Solid Waste Committee Members
From: John Houser, Council Analyst
Date: October 7, 1991
Re: Resolution No. 91-1520, For the Purpose of Approving the One Percent For Recycling Program Criteria, Application and Project List For FY 1991-92

Resolution No. 91-1520 is scheduled to be considered by the committee at the October 15 meeting.

Background

The One Percent for Recycling Program is entering its fourth year. To date, a total of 27 projects have received nearly \$1 million in funding from the program. For the current fiscal year, a total of \$225,000 has been appropriated.

Each year an advisory committee reviews the program and makes recommendations concerning the program. Following its most recent review, the committee recommended consolidation of existing evaluation guidelines and criteria into six criteria. A workshop on the program and the proposed evaluation criteria and application process was held prior to submission of the proposed resolution for Council consideration.

Staff is recommending that special emphasis be given this year to projects that develop markets for specific types of recycled materials through the development of new products, manufacturing processes or purchasing programs. These materials include recycled plastics, construction and demolition materials, mixed wastepaper, composted material, used motor oil and colored glass.

Issues and Questions

In considering Resolution No. 91-1520, the committee may wish to address the following issues and questions:

- 1) The evaluation criteria and guidelines have been significantly streamlined. The committee may wish to staff to discuss:
 - a) what, if any, evaluation and selection problems occurred using the prior year's criteria and guidelines?
 - b) what effect the new criteria will have on the evaluation and selection process?

c) what types of issues and questions were raised at the workshop, and were any changes made in the staff proposal as a result of the workshop?

2) The staff report and the promotional brochure both note that this year's program will place special emphasis on developing markets for specified types of recyclables. The application form does not appear to identify this special emphasis. The committee may wish to ask staff to include such information. In addition, the committee may wish to ask how the "special emphasis" was chosen and how the specific types of targeted recyclables were selected?

3) Last year, separate guidelines were used to evaluate educational and promotional projects and programs. These separate guidelines have been eliminated. The committee may wish to ask why the separate evaluation concept for these types of programs was eliminated?

4) Last year's application form noted that one of the goals of the program was to lower garbage disposal rates. This goal appears to be missing from this year's form. The committee may wish to ask why it was eliminated and if its elimination reflects a change in the focus of the program?

5) Last year's application noted that proposals would not be considered if: 1) they would augment ongoing operations and/or reimbursed prior expenditures, or 2) result in stockpiling of end product or residues. These restriction appear to have been eliminated. The committee may wish to ask why they were eliminated, and if the effect of their elimination will be to allow certain types of proposals to qualify this year?

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING) RESOLUTION NO. 91-1520
THE ONE PERCENT FOR RECYCLING)
PROGRAM CRITERIA, APPLICATION) Introduced by Rena Cusma,
AND PROJECT LIST FOR FY1991-92) Executive Officer

WHEREAS, the Metropolitan Service District established the 1% For Recycling Program in the 1988-89 fiscal year, and it is now in the fourth year of funding; and

WHEREAS, the 1% For Recycling Advisory Committee was created to develop project Criteria for the program and to make recommendations regarding projects for funding; and

WHEREAS, the Committee has developed recommendations for Criteria for the 1991-92 funding cycle, and conducted a public meeting on September 18, 1991 to solicit input from potential proposers responding to the program, and has finalized these recommendations for approval; and

WHEREAS, the Committee has prepared an application form and instruction booklet for use by proposers that the Executive Officer has submitted to the Council Solid Waste Committee for review, concurrence and recommendation to the Metro Council to approve; and

WHEREAS, the Council Solid Waste Committee has reviewed and concurs with the Executive Officer's recommendations to approve the Committee's recommendations for the Criteria, Application and Project List; now, therefore,

BE IT RESOLVED, that

1) The Metro Council approves the 1% For Recycling Criteria, Application and Project List for the 1991-92 fiscal year included in Attachments A and B and incorporated herein by reference; and

2) Approves proceeding with soliciting proposals from the public for this program to implement innovative projects for reuse, recycling, and materials recovery from municipal solid waste generated in the Metropolitan region.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTACHMENT A

APPLICATION FOR FUNDING

1% FOR RECYCLING GRANT PROGRAM

**YEAR 4
1992**

* * * * *

**Metropolitan Service District
Solid Waste Department
2000 S.W. First Avenue
Portland, Oregon 97201-5398
(503) 221-1646**

October 1991

Printed on Recycled Paper

1% FOR RECYCLING GRANT PROGRAM

BACKGROUND AND INSTRUCTIONS FOR COMPLETING APPLICATION FORM

I. PURPOSE OF THE PROGRAM

The 1% For Recycling Program is part of Metro's overall Regional Waste Reduction Program. Its purpose is to reduce waste within the Portland metropolitan region and to benefit the area within the Metropolitan Service District which includes the urban portions of Clackamas, Multnomah and Washington Counties.

The 1% For Recycling Program sets aside funds from Metro's Solid Waste budget to provide grants for innovative recycling projects. The objectives of the 1% program are to 1) reduce the amount of waste generated, 2) reduce the amount of waste disposed in landfills, and 3) encourage the development of products made from recovered materials and the markets for those products. The expected benefits are extension of the life of the landfill, protection of the environment, and conservation of natural resources.

II. FUNDS AVAILABLE AND ELIGIBILITY

In FY 91-92, \$225,000 is available for 1% grants. Individuals, companies, governments and non-profit organizations with creative ideas for waste reduction are eligible to apply. The program is intended to provide financial support for experimental projects and new technologies that are small-scale and may not yet be tested or commercially viable. It is not intended to provide funding for tested recycling programs and technologies, or projects that can receive private financing or other types of government funding.

Listed below are types of projects that will NOT be considered under the 1% program.

- Programs currently receiving funding through other Metro Solid Waste Department sources.
- Research projects or feasibility studies, unless they are part of a phased project and are accompanied by an implementation plan and estimated costs of implementation.
- Projects that will use grant funds to subsidize ongoing operations or to pay for prior expenditures.
- Enforcement programs that are the responsibility of other governmental jurisdictions.
- Neighborhood cleanup events.

III. PROJECT TYPES AND LENGTH OF CONTRACTS

Two general categories of proposals will be considered: 1) Waste Reduction projects that directly reduce the amount of waste going to landfills, and 2) Promotion and Education programs. Market development projects may be in either category.

Funding is generally for one-year from the start date to final implementation; however, the time period may be less depending on the proposal. The Committee may also recommend funding for multi-year proposals if a budget and implementation schedule are included.

IV. EVALUATION CRITERIA

Projects will be evaluated using the following criteria (all criteria are of equal value):

1. Impact on wastestream: Results in measurable waste reduction with little residue, and targets materials that are a significant part of the wastestream. If project focuses on promotion/education, it targets a specific audience and promotes behavior resulting in waste reduction.
2. Long-term viability: Can become financially viable and self-sustaining without continued subsidies.
3. Manageability: Has a sound approach, rationale and design and is manageable based on the experience of the applicant.
4. Cost benefit: The project is cost effective or has the potential for cost savings. The potential benefits to the Metro region justify the proposed costs.
5. Public acceptance: Is environmentally sound, non-polluting and publicly acceptable.
6. Creativity: The concept is creative and innovative. However, the project is also technically feasible with a reasonable level of risk.

In addition to these criteria, the clarity and effectiveness of the response to the questions and ability to follow instructions will be considered in evaluating proposals.

V. DECISION PROCESS

A seven-member advisory committee reviews applications for 1% grants. The committee is made up of two citizens from each of the three counties in the district (Clackamas, Multnomah and Washington), who have an interest in waste reduction and preserving the environment. The chair of the committee is a Metro Councilor. The committee is assisted by staff members from Metro's Solid Waste and Public Affairs Departments.

The 1% For Recycling Advisory Committee ranks proposals based on the criteria described above. They conduct an initial screening of applications and eliminate proposals that are not complete, are not innovative, duplicate existing programs/facilities or do not serve the Metro area.

The committee interviews applicants receiving the highest ranking. They may request additional information at this time, such as a business or marketing plan. They reserve the right to reconsider proposals after the interviews are held. Following the oral interviews, the committee recommends projects to Metro's Executive Officer and the Metro Council. The Metro Council gives final approval to the committee's recommendations.

VI. APPLICATION/CONTRACT CONDITIONS

Objectivity During Proposal Review. So that the advisory committee can remain objective during the proposal evaluation and selection process, applicants may not make reference to their individual, corporate, business, or organizational identity in the text of their application. **APPLICATIONS THAT DO NOT COMPLY WITH THIS REQUIREMENT WILL BE ELIMINATED.** Applicants must complete the application transmittal sheet. The transmittal sheet will be withheld until the initial review of the proposals has been completed by the committee. The identification of applicants will be made known to the committee prior to interviews and following completion of the final list of potential grant recipients.

Coordination with Public Affairs Department: All projects that receive grants will be required to recognize the 1% Well Spent! program in promotional materials and signage. The Metro Public Affairs department will assist selected applicants with design aspects of this requirement. However, the project budget must include estimated dollar amounts for this component. Applicants for Promotion and Education projects must also consult with Metro's Public Affairs Department to present their idea prior to submitting their application.

Validity Period and Authority. The application shall be considered valid for a period of at least one hundred twenty (120) days and shall contain a statement to that effect. The application shall contain the name, title, address, and telephone number of an individual or individuals with authority to bind the company contacted during the period in which Metro is evaluating the proposal.

Limitation and Award. This application does not commit Metro to award a contract, or to pay any costs incurred in the preparation and submission of applications in anticipation of the contract. Metro reserves the right to accept or reject any or all proposals received as the result of this request, to negotiate with all qualified sources, or to cancel all or part of this application.

Performance Bonds. Performance bonds are not required for projects. However, proposals must contain a list of references of individuals and/or organizations who may be contacted by the committee for experience verification. If this is not possible because the newness of the project precludes applicant's performance record, references may be supplied which speak to applicant's performance in similar areas.

Contract Type. Metro will enter into a public contract with the selected grantees. A copy of the standard contract which the successful applicants will be required to execute is available to applicants upon request.

Billing Procedures. Applicants are informed that the billing procedures of the selected firm may be subject to review and prior approval by Metro before reimbursement of services can occur. The terms of payment will be negotiated between the contractor and Metro during development of the contract for services and will be specified in the contract scope of work.

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

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

References and credit rating. Applicants must submit three business and/or personal references as part of the application form. Metro reserves the right to conduct a credit reference check on both companies and individuals who are finalists for grant awards.

Confidentiality. Information in this application will be treated as confidential, as permitted in ORS 192.501(2), if the information constitutes a trade secret as recognized by the Oregon Public Records Act and if requested by the proposer in the application form.

**APPLICATION FOR 1% FOR RECYCLING GRANT
TRANSMITTAL SHEET**

NAME OF INDIVIDUAL, ORGANIZATION OR COMPANY:

PROJECT MANAGER/CONTACT PERSON:

ADDRESS:

TELEPHONE:

Describe your business or organization:

Project Title:

Do you wish to have the information contained in this application treated as confidential?

Yes **No (check one)**

If yes, list page(s) where confidential information appears _____.

Amount of 1% Well Spent! funds requested: \$ _____.

Applicant's Signature

This transmittal sheet must be signed by an individual or individuals with authority to bind the company during the period in which Metro is evaluating the application.

1% FOR RECYCLING APPLICATION FORM

Respond to every question on the application. If a question is not relevant to your project, state "not applicable." All applications must be typed. If you choose to use a personal computer, please use the same format as the application form and do not exceed the 18 PAGES in the application. Supplemental materials may be submitted as an attachment, but they will not be reviewed by the committee members until the oral interview stage of the evaluation process.

The 1% Committee requires applicant anonymity to ensure that proposals are judged solely on merit. **DO NOT REFERENCE YOUR INDIVIDUAL OR COMPANY NAME EXCEPT WHEN SPECIFICALLY REQUESTED.** Rather use general terms, such as the "company," "organization" or "applicant." Applicants that use individual or company names in their proposal will be eliminated.

Make 10 COPIES of your completed application and applicable supplemental materials. Copies must be printed **DOUBLE-SIDED** on **RECYCLED PAPER**. Submit your application to the Metro Solid Waste Department by **MONDAY, DECEMBER 9, 1991, 4:00 P.M.**

PROJECT ABSTRACT

Summarize the key elements of your project below. Include the objective and scope of work. Indicate whether the project focuses on waste reduction, markets for recycling and/or promotion and education.

GEOGRAPHIC AREA SERVED
(entire Metro area or subarea)

AMOUNT OF 1% FUNDS REQUESTED: \$ _____.

The information contained in this application shall be considered valid for 120 days.

I. PROJECT DESCRIPTION

In the space provided below describe your proposal in detail. Please include the following information:

- The objective of the project
- The problem you are addressing
- How your project contributes to solving that problem

If the project can be reduced in scale to a lesser amount of funds than requested, please specify the amount and the way in which it can be cut back.

PROJECT DESCRIPTION (continued)

PROJECT DESCRIPTION (continued)

II. WORKPLAN AND SCHEDULE

Describe below the specific work tasks required to carry out your project and a schedule with estimated timelines. Assume that funds will be available for project start-up in April 1992.

| <u>Task</u> | <u>Estimated time Required</u> | |
|-------------|------------------------------------|-----|
| | Start | End |

WORKPLAN AND SCHEDULE (continued if appropriate)

III. BUDGET

Please provide the following budget information. Items that do not apply to your proposal should be left blank. Try to estimate costs at the time funds will be available (about April 1992). Contingency is included to account for unexpected costs and emergencies. If you want to provide additional budget information or present it in a different way, use the reverse side of this form.

| <u>REVENUES</u> | <u>METRO GRANT</u> | <u>OTHER FUNDS</u> (if applicable) | <u>TOTAL</u> |
|-------------------------------------|--------------------|---------------------------------------|--------------|
| | _____ | _____ | _____ |
| EXPENSES | | | |
| Salaries, Wages, Benefits | _____ | _____ | _____ |
| Materials and Services | | | |
| Office supplies | _____ | _____ | _____ |
| Promotion and education (detail) | _____ | _____ | _____ |
| Maintenance & repair | _____ | _____ | _____ |
| Training | _____ | _____ | _____ |
| Outside consulting | _____ | _____ | _____ |
| Overhead | _____ | _____ | _____ |
| Miscellaneous (list items) | _____ | _____ | _____ |
| Total Materials & Services | _____ | _____ | _____ |
| Capital Outlay | | | |
| Office equipment | _____ | _____ | _____ |
| Machinery | _____ | _____ | _____ |
| Buildings | _____ | _____ | _____ |
| Leasehold improvements | _____ | _____ | _____ |
| Total Capital Outlay | _____ | _____ | _____ |
| CONTINGENCY | | | _____ |
| TOTAL EXPENSES | _____ | _____ | _____ |

ADDITIONAL BUDGET INFORMATION IF APPROPRIATE

IV. PROJECT FOCUS

Please indicate the primary focus of your project. You may check more than one box.

a. Waste Reduction

- Collection of recyclables _____
- Processing of recyclables _____
- Uses recycled materials in new products or manufacturing process, or produces product that minimizes waste generated
- _____ (Describe)

b. Promotion and Education

- Source reduction (precycling) _____
- Market development (buying recycled) _____
- Other (Describe)

V. EVALUATION CRITERIA

Please answer the following questions as they relate to your project. Indicate if a question is not applicable and explain why not.

1. Impact on the wastestream

- a. Explain how the project reduces waste going to the landfill through source reduction, reuse, recycling, marketing or promotion and education. What type or types of material will your project target? If possible, describe the generators of the waste (e.g., residential, retail, manufacturing)?

b. What method or technology will your project use to recover and recycle this material?

c. If possible, estimate the amount of material your project will collect, process or reuse in a product? What percentage of the material will require disposal after recycling? (The standard measurements used are tons, pounds, or cubic yards for yard debris.)

d. Who will provide the supply of materials? Is there an adequate supply available?

e. Identify the specific audience or customers you plan to reach and the size of that group.

f. Describe the techniques you will use to implement the promotion and education program.

g. Describe the methods you will use to measure and evaluate the effectiveness of your project.

2. Long-term viability

- a. How will your project continue after grant funds are spent? What is the potential for the project to become self-sustaining? Describe your long-term financing plan.
- b. What will be the "end use" for the recovered material? Do you have agreements with individuals or companies who will use or purchase the recycled materials or products?

3. Manageability

a. Describe your experience in solid waste management, business or other areas and explain how this experience or knowledge will help you manage this project.

b. Have other funding sources besides the 1% grant been sought? If matching funds or in-kind services have been identified, please describe the amount and source of funds, or kinds of services. (Identify these funds in your budget.)

- c. If your project develops a product from recycled materials, explain why it is an economically feasible project. Discuss competitive products, cost of production and distribution, and your marketing strategy. (A more detailed business plan may be requested by the 1% Committee.)

4. Cost-benefit

- a. What is the estimated cost/benefit ratio of the project? If your project focuses on waste reduction you may be able to project the cost by dividing the total cost of the project by the amount that you estimate will be recycled.

$$\frac{\text{Total cost of project}}{\text{Amount recycled (in tons, pounds, cubic yards, etc.)}} = \text{cost per unit (\$)}$$

- b. If this is a start-up project, estimate and explain how it will be cost effective once the program is fully operational. If you cannot determine actual figures, describe in a narrative the proposed project and how it will result in long-term benefits for the Metro region.

5. Public Acceptance

Describe why your project is environmentally-sound and non-polluting. Explain why the project would be acceptable to the community. What impacts would there be on existing recycling activities, neighborhoods, or land uses in the Metro region.

6. Creativity

Explain why your project is creative and innovative. Describe the risks associated with implementing the project.

REFERENCES

Please include at least three business and/or personal references. Include addresses and phone numbers and the relationship of the reference to you or your firm/organization.

1.

2.

3.

LIST OF REFERENCE MATERIALS AVAILABLE UPON REQUEST
1% FOR RECYCLING APPLICATION

1. Regional Solid Waste Management Plan, Waste Reduction Chapter, November 1989
2. 1989-90 Waste Characterization Study, Final Report
3. 1990 Recycling Level Survey
4. Solid Waste Information System Report, August 1991
5. Map of Metro Region
6. Metro's 1% For Recycling contract form
7. Summary of projects previously funded by 1% program
8. Recycling Markets Information
9. Recycled Products Index

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 91-1520 FOR THE PURPOSE OF APPROVING THE ONE PERCENT FOR RECYCLING PROGRAM CRITERIA, APPLICATION AND PROJECT LIST FOR FY1991-92

Date: October 3, 1991

Presented by: Judith Mandt
Leigh Zimmerman

BACKGROUND

The 1% For Recycling program was established in FY 1988-89 to provide grants for innovative recycling projects. Since that time, 27 projects have been funded and almost one million dollars distributed. FY 1991-92 is the fourth year of the program and \$225,000 is allocated for grants.

As specified in the ordinance creating the program, the Advisory Committee (comprised of two members each from each of the three counties) is appointed to make recommendations about the program. The 1% For Recycling Advisory Committee has met over the summer to review the criteria and application for the next funding cycle. The former evaluation criteria and guidelines have been consolidated into six distinct criteria. All types of innovative waste reduction and recycling projects will be considered for funding. However, this year special emphasis will be placed on developing markets for recycled materials either through new products, manufacturing processes or purchasing programs.

The advisory committee held a public workshop on the 1% Well Spent! program and the criteria/application form on September 18, 1991. Notices were mailed to approximately 750 individuals, businesses and other organizations. A notice of the workshop was also placed in the Oregonian.

Approximately 50 people attended the workshop. The committee and staff presented a history of the program, reviewed the application form and explained the emphasis on recycling markets for this funding cycle. Most of the questions were procedural and related to the application form. All those who attended received a handout on the evaluation process and schedule.

As specified in the Metro Code, 5.04.050 Administration, the 1% Advisory Committee submits the following project list and criteria to the Council for approval:

Eligible Projects

All waste reduction and recycling projects that meet program criteria as shown in Attachment A. Special emphasis on market development for:

- * Recycled plastics
- * Construction and demolition materials
- * Mixed wastepaper
- * Composted material
- * Used motor oil
- * Colored glass

Evaluation Criteria (all criteria are given equal weight)

1. Impact on the wastestream
2. Long-term viability
3. Manageability
4. Cost-benefit
5. Public acceptance
6. Innovation/creativity

Upon approval of Resolution No. 91-1520, the 1% For Recycling Committee will release the applications to interested parties who will have 45 days to prepare them. Application submittal deadline is 4:00 p.m. on Monday, December 9, 1991.

The Committee will review and evaluate proposals during December and January; presentation of recommendations to the Executive Officer and Council is scheduled for February 1992.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1520 to approve the 1% For Recycling grant criteria, application and project list.

Meeting Date: October 24, 1991
Agenda Item No. 7.3

RESOLUTION NO. 91-1518

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1518, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE PROCUREMENT PROCEDURES OF METRO CODE CHAPTER 2.04.053, AND AUTHORIZING A CHANGE ORDER TO THE PERSONAL SERVICES AGREEMENT WITH ASSOCIATED MARKETING RESEARCH

Date: October 16, 1991

Presented by: Councilor Wyers

Committee Recommendation: At the October 15 meeting, the committee voted unanimously to recommend Council adoption of Resolution No. 91-1518. Voting in favor: Councilors DeJardin, Gardner, McFarland, McLain and Wyers.

Committee Issues/Discussion: The Transportation Department has signed an agreement with Associated Marketing Research to provide information related to building permits issued in the tri-county area and Clark County, Washington for use in the Regional Land Information System (RLIS). The Solid Waste Department has requested that the scope of work of the agreement be expanded to include building permits under \$50,000 and building demolition permits. This information will be furnished to construction and demolition debris recyclers to improve recycling levels for this type of material. The estimated cost for the additional work will be \$14,190 which will be provided from the Solid Waste Department's appropriation for miscellaneous professional services.

Terry Peterson, Waste Reduction Planner, explained that providing building and demolition permit data to recyclers will allow them to contact contractors prior to construction or demolition to arrange for material recycling. Under the provisions of the change order, data on all building and demolition permits will be gathered through April, 1992. Peterson indicated that the effectiveness of the program would be evaluated at that time.

Councilor McFarland questioned whether the department intends to charge for the maps and other data provided to recyclers. Peterson indicated that was a policy decision that had not been made. Councilor Gardner noted that the Transportation and Planning Committee will be reviewing a proposal for marketing RLIS products and that the committee would review the types of products for which a fee will be collected.

The committee reviewed the process by which the change order was proposed and agreed that it was more appropriate to amend the original agreement than to re-bid the entire expanded scope of work. McFarland expressed concern about the large number of contracts and agreements whose scope of work increases after the document is signed and indicated that she will closely monitor this situation.



METRO

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

Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: October 8, 1991

Re: Resolution No. 91-1518, For the Purpose of Authorizing an Exemption the the Competitive Procurement Procedures of Metro Code Chapter 2.04.053, and Authorizing a Change Order to the Personal Services Agreement with Associated Marketing Research

Resolution No. 91-1518 is scheduled to be considered by the committee at the October 15 meeting.

Background

The Transportation Department recently signed a personal services agreement with Associated Marketing Research to provide selected data relating to building and demolition permits for use in the Regional Land Information System (RLIS). Data for building permits over \$50,000 and all demolition permits affecting the number of housing units or commercial/industrial land coverage would be provided.

The Solid Waste Department has proposed that data on all pending and granted building and demolition permits be gathered. The department would use these data to alert those who recycle construction and demolition debris in advance concerning locations where debris will be generated. In addition, this data would allow the department to more accurately forecast the amount of construction and demolition generated within various geographic areas.

The Solid Waste Department is proposing that the agreement be changed to permit the collection of the additional requested data with an appropriate increase in the amount payable under the agreement. The original maximum amount payable under the agreement was \$35,000 for the current fiscal year. The department is proposing that this amount be increased to \$49,190. The additional funds would come from the department's miscellaneous professional services appropriation.

The Metro Code requires that a change in a personal services agreement of more than \$10,000 must be exempted from the competitive procurement process by the contract review board. The proposed ordinance would provide for such an exemption and make the necessary changes in the language of the agreement.

Issues and Questions

The committee may wish to address the following issues and questions relating to the proposed resolution.

1) It appears that the department's interest in changing the scope of work under the proposed agreement was made known prior to the signing of the agreement. The procurement staff advised the department that it could let the agreement be signed and then propose a change order or it could request that the proposal be re-bid based on the proposed expanded scope of work and higher estimated cost. The procurement staff recommended use the change order procedure based on its assessment that a rebidding process would not result in other parties bidding on the work and that it would delay implementation of the terms of the agreement. The committee may wish to ask the procurement staff to explain the rationale behind this recommendation.

2) The intent of the changes in the agreement are to provide an ongoing source of information that can be used to increase the amount of construction and demolition debris that is recycled. But language in the proposed revised agreement (pg. 1, Section II.1, second paragraph, second sentence) appears to indicate that all of the necessary data will be collected only through April 1992. Beginning in May 1992, only data on permits over \$50,000 would be gathered. The committee may wish to ask why this change in the data collection process was made?

BEFORE THE CONTRACT REVIEW BOARD OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|------------------------------------|---|---------------------------|
| FOR THE PURPOSE OF AUTHORIZING |) | RESOLUTION NO. 91-1518 |
| AN EXEMPTION TO THE COMPETITIVE |) | |
| PROCUREMENT PROCEDURES OF METRO |) | Introduced by Rena Cusma, |
| CODE CHAPTER 2.04.053, AND |) | Executive Officer |
| AUTHORIZING A CHANGE ORDER TO |) | |
| THE PERSONAL SERVICES AGREEMENT |) | |
| WITH ASSOCIATED MARKETING RESEARCH |) | |

WHEREAS, Metro has a contract with Associated Marketing Research for ongoing maintenance of the Regional Land Information System (RLIS) data bases,

WHEREAS, Changing the existing contract specifications would significantly enhance the usefulness of the data for meeting Metro's solid waste management and recycling objectives,

WHEREAS, Change Order No. 1 cannot be approved unless an exemption to the Competitive Procurement Process pursuant to Metro Code 2.04.054 is granted by the Metro Contract Review Board; and

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

BE IT RESOLVED,

That the Metropolitan Service District Contract Review Board exempts Change Order No. 1 to the Personal Services Agreement with Associated Marketing Research from the Competitive Procurement Procedures of Metro Code 2.04.053 and authorizes execution of Change Order No. 1.

ADOPTED by the Contract Review Board of the Metropolitan Service District this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

CHANGE ORDER SUMMARY

PROJECT: DATA COLLECTION FOR RLIS

CONTRACTOR: ASSOCIATED MARKETING RESEARCH

PURPOSE: CHANGE DATA COLLECTION SPECIFICATIONS

CONTRACT NO.: 902128

BUDGET NO. 531-310370-524190

DEPARTMENT: SOLID WASTE

FUND NAME OPERATING

THIS REQUEST IS FOR APPROVAL OF CHANGE ORDER NUMBER: 1

- | | |
|--|---------------------|
| 1. The original contract sum was | \$ <u>35,000.00</u> |
| 2. Net change by previously authorized change order | \$ <u>0.00</u> |
| 3. The contract sum prior to this request was | \$ <u>35,000.00</u> |
| 4. Total amount of this change order request | \$ <u>14,190.00</u> |
| 5. The new contract sum, including this change order | \$ <u>49,190.00</u> |
| 6. The contract sum paid in FY 91-92 | \$ <u>0.00</u> |
| 7. Fiscal Year appropriation for FY 91-92 | \$ <u>20,000.00</u> |

Line item name: MISC. PROFESSIONAL SERVICES

Estimated appropriation remaining as of 10/4/91 \$ 20,000

8. Start Date: October 22, 1991 Expire Date: June 30, 1992

REVIEW AND APPROVAL:

[Signature]
Division Manager, Solid Waste Department

10/4/91
Date

Fiscal Review

Date

[Signature]
Director, Solid Waste Department

10/4/91
Date

Budget Review

Date

Director, Regional Facilities

Date

[Signature]
Legal Review

10/7/91
Date

Vendor # _____

**CHANGE ORDER NO. 1
TO THE CONTRACT BETWEEN ASSOCIATED MARKET RESEARCH AND
THE METROPOLITAN SERVICE DISTRICT ENTITLED,
"DATA COLLECTION FOR RLIS" (Contract No. 902128)**

**Change Specifications for Collecting
Building Permit Data**

The Scope of Work entered into October 9, 1991, is hereby modified to incorporate the changes described below:

1. On pages 1-3 of the Scope of Work, delete all of the language in Section II.1 "Building Permit Records", and replace it with the following:

II.1. Building Permit Records

Building permit data will be delivered on two media: 3½" Macintosh disk(s) and 3½" MS-DOS compatible disk(s). Data on Macintosh disks will be delivered in Excel 3.0 (or compatible) format. Data on MS-DOS disks will be in an ASCII rectangular file (one building permit per record) in a format suitable for appending to a Unix INFO data base.

From July 1991 to April 1992, inclusive, the files to be delivered by CONTRACTOR to METRO shall include data on all permits from all permit-issuing jurisdictions in Clackamas, Multnomah and Washington counties; and all permits over \$50,000 valuation from all permit-issuing jurisdictions in Yamhill and Clark counties. From May 1992 to June 1992, inclusive, the data from jurisdictions in Clackamas, Multnomah and Washington counties shall include data on all permits over \$50,000 valuation. Exceptions to these collection limits are demolition permits affecting the change in the number of residential units or land coverage of non-residential structures in which all permits shall be delivered from all jurisdictions regardless of permit valuation. Each record will contain the following fields:

1. The Federal Information Processing System (FIPS) code for the jurisdiction issuing the permit.
2. Permit number.
3. Issue/approval day, month, and year (3 fields).
4. Site address. This will be provided in four (4) fields:
 - a. street number
 - b. street direction (N, NW, W, SW, S, SE, E, NE)

- c. street name
 - d. street type (e.g., Ave., St., Dr.)
5. Parcel identifier. The tax lot number will be provided. If the tax lot number is not available, a legal description may be substituted. If a legal description is substituted, the subdivision name, block and lot is the preferred description.
 6. Permit valuation.
 7. Zoning code of the permit-issuing jurisdiction.
 8. Square footage of structure.
 9. Permit type (N=new, A=alteration, D=demolition, M=mechanical, etc.).
 10. Structure type (S=single family residential, M=multi-family residential, T=mobile home (additional unit), S=mobile home (replacement unit), C=commercial (non-office), O=office, R=restaurant, H=medical, I=industrial, P=public/institutional, N=other).
 11. Number of units (residential); number of stories (non-residential).
 12. Multiple listing services' subarea codes (2 fields: OMLS, RMLS).

Of the total monthly charge, \$812.50 is allocated to data on permits over \$50,000 valuation in Clackamas, Multnomah, Washington, Yamhill and Clark counties; \$960.00 is allocated to data on permits \$50,000 and under in Clackamas, Multnomah and Washington counties.

2. The following addition is made to the Scope of Work Section II.1 "Building Permit Records" as II.1.1.

II.1.1. Pending Permits

Pending permits are building, mechanical, demolition, alteration, excavation and land clearing permits which have been issued but not yet approved. Data on pending permits will be delivered on 3½" Macintosh disk(s) in Excel 3.0 (or compatible) format (one pending permit per record). These files shall be separate from the files specified in II.1 (Building Permit Records), above, but may reside on the same disk. Files to be delivered by CONTRACTOR to METRO shall include data on pending permits over \$50,000 valuation from all permit-issuing jurisdictions in Clackamas, Multnomah and Washington counties. Exceptions to these collection limits are demolition permits in which all permits shall be delivered from all jurisdictions in Clackamas, Multnomah and Washington counties regardless of permit valuation.

Deliveries shall be made bi-weekly and shall include data covering approximately two calendar weeks per file. Collection shall commence October 9, 1991 with first delivery of data due to METRO on October 22, 1991. Subsequent deliveries shall be made approximately every two weeks for permits issued during previous two-week periods. Each record will contain the following fields where available:

1. Contractor's name.
2. Contractor's building board number.
3. Contractor's contact person.
4. Contractor's mailing address.
5. Contractor's phone number.
6. Site address. This will be provided in four (4) fields:
 - a. street number
 - b. street direction (N, NW, W, SW, S, SE, E, NE)
 - c. street name
 - d. street type (e.g., Ave., St., Dr.)
7. Parcel identifier. The tax lot number will be provided. If the tax lot number is not available, a legal description may be substituted. If a legal description is substituted, the subdivision name, block, and lot is the preferred description.
8. Owner's name (may be substituted for contractor's name [and so noted] if the owner is acting as his own contractor).
9. Owner's telephone number.
10. Permit valuation.
11. Square footage.
12. Issuing jurisdiction.
13. Permit number.
14. Type of structure.
15. Type of permit (N=new, A=alteration, D=demolition, M=mechanical, E=excavation, C=land clearing).

16. Structure type (S=single family residential, M=multi-family residential, C=commercial (non-office), O=office, I=industrial, P=public/institutional, N=other).

Of the total monthly charge, \$510.00 is allocated to data on pending permits.

3. On page 6 of the Scope of Work, delete all of the language in Section V. "Payment", and replace it with the following:

V. PAYMENT

1. Payment for Specified Data Services

METRO agrees to pay CONTRACTOR, monthly, the amounts listed in Table 1 for the products listed in Section II and Section III.1, if these products are delivered by the 10th day of each month or by the next working day and if this date falls on a weekend or holiday. METRO may elect to deduct \$15.00 from the monthly bill for each day after the due date that delivery of materials is late.

Table 1
Monthly Payment Chart

| <u>Period*</u> | <u>Number of Months</u> | <u>Monthly Amount</u> | <u>Extension</u> |
|-----------------------------------|-------------------------|-----------------------|--------------------|
| 1. July 1991 to September 1991 | 3 | \$3,280.83 | \$ 9,842.49 |
| 2. October 1991 to April 1992 | 7 | \$3,790.83 | \$26,535.81 |
| 3. May 1992 to June 1992 | <u>2</u> | \$2,830.83 | <u>\$ 5,661.66</u> |
| | 12 | | \$42,039.96 |

* Notes on period charges

1. Excludes collection of pending permits (\$510 per month).
2. Includes collection charges for all data.
3. Excludes collection of permits valued at \$50,000 and under in Clackamas, Multnomah and Washington counties (\$960 per month)

2. Payment for Special Data Services

Subject to the requirements and conditions listed in Section III.2, METRO agrees to pay CONTRACTOR no more than \$7,150.04 for prior-period updates delivered under authority of this contract.

3. Conditions of Payment

CONTRACTOR may invoice METRO on or after delivery of products. Subject to conditions specified in Sections IV. and V. above, the appropriate monthly payment shown under "Monthly Amount" in Table 1, plus additional billings authorized under III.2, will be issued by METRO to CONTRACTOR within ten (10) working days of receipt of invoice.

The net additional amount authorized by Change Order No. 1 shall not exceed \$14,190. All other terms and conditions of the original agreement and previous agreements shall remain in full force and effect.

ASSOCIATED MARKETING RESEARCH

METROPOLITAN SERVICE
DISTRICT

BY: _____
Name and Title)

BY: _____ (Print
(Print Name and Title)

DATE: _____

DATE: _____

TP:ay
October 3, 1991
MODEL\AMR.C01

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 91-1518 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO THE COMPETITIVE PROCUREMENT PROCEDURES OF METRO CODE CHAPTER 2.04.053, AND AUTHORIZING A CHANGE ORDER TO THE PERSONAL SERVICES AGREEMENT WITH ASSOCIATED MARKETING RESEARCH

Date: October 2, 1991

Presented by: Terry Petersen

PROPOSED ACTION

Adopt Resolution No. 91-1518, which grants exemption from the competitive procurement process and authorizes execution of Change Order No. 1 to the Personal Service Agreement with Associated Marketing Research for Maintaining Metro's Building Permit Data.

FACTUAL BACKGROUND AND ANALYSIS

In October 1991, the Data Resource Center of Metro's Transportation Department entered into a Personal Services Agreement with Associated Marketing Research for maintenance of Metro's Regional Land Information System (RLIS) data base. Under the existing contract, Associated Marketing Research's responsibilities include monthly delivery of building permit data for permits over \$50,000 valuation and any demolition permits that affect the change in number of housing units or commercial/industrial land coverage. These account for about 20% of all building permits in the region.

The Solid Waste and Planning and Development Departments would like to use building permit data for two solid waste purposes:

- Inform recyclers where construction and demolition debris will be generated in advance of the actual work. A lack of such knowledge has been one of the main impediments to recycling of this waste stream. Processors (e.g., OPRC, Weyerhaeuser, Wood Exchange) support Metro's performance of this function.
- Estimate tonnages of construction/demolition debris generated within local geographic areas as needed for solid waste forecasting.

Two changes need to be made in the contract in order to accomplish these solid waste objectives. The first is to include all building permits, not just those greater than \$50,000. A significant proportion of demolition waste is generated from permits with a value of less than \$50,000. The second change is to include permits that are pending in order to give processors sufficient advanced notice so they can make arrangements with generators and haulers to recover the material.

Metro Code Chapter 2.04.054 states that a contract amendment exceeding \$10,000 shall not be approved unless the Contract Review Board exempts the amendment from the competitive procurement process of Section 2.04.053. As detailed above, the work contemplated is most logically viewed as part of the ongoing work of Associated Marketing Research. It would be inefficient to now hire an additional consultant to carry out this relatively small component of data base maintenance.

BUDGET IMPACT

This Change Order will increase the not-to-exceed amount of contract from \$35,000 to \$49,190. Details concerning budget appropriations will be available at the time of the Committee meeting.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1518.

Meeting Date: October 24, 1991
Agenda Item No. 7.4

RESOLUTION NO. 91-1511



METRO

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

Memorandum

DATE: October 17, 1991

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council

RE: AGENDA ITEM NO. 7.4; RESOLUTION NO. 91-1511

The draft September 1991 Housing Planning Workplan has been published in this agenda packet. The final October 1991 Housing Planning Workplan will be distributed in advance to Councilors and available at the Council meeting October 24.

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1511, FOR THE PURPOSE
OF APPROVING THE FY 1991/92 HOUSING PLANNING WORKPLAN

Date: October 8, 1991

Presented by: Councilor Bauer

COMMITTEE RECOMMENDATION: At the October 8, 1991 meeting, the Committee voted 4-0 to recommend Council approval of Resolution No. 91-1511. Voting in favor were Councilors Bauer, Devlin, Gardner and McLain. Councilor Van Bergen was absent.

COMMITTEE ISSUES/DISCUSSION: Planning and Development Director Rich Carson introduced Mary Weber, who explained how the workplan correlates with housing planning activities set out in the Regional Urban Growth Goals and Objectives.

Ms. Weber said that compiling the three county Comprehensive Housing Affordability Strategy (CHAS) documents (Task 1) will give a regional perspective on unmet needs. The database work included in Task 5 will be used to evaluate the accuracy of the CHAS analyses. Task 3, which involves preparation of case studies, will result in information about the market dynamics of housing affordability. Fair share strategies will be addressed by mapping data to determine if there are gaps. The jobs/housing balance study under Task 2 will be a first step to review data relating to job creation and availability.

Council staff had asked how the planning activities would address preservation of special needs and existing low and moderate income housing. Ms. Weber indicated that case studies on public/private partnerships should provide helpful information. She also said that the current fiscal year workplan focuses on laying the analytical foundation, with strategy and policy development to follow next year.

With regard to the relationship between the workplan and the functional planning process, she said that findings from this research will be presented to the Growth Management Technical and Policy Advisory Committees to consider in identifying issues of regional significance and in making recommendations.

Rich Carson, Planning and Development Director, said that functional planning is the last step in the process. The first step involves identifying issues, problems, and ways they can be solved, with a functional plan coming at the end if needed. He indicated that a five year workplan might be an appropriate way to address RUGGO implementation.

Councilor Devlin said that under the Metro Code, when Metro enters into a planning process which could result in a functional plan, the issue must first be identified as one of metropolitan significance. He asked whether this identification should occur well before or shortly before the plan is adopted. Mr. Carson said

TRANSPORTATION AND PLANNING COMMITTEE REPORT

Resolution No. 91-1511

Page Two

he favors the latter approach. He said Metro must give notice that it might adopt a functional plan. He believes it is best to obtain an information base first, then reach conclusions about the strategy, and then adopt a resolution which gives notice that a plan may be adopted. He said that giving notice early in the process puts off local governments, and it is preferable for local governments to first come through the same planning and analytical process.

Councilor Devlin also indicated that the phrase "functional plan" is ambiguous. He said some functional plans involve modifications to local comprehensive plans, while others are overall policy documents. He noted that the solid waste plan serves both purposes. He asked how this ambiguity could be clarified. Mr. Carson responded that functional plans also affect local operational issues. For example, the solid waste plan imposes numerous requirements on haulers. At the request of Councilor Devlin, Councilor Gardner indicated that this topic will be scheduled for discussion by the committee at a future meeting.

Councilor Gardner and Councilor McLain expressed their view that a better strategy might be to use the words functional plan frequently. Councilor Van Bergen indicated he finds these terms less than clear.

Councilor Gardner asked if under Task 1d, staff would be evaluating only the strategies recommended in the three CHAS documents, or whether staff would independently identify strategies. Mr. Carson said staff would be focusing on the CHAS and on case studies, but that staff could also make suggestions. Councilor Gardner asked that staff look beyond the CHAS studies. Mark Turpel, Senior Regional Planner, added that the regional view obtained through synthesizing the CHAS, and the national perspective obtained through case studies, would provide a basis for staff to develop suggestions which could be incorporated in the CHAS in future years. Councilor Gardner said he supports this approach; Mr. Carson said the tasks could be clarified accordingly.

Council analyst Karla Forsythe asked how the planning activities would address density issues mentioned in the Housing Objective. Ms. Weber said that the case studies would include information about the dynamics of affordability.

In response to an inquiry from Councilor Gardner, Mr. Carson indicated that all costs of carrying out the workplan have been budgeted, including a \$25,000 contract for an economic consultant.

Councilor Bauer commented that it is prudent for Metro not to rush into housing issues, and to augment rather than compete with existing housing providers.



METRO

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

Memorandum

TO: Transportation and Planning Committee
FROM: Karla Forsythe, Council Analyst
DATE: October 2, 1991
RE: Resolution No. 91-1511: Housing Planning Workplan

An FY 91-92 budget note provides that an FY 1991-92 housing planning workplan will be submitted to the Committee no later than October 15, 1991, with specific projects, tasks, target dates and deadlines identified. The note further provides that the Committee will review the report and refer it to the full Metro Council for approval.

Council Staff Comments/ Questions for Committee Consideration

1. The workplan was developed in the context of the recently-adopted Regional Urban Growth Goals and Objectives. As noted in the workplan, the RUGGOs include a housing objective and four planning activities (Objective 11; copy attached).

It would be helpful if staff could explain how each proposed workplan task relates to the RUGGO planning activities.

2. How do the proposed tasks address the development of strategies to preserve the region's supply of special needs and existing low and moderate income housing?

3. This year's tasks appear to focus on identifying unmet needs and outlining potential strategies. Will assessment and development of strategies also begin this fiscal year?

4. How will the housing workplan be coordinated with the regional planning process established in the RUGGOs, particularly with regard to the functional planning process?

c: Rich Carson
Mark Turpel

1 **II.2: BUILT ENVIRONMENT**
2

3 Development in the region should occur in a coordinated and balanced fashion as evidenced by:
4

5 II.2.i) a regional "fair-share" approach to meeting the housing needs of the urban
6 population;

7
8 II.2.ii) the provision of infrastructure and critical public services concurrent with the
9 pace of urban growth;

10
11 II.2.iii) the integration of land use planning and economic development programs;

12
13 II.2.iv) the coordination of public investment with local comprehensive and regional
14 functional plans;

15
16 II.2.v) the continued evolution of regional economic opportunity; and

17
18 II.2.vi) the creation of a balanced transportation system, less dependent on the private
19 automobile, supported by both the use of emerging technology and the collocation of
20 jobs, housing, commercial activity, parks and open space.
21

22 **OBJECTIVE 11. HOUSING**
23

24 There shall be a diverse range of housing types available inside the UGB, for rent or purchase
25 at costs in balance with the range of household incomes in the region. Low and moderate
26 income housing needs should be addressed throughout the region. Housing densities should be
27 supportive of adopted public policy for the development of the regional transportation system
28 and designated mixed use urban centers.
29

30 **Planning Activities:**
31

32 The Metropolitan Housing Rule (OAR 660, Division 7) has effectively resulted in the
33 preparation of local comprehensive plans in the urban region that:
34

- 35 ● provide for the sharing of regional housing supply responsibilities by ensuring the
36 presence of single and multiple family zoning in every jurisdiction; and
- 37
38 ● plan for local residential housing densities that support net residential housing
39 density assumptions underlying the regional urban growth boundary.
40

41 However, it is now time to develop a new regional housing policy that directly addresses
42 the requirements of Statewide Planning Goal 10, in particular:
43

- 44 1) Strategies should be developed to preserve the region's supply of special needs

1 and existing low and moderate income housing.
2

- 3 2) Diverse Housing Needs - the diverse housing needs of the present and projected
4 population of the region shall be correlated with the available and prospective
5 housing supply. Upon identification of unmet housing needs, a regionwide
6 strategy shall be developed which takes into account subregional opportunities and
7 constraints, and the relationship of market dynamics to the management of the
8 overall supply of housing. In addition, that strategy shall address the "fair-share"
9 distribution of housing responsibilities among the jurisdictions of the region,
10 including the provision of supporting social services.
11
- 12 3) Housing Affordability - A housing needs analysis shall be carried out to assess
13 the adequacy of the supply of housing for rent and/or sale at prices for low and
14 moderate income households. If, following that needs analysis, certain income
15 groups in the region are found to not have affordable housing available to them,
16 strategies shall be developed to focus land use policy and public and private
17 investment towards meeting that need.
18
- 19 4) The uses of public policy and investment to encourage the development of
20 housing in locations near employment that is affordable to employees in those
21 enterprises shall be evaluated and, where feasible, implemented.
22

23 **OBJECTIVE 12. PUBLIC SERVICES AND FACILITIES**

24
25 Public services and facilities including but not limited to public safety, water and sewerage
26 systems, parks, libraries, the solid waste management system, stormwater management facilities,
27 and transportation should be planned and developed to:

28
29 12.i) minimize cost;

30
31 12.ii) maximize service efficiencies and coordination;

32
33 12.iii) result in net improvements in environmental quality and the conservation
34 of natural resources;

35
36 12.iv) keep pace with growth while preventing any loss of existing service levels
37 and achieving planned service levels;

38
39 12.v) use energy efficiently; and

40
41 12.vi) shape and direct growth to meet local and regional objectives.
42

43 12.1 Planning Area - The long-term geographical planning area for the provision of
44 urban services shall be the area described by the adopted and acknowledged urban growth

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING
THE FY 1991/92 HOUSING PLANNING
WORKPLAN

)
)
)
)
)

RESOLUTION NO. 91-1511

Introduced by Rena Cusma,
Executive Officer

WHEREAS, the Regional Urban Growth Goals and Objectives (RUGGO) call for the completion of certain planning activities to address regional housing issues and the work outlined in the Housing Planning Workplan is designed to address the development of the concepts contained within the RUGGO; and,

WHEREAS, the foundation for Metro's contribution to addressing regional housing issues will be based on a thorough understanding and analysis of existing housing conditions and the relationship of housing, specifically affordable housing, to employment opportunities, transportation, and the general urban form of the region; and

WHEREAS, the Housing Planning Workplan is intended to provide an analytical background to guide Metro in the development of regional housing strategies in cooperation with local governments; now therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District approves the 1991/92 Housing Planning Workplan in a form substantially consistent with "Attachment 1", attached herewith.

ADOPTED by the Council of the Metropolitan Service District this _____ day of
_____, 1991.

Tanya Collier, Presiding Officer

Draft



*Housing Planning
Workplan*

September 1991

Planning and Development
Department

METRO

TABLE OF CONTENTS

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- IV. Affordable Housing Issues and Challenge
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 - TASK 2. Jobs/Housing Balance Analysis
 - TASK 3. Case Studies of Affordable Housing Issues
 - TASK 4. Coordination of Housing and Other Related Projects
 - TASK 5. Regional Housing Database
 - TASK 6. Regional Housing Forums
 - TASK 7. Metropolitan Housing Network

I. Purpose

The purpose of the proposed Housing Planning Work Program is to explore and develop the foundation for Metro's contribution to the region's affordable housing strategy. The work program will guide Metro in the further identification of regional housing issues and the development of regional housing strategies in cooperation with local governments. The foundation for Metro's contribution will be based on a thorough understanding and analysis of existing housing conditions and the relationship of housing, specifically affordable housing, to employment opportunities, transportation, and the general urban form of the region. This document outlines the tasks that will enable Metro to assist with the effort to understand and develop strategies to meet regional housing needs.

II. Metro's Housing Objectives

The Regional Urban Growth Goals and Objectives (RUGGO) state:

"Objective 11. Housing"

"There should be a diverse range of housing types available inside the UGB, for rent or purchase at costs in balance with the range of household incomes in the region. Low and moderate income housing needs should be addressed throughout the region. Housing densities should be supportive of adopted public policy for the development of the regional transportation system and designated mixed use urban centers."

The RUGGO's also propose planning activities which lead to a new regional housing policy as follows:

- "1) Strategies should be developed to preserve the region's supply of special needs housing and existing low and moderate income housing."
- "2) ... Upon identification of unmet housing needs, a region-wide strategy shall be developed which takes into account subregional opportunities and constraints, and the relationship of market dynamics to the management of the overall supply of housing. In addition, that strategy shall address the "fair share" distribution of housing responsibilities among the jurisdictions of the region, including the provision of supporting social services."
- "3) If, following ... (a) needs analysis, certain income groups in the region are found to not have affordable housing available to them, strategies shall be developed to focus land use policy and public and private investment towards meeting that goal."
- "4) The uses of public policy and investment to encourage the development of

housing in locations near employment that is affordable to employees in those enterprises shall be evaluated and, where feasible, implemented."

III. Housing Planning in the Region

City and County Policies

Housing policies are some of the key factors that shape the existing housing situation in this region. Some local governments have policies but no strategies, while some have both but no housing program. Some examples of local government housing policies are provided below as examples of existing housing policies in the region. A summary of State and Federal housing policies are also provided in this section.

As required by State law all cities and counties must prepare a comprehensive plan, zoning ordinances (or development code) and building codes. These documents form the basis for local policies that affect housing activities and conditions. Some cities have more specific housing policies.

For example, the City of Portland has adopted many housing policies and has an ongoing Housing Advisory Committee, a citizen committee charged with advising the City on housing policy issues. Some of the City's housing policies are: 1) the Mayor's "12 Point Program for the Homeless"; 2) assisting in planning for lower income or subsidized housing opportunities; 3) support for public and private actions which increase housing choice and neighborhood stability; 4) "no net loss" (an ordinance calling for the replacement of lost or converted dwelling units within zones where gentrification is occurring); 5) fair housing (i.e., encouraging and supporting equal access to housing throughout the City for all people regardless of race, color, sex, marital status, religion, national origin or physical or mental handicap); and 6) encouraging and assisting the continuing maintenance and rehabilitation of housing.

In Washington County, the Comprehensive Framework Plan contains housing policies such as policies 21 (Housing Affordability - encouraging the housing industry to provide an adequate supply of affordable housing for all households in the unincorporated urban county area of housing), 22 (Housing Choice and Availability), 23 (Housing Condition) and 24 (Housing Discrimination).

The County's plan also identified seven implementing strategies that will be used to achieve these policies. These strategies include: 1) provision for an average density of at least 8 units per net buildable acre; 2) streamlining the development review process to reduce the regulatory costs associated with land development, while improving the quality of review; 3) use of the regulatory process in the Community Development Code to permit the creation of a second dwelling unit within detached dwellings where possible; 4) review design and development standards for residential projects as part of an effort to reduce unnecessary housing costs while maintaining housing and neighborhood quality; 5) review the utilization of residential planned

densities on a periodic basis to determine if any Plan changes are required; 6) encourage compatible development in partially developed residential areas to make optimal use of existing urban service facility capacities and maximize use of the supply of residential land; and 7) assist state and local public housing agencies in the development of subsidized housing opportunities.

Other examples of local housing policies may be found in the cities of Troutdale and Happy Valley. The Troutdale Comprehensive Plan has many policies which are aimed towards maintaining affordable housing. For example, fees and charges which may impact housing are supposed to be reviewed regularly, the process of issuing permits for land development will be streamlined as necessary in order to reduce delay that translates into higher development costs, encouraging a mix of housing types, and improving the quality of deteriorated housing stock.

The Happy Valley Comprehensive Plan encourages the development of secondary residential units on existing single family lots. These units have been defined as

"...an auxiliary dwelling unit within an existing single-family dwelling, or a detached dwelling unit with separate plumbing and kitchen facilities. These units are intended to provide housing for single persons, elderly couples and others who wish to or must restrict homemaking activities and/or those on limited incomes who otherwise may not be able or willing to support a full-sized dwelling, yet shun the more crowded apartment or condominium style of housing".

As of 1987, approximately 10 percent of the existing housing stock was determined to be easily converted into secondary units. An additional 5 percent of the housing stock was in use as secondary units.

State Policies

Perhaps the best known state housing policy is the Oregon land use planning system comprising Goals, state planning statutes, and administrative rules for which cities and counties, who have land use planning jurisdiction, must show compliance. The first of these, the Statewide Planning Goals, includes Goal 10 - Housing, which broadly states how land use plans are to accommodate housing. Further, the land use plans are to

"...encourage the availability of adequate numbers of housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density."

Another major State land use goal, Goal 14 - Urbanization, calls for an inventory of lands realistically available for residential development to be completed by cities and counties.

The Oregon Revised Statutes (ORS 197.295-197.313) has several requirements which relate to needed housing in Urban Growth Areas. Land inventory available for development within the urban growth boundary must address how housing types will be determined to meet the need

shown for housing within the boundary at particular price ranges and rent levels, including projected unmet need.

However, in the greater Portland metropolitan area, the Metropolitan Housing Rule, is substituted for compliance with the above guidelines of Goal 10. The Metropolitan Housing Rule is intended to improve the efficient use of land within the urban growth boundary, increase the development process certainty, and reduce housing costs.

Accordingly, the cities and counties in the region must make sure that their plans and zoning provide for at least 50 percent of new residential units to be something other than single family detached housing, and, the average density as calculated from their plans and zoning must be either 6, 8 or 10 units to the acre.

Other State housing policies affecting this region are the Unified State Building Code and Oregon Benchmarks. The building code is adopted wholly, or in portion, by cities and counties. The basic reason for the code is to insure that structures are constructed so that they are safe. The State has not stated how the current Oregon Benchmarks will be implemented. The benchmark document sets measurable standards for progress throughout the State. For housing, several benchmarks have been proposed. One of the critical benchmarks is to make housing more affordable. The state, in 1980 had 53% of households below median income spending less than 30 percent of their household income (including utilities) on housing. By 1995, the goal is to increase this to 75 percent, and by the year 2000, to 90 percent. In addition, it is also proposed that the ratio of the price of a home that a median income Oregon household can afford, to the median price of Oregon homes for sale be no greater than 1.2 to 1. As a longer-term goal, the document recommends reducing the number of Oregonian who are homeless from 30,000 (1990) to 20,000 in 1995, and 5,000 in the year 2010.

Federal Policies

Many federal housing policies affects local housing conditions because they are tied to the federal funding of local programs. However, there are few policies which affect housing regardless of whether federal funding is involved. These include the Fair Housing Act (prohibiting housing discrimination on the basis of race, color, religion, national origin, sex, handicapped or family composition), the Americans with Disabilities Act of 1990 (making buildings, including housing, more accessible to those who may be disabled), and the Community Reinvestment Act (encouraging financial institutions such as banks and savings and loans to help meet the credit needs of their local community, including low and moderate-income neighborhoods).

Some of the federal funding that affect local housing policies and conditions include Community Development Block Grants, the Secretary's Discretionary Fund, Rental Rehabilitation, Rehabilitation loans (section 312), Urban Homesteading, Emergency Shelter Grants, Enterprise zone Development, Supportive Housing Demonstration projects (transitional and permanent), Supplemental Assistance for Facilities to Assist the Homeless, Mortgage insurance (Low and

Moderate Income Families section 221(d)2), Housing in Declining Neighborhoods, section 223(e), Special Risks section 237), Multi-family Rental Housing for Moderate-Income Families (section 221(d)(3) and (4), Assistance to Nonprofit Sponsors of Low and Moderate Income Housing (section 106b), Lower-Income Rental Assistance and Moderate Rehabilitation Program (section 8), and Direct Loans for Housing the Elderly or Handicapped (section 202).

In addition, Congress recently adopted the National Affordable Housing Act of 1990 and its related HOME Program which will allocate funds for urban and rural communities. For local jurisdictions to receive assistance within the provisions of this Act, a "Comprehensive Housing Affordability Strategy" (CHAS) addressing housing needs and assessing how local policies impact housing must be submitted to the Secretary of HUD.

IV. Affordable Housing Issues and Challenge

Metro's Housing Issues Report, completed in March 1991, contains a preliminary analysis of regional housing issues. Based on information from local housing experts and published materials there are three major issues of concern.

First, there is the issue of whether housing production in this region should be more compact or spread out. There were arguments that if the urban growth boundary is not expanded growth will be restricted for housing and transportation. The implications of development densities for the provision of transit services is also a concern to some people. Arguments in support of no expansion of the urban growth boundary and high density development claim that there is high economic and environmental costs associated with urban sprawl. Tri-Met is currently studying the relationship between transit and urban form. The 1000 Friends of Oregon and Homebuilders Association of Metropolitan Portland recently completed a study which concluded that not all local governments in the region complied with the density mandate in the Metropolitan Housing Rule.

The second issue is that there is a wide gap between median household income and the median housing price. According to local housing experts the magnitude of the gap varies among communities. The three counties (and their local governments) applying for HUD's HOME Program fund are currently analyzing the unmet housing needs in their respective jurisdictions in through the CHAS process.

Finally, some communities are not providing enough housing of a cost and type to match the type and number of jobs created in their areas. Some of the impacts of this imbalance include traffic congestion, air quality degradation and concentration of low-income housing in one jurisdiction and moderate or high-income housing in another jurisdiction. Some local housing experts also claim that some local governments do not consider housing availability simultaneously with the consideration of the creation of new jobs.

The workplan recommends a compilation of the three CHAS analyses in order to determine the

regional context of the unmet affordable housing need. The compilation and synthesis of the CHAS and the job/housing balance analysis will provide a framework to begin regional discussions about the "fair share" distribution of affordable housing. In addition, case studies of housing cost and housing financing are recommended to determine innovative ways of reducing overall cost of housing production and increasing financing tools for public and private developers of affordable housing in the region. In order to determine whether an imbalance exists between a community's job pool and home inventory the workplan recommends a job/housing balance analysis.

V. Regional Housing Work Program

In order to fulfill the goals, objectives and planning activities included within the RUGGO, the following housing activities are recommended:

- Task 1. Compile the three CHAS now being completed for the three counties, assess how they "fit together", and identify regional issues, if any, that emerge.
- Task 2. Complete a jobs/housing balance analysis, to examine whether there are regional issues which need to be addressed.
- Task 3. Prepare case studies of: A) housing costs, and B) innovative housing programs throughout the country. The purpose would be to see whether there are steps that the region should take to address housing issues.
- Task 4. Maintain coordination between housing issues and other Metro projects, especially the Region 2040 and Infill and Redevelopment projects.
- Task 5. Improve and maintain Metro's housing data base.
- Task 6. Pursue quarterly regional housing forums, addressing all of the issues listed above.
- Task 7. Publish a quarterly information piece called the Metropolitan Housing Network.

TASK 1. Regional Housing Needs Analysis Coordination

Purpose: The purpose of compilation and analysis of the three counties' CHASs is to determine the regional context of unmet housing needs and to further explore Metro's possible contribution to the region's affordable housing strategies. This regional look at affordable housing and demand will also provide a starting point from which to begin discussions about "fair share" distribution of affordable housing.

Definition: The National Affordable Housing Act of 1990 and its related HOME Program will allocate funds for urban and rural communities. Funding for HOME and other HUD programs requires qualifying local governments to develop a CHAS. HUD guidelines for the development of a CHAS include the following:

1. The estimated housing needs for the next 5 years for very low-income, low-income and moderate income families, including special subcategories such as the elderly, large families; persons with AIDS, and others, and the number projected to be served;
2. A description of the nature and extent of homelessness;
3. A description of the significant characteristics of the jurisdiction's housing market;
4. An explanation of whether public policies such as "...land use controls, zoning ordinances, building codes, fees and charges, growth limits and policies that affect the return of residential investment..." affect the cost of housing or efforts to improve affordable housing, and if they do, means of minimizing these impacts;
5. A description of the institutions, including private industry as well as nonprofit organizations and public institutions, as well as the means of coordination, by which the housing strategy will be implemented;
6. An accounting of the resources, private and non-Federal, that will be made available;
7. An explanation of an investment plan for the Federal funds to be used;
8. A description of the means for cooperation and coordination among the State and general purpose local governments;
9. An accounting of the number, condition and restoration needs of public housing units; and,
10. A description of activities to encourage public housing residents to become more involved in the management of their housing projects or participate in home ownership.

Work Elements:

- 1a. Review and synthesize the three CHASs in a regional context.

- 1b. Depict general differences in housing conditions and markets for present and projected population in different parts of the region, including the availability of affordable housing for special needs and low and moderate income households.
- 1c. Determine subregional opportunities and constraints, and the relationship of market dynamics to the management of the overall supply of housing.
- 1d. Evaluate strategies proposed for addressing regional housing needs, taking into account: a) preservation of the region's supply of special needs and existing low and moderate income housing; and b) subregional opportunities and constraints, and the relationship of market dynamics to the management of the overall supply of housing.

Product: Report describing the condition and amount of unmet affordable housing needs in relation to projected population and subregional constraints and market dynamics, and an assessment of strategies for increasing the supply and improving the distribution of affordable housing in the region.

Timeline: October 1991 to February 1992.

TASK 2. Jobs/Housing Balance Analysis

Purpose: To design and conduct a jobs/housing balance analysis to determine the balance/imbalance of job location and affordable housing in the region and in the region's employment areas. A balance is desired to reduce commute distances, to reduce transportation caused air pollution, and to ensure an accessible labor force for employers. An area is said to have a balance of jobs and housing if housing is available to workers at a near commute distance at a price affordable to workers' households. The analysis is designed as a pilot study. The analysis will begin the examination of job creation (location and type), the definition of employment centers and the housing pool that supports those centers. The job/housing balance analysis is intended as one source of information to guide policy development pertaining to affordable housing and job creation. In addition, this work will add to the information needed to begin discussions about "fair share" distribution of affordable housing.

Definition: The study will utilize a jobs/housing range indicator. The jobs/housing range indicator is the comparison of the quantity of housing units demanded at an affordable price to the quantity of housing units available at the same price level. This analysis will require the identification of employment centers in the region. Definition of the housing pool that supports the employment centers must be also be determined. The housing pool can be defined using either commute time or

distance from the employment center or by other measures. Wage rates, distribution of wages and the number of jobs generated by an employment center must be converted to household income and jobs per household. A jobs/housing balance analysis will provide one piece of information to consider as the region begins to look at job creation and the existence or lack of housing at a price level to match jobs created. The jobs/housing range should indicate the balance/imbalance in a regional context and within concentrated employment areas.

Work Elements:

- 2a. Prepare an RFP for economic consulting services to assist in the following tasks: 1) assist Metro staff in the further development of a jobs/housing analysis for the region and the pilot study areas; 2) develop a definition of affordable housing; 3) identification of the housing pool for the region and for the pilot study areas - estimate the cost and supply of housing in these areas; and 4) identification of employment centers.
- 2b. Using the data resources of Metro, identify a jobs/housing range for the region and the pilot study areas.
- 2c. Gather anecdotal information from major employers in the region regarding employees housing needs.

Product: A method for considering jobs/housing balance in the region and in subregions based on employment centers. Pilot studies completed for the region and several of the region's employment centers.

Timeline: This work effort is expected to be initiated near the end of the calendar year with the selection of an economic consultant. The completion date is expected to occur by June 1992.

Task 3. CASE STUDIES

TASK 3a. Analysis of Housing Costs

Purpose: Housing cost is a function of many elements of housing production, directly and indirectly related to the building itself. Examples of direct costs are land, interest rates, building materials, labor and development fees. Examples of indirect costs are environmental restrictions, labor laws, regulations relating to water quality and impervious surfaces, erosion, and flooding. The intent is to analyze these elements and determine how cost savings can be achieved by substituting the cost

variables associated with housing production elements. Results of the analysis will be used to educate government, private and public developers, lenders, the real estate community and the general public.

Definition: Housing cost is all the costs associated with the production of single family and multifamily (rental and ownership) housing. These costs include land acquisition, land development (including permit fees), construction, marketing and closing.

Work Elements:

- a1. Work with the development community to determine the various components that constitute the cost of producing a dwelling.
- a2. Develop a list of housing factors substitutes and use them to design housing cost scenarios that can be used to build affordable and good quality housing in this region.
- a3. Develop technical assistance program and/or manual to assist public and private developers and local government in building affordable housing.

Product: Report that outlines comparable costs of housing.

Timeline: October 1991 to June 1992.

TASK 3b. Assessment of Public/Private Housing Partnership Models to Meet Unmet Needs

Purpose: Explore potential for public/private sector partnership in this region.

Definition: Public/Private housing partnerships are formalized, permanent or nonpermanent arrangements created with the intent to increase the production of affordable housing. These arrangements are typically made among local or state governments, private funding sources, and private development agencies, usually non-profits.

Work Elements:

- b1. Report that describes local housing initiatives in this region and other parts of the country.
- b2. Report that analyzes regional housing partnerships showing the critical political, social, economic and financial elements that are required.

Product: Assessment of public/private sector partnerships in other parts of the country and conditions for developing them in this region.

Timeline: August 1991 to February 1992.

TASK 3c. Assessment of Financing Mechanisms to Meet Unmet Housing Needs

Purpose: Find ways of getting funds for housing organizations in this region (i.e., funds not currently available to them).

Definition: Financing comes in different forms depending on the type financier, developer, or buyer. Both public and private organizations finance housing development in the form of tax-credits, market and low interest (or reduced-rate mortgage) loans, grants and debt financing. Buyers receive housing financing in the form of market rate mortgages, low interest mortgages and mortgage credit certificates.

Work Elements:

- c1. Report that describes and analyzes housing financing tools used by public and private developers including non-profits, and showing how these tools can be secured and used to meet unmet housing needs.

Product: Housing financing strategies.

Timeline: August 1991 to February 1992.

TASK 4. Coordination of Housing and Other Related Projects

Purpose: To assure that the housing products are available and consistent with other Metro planning efforts including the Urban Infill and Redevelopment Project, Region 2040, Urban Reserves Project, Metro Greenspaces and the projects and computer models to be completed solely by the Transportation Department

Definition: This task includes communicating with the project leaders so that the housing projects listed in this work program reflect Metro policies. In addition, this task will include having the housing work understood by the other project leaders.

Work Elements:

- 4a. Review list of projects with department management.
- 4b. Review housing work program with project leaders review their work programs.

- 4c. Establish a method to track other projects and communicate with project leaders.

Product: Metro projects which are consistent with each other. Minimizing the duplication of data gathering, other work efforts.

Timeline: Ongoing.

TASK 5. Regional Housing Database

Purpose: Provide a more complete and easily assessable database that planners and analysts need to understand and analyze changes in housing needs, support existing programs and develop new programs which address the housing needs of this region.

Work Elements:

- 5a. Work with Metro's Data Resource Center, state and local governments to assemble housing information and data relevant to this region. The data will include, at a minimum, total existing units by type, developer (public or private), geographic areas, price and rental information by type of units and geographic areas, total and type of households in need of housing, and homebuyer and renter assistance information.

- 5b. Develop an annual Regional Housing Information Report.

Product: Computer database of housing information for the Portland metropolitan area and a regional housing information bulletin.

Timeline: October 1991 to June 1992 and ongoing.

TASK 6. Regional Housing Forums

Purpose: To provide a means to discuss regional housing issues and foster a comprehensive "housing providers'" network.

Definition: Public, half-day meetings in which critical housing issues are discussed and debated.

Work Elements:

- 6a. Establish place and time for housing forums.

- 6b. Establish speakers, panels, themes for forums. Possible forum topics could include CHAS, cost analyses and case studies.
- 6c. Update mailing list.
- 6d. Distribute flyers.
- 6e. Arrange for meeting place details (refreshments, parking etc.)

Product: Quarterly housing forums

Timeline: Each quarter following approval of this work plan.

TASK 7. Metropolitan Housing Network

Purpose: To provide an additional means of communicating housing information to the region.

Definition: A section of the Metro Planning News focusing on the region and its housing issues.

Work Elements:

7a. Establish theme, design shell.

7b. Write and edit section.

Product: A new/special housing section of the Metro Planning News.

Timeline: Quarterly, after the approval of the work program.

**HOUSING TASK SCHEDULE
1991/92 FISCAL YEAR**

| TASK | July | Aug. | Sept. | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. | Apr. | May | June |
|---|------|------|-------|-------|------|------|------|-------|------|------|-------|------|
| 1. Housing Needs Analysis | | | | _____ | | | | | | | | |
| 2. Jobs/Housing Balance Analysis | | | | _____ | | | | | | | | |
| 3. Case Studies | | | | _____ | | | | | | | | |
| 3a. Housing Cost | | | | _____ | | | | | | | | |
| 3b. Private/Public Partnership Models | | | | _____ | | | | | | | | |
| 3c. Housing Financing | | | | _____ | | | | | | | | |
| 4. Coordination of Housing & Other Related Projects | | | | _____ | | | | | | | | |
| 5. Housing Database | | | | _____ | | | | | | | | |
| 6. Housing Forums | | | | _____ | | | | _____ | | | _____ | |
| 7. Metropolitan Housing Network | | | | _____ | | | | _____ | | | _____ | |

STAFF REPORT

FOR THE PURPOSE OF APPROVING THE 1991/1992 HOUSING PLANNING WORKPLAN.

Date: September 16, 1991

Presented by: Rich Carson
Ethan Seltzer

Requested Action: Approval of the FY 1991/92 Housing Planning Workplan.

FACTUAL BACKGROUND AND ANALYSIS

The proposed Housing Planning Workplan is an integral part of Metro's growth management planning process. Objective 11, Housing, in the Regional Growth Goals and Objectives (RUGGO), states that "There should be a diverse range of housing types available inside the UGB, for rent or purchase at costs in balance with the range of household incomes in the region. Low and moderate income housing needs should be addressed throughout the region. Housing densities should be supportive of adopted public policy for the development of the regional transportation system and designated mixed use urban centers." The proposed RUGGO planning activities include:

- * the development of strategies to preserve the region's supply of special needs housing and existing low and moderate income housing; and,
- * the development of region wide strategies to address subregional opportunities and constraints, the relationship of market dynamics, and the "fair share" distribution of affordable housing in the region; and,
- * a needs analysis for low/moderate income groups in the region and the development of strategies to focus land use policy and public private investment towards meeting identified housing needs; and,
- * encourage the development of housing in locations near employment that is affordable to employees in those areas through public policy and investment.

The purpose of the Housing Planning Workplan is to explore and develop the foundation for Metro's contribution to the region's affordable housing strategy. The workplan will guide Metro in the further identification of regional housing issues and the development of regional housing strategies in cooperation with local governments. The foundation for Metro's contribution will be based on a thorough understanding and analysis of existing housing conditions and the relationship of housing, specifically affordable housing, to employment opportunities, transportation, and the general urban form of the region.

The tasks outlined in the proposed workplan will examine the housing needs of low and moderate income households; the location of jobs and housing and the "fair share" concept; and market dynamics and the cost of producing single family housing for ownership and multi-family housing for rental. A regional information network component is also included in the workplan.

Workplan Task 2, Jobs/Housing Balance Analysis, is a complex analytical method used to better understand the impact of job creation and the demand for housing generated by those jobs. Staff proposes to work with a consultant to develop a "balance indicator", define a commuted, and identify employment centers in the region. Significant work in the design of this research project needs to take place in order to apply the findings to the realities of the regional landscape. In addition, staff will work with the Data Resource Center to utilize Metro's existing data resources for this project. Regional housing strategies, in conjunction with local governments, will be the final product of the Jobs/Housing Analysis.

STAFF RECOMMENDATION

Staff recommends the adoption of the 1991/92 Housing Planning Workplan.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution 91-1511.

SHARRON KELLEY
Multnomah County Commissioner
District 4



Council 10/24/91
#2
606 County Courthouse
Portland, Oregon 97204
(503) 248-5213

M E M O R A N D U M

TO: Interested Parties
FROM: Commissioner Sharron Kelley
RE: County Demographics
DATE: February 4, 1991

This memo is an introductory examination of the demographics and service burdens of the three counties in the Portland metropolitan area. The memo is intended to stimulate further productive discussions in light of the passage of Measure 5.

1. 1980 Percentage of County Residents in Households with Incomes below the Poverty Line:

Multnomah County - 11% (62,606/562,640)
Washington County - 6% (14,762/245,808)
Clackamas County - 5% (14,458/241,919)

Source: U.S. Department of Labor (analyzing 1980 census data)

1990 Estimated Percentage of County Residents with Incomes below the Poverty Line

Multnomah: 19.3 percent
Clackamas: 10.9 percent
Washington: 10.2 percent

Source: CACI Sourcebook of Demographics

2. Percentage of County Households with Incomes less than \$7,500:

Multnomah (1988): 13.1%
Clackamas (1988): 8.1%
Washington (1988): 6.6%

Source: Metro, Market Profile Report

3. Percentage of County Households with Incomes less than \$15,000:

Multnomah (1988): 31.0%
Clackamas (1988): 20.3%
Washington (1988): 17.2%

Source: Metro, Market Profile Report

4. Transfer Income. (Social Security/Welfare) as a Percentage of County Income:

Multnomah County - 16.6%
Clackamas County - 9.8%
Washington County - 8.4%

Source: Oregon Employment Division, 1988

5. Reported Crimes in 1989 per 1000 Residents

Multnomah: 114,527/575,000 = 190
Washington: 27,074/301,000 = 80
Clackamas: 23,844/267,000 = 80

Source: Report of Criminal Offenses and Arrests, State Law Enforcement Data System [reported crimes]; Metro Regional Factbook, 1989 [population]

These statistics suggest that Multnomah County human, aging and justice service budgets need to remain substantially higher than neighboring counties to meet the same levels of service needs and crime protection.

6. Comparison of County Property Tax Bases Per Capita:

Washington County: \$34,200 (\$10.3 billion*/301,000 residents**)
Clackamas County: \$33,800 (\$8.9 billion*/267,000 residents**)
Multnomah County: \$31,800 (\$18.3 billion*/575,000 residents**)

Sources: * = Oregon Department of Revenue, Oregon Property Tax Statistics FY 1988-89; ** = Metro Regional Factbook, 1989

This statistic suggests that Multnomah County tax rates would need to be 7% higher than Washington County and 6% higher than Clackamas County if, hypothetically, the needs for services were equal. This statistic increases the need for higher tax rates in Multnomah County even further beyond the difference caused by the increased proportion of low income population.

7. Location of High Paying Jobs/Location of Residents with High Incomes:

Average income of Multnomah County jobs (1989): \$22,878
Average income of Washington County jobs (1989): \$22,473
Average income of Clackamas County jobs (1989): \$19,920

Source: Oregon Employment Division, Research and Statistics

Per capita income/Washington County residents (1990): \$13,496
Per capita income/Clackamas County residents (1990): \$13,015
Per capita income/Multnomah County residents (1990): \$11,901

Source: CACI Sourcebook of County Demographics

Median household income - Washington County (1988): \$33,400
Median household income - Clackamas County (1988): \$31,900
Median household income - Multnomah County (1988): \$25,100

Average household income - Washington County (1988): \$37,700
Average household income - Clackamas County (1988): \$36,300
Average household income - Multnomah County (1988): \$29,700

Metro, Market Profile Report

8. Percentage of County Households with Incomes of \$52,500 or greater:

Washington (1988): 20.9%
Clackamas (1988): 19.5%
Multnomah (1988): 12.4%

Source: Metro, Market Profile Report

9. Percentage of County Workforce whose Jobs are located in Multnomah County:

Multnomah - 77.0%
Clackamas - 37.0%
Washington - 31.5%
Clark - 24.6%

Source: Oregon Employment Division, Research and Statistics

Conclusion: Although Multnomah County is the location of higher paying jobs, its residents have lower incomes than those of Washington and Clackamas County. Multnomah County is providing high paying jobs for many residents of Clackamas and Washington counties. These commuters pay lower tax rates for county services because Multnomah County has measurably greater needs per capita for human services and public safety than Washington and Clackamas counties.

Presented by Mult. Cty. Commissioners

#2

Kelley & Hansen 10/24/91

BEFORE THE BOARD OF COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the matter of the)
Regionalization of County))
Services)

RESOLUTION
91 -

WHEREAS, the Metropolitan Service District ("Metro") was created by the voters to deliver services of a regional nature; and

WHEREAS, in its 13 years of existence, the Metropolitan Service District has delivered services in the areas of transportation, planning, recreation, and solid waste; and

WHEREAS, the Metropolitan Service District is the most logical public agency to provide services that have regional usage or require regional coordination; and

WHEREAS, the government of Multnomah County has sought to redefine its role in service delivery to focus primarily as a provider of human services, justice services, and library services; and

WHEREAS, in addition to its focus on human services, justice services, and library services, Multnomah County remains subject to legal mandates to provide for other countywide services as well as rural services; and

WHEREAS, changes in state and local tax laws have required Multnomah County to maximize the efficiency of local service delivery.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS RESOLVES:

1. Multnomah County hereby requests that the Council of the Metropolitan Service District join with the Board of Commissioners to begin a formal process to assess the feasibility of having Metro provide regional services within the boundaries of Multnomah County in the following areas: parks and open spaces (including cemeteries and boat launches), exposition and trade show facilities, and emergency planning.

2. Multnomah County further invites the Metropolitan Service District to explore contracting to provide the county

with local services in the areas of land use planning, arts, and administrative services.

3. Multnomah County expresses a willingness to explore with the Metropolitan Service District the feasibility of using Multnomah County as a contract provider of administrative services to Metro in, but not limited to, the areas of affirmative action and mail delivery.

ADOPTED this _____ day of _____, 1991.

(SEAL)

By _____
Gladys McCoy, Chair
Multnomah County, Oregon

REVIEWED:

Laurence Kressel, County Counsel
of Multnomah County, Oregon



METRO

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

Memorandum

DATE: November 1, 1991
TO: Councilor George Van Bergen
FROM: Paulette Allen, Clerk of the Council *PA*
RE: VERBATIM TRANSCRIPTION OF OCTOBER 24 COUNCIL MEETING AGENDA
ITEM NO. 3.1

Per your request at the October 24 Council meeting, attached is a verbatim transcription of Agenda Item No. 3.1 - Presentation by the Portland Trail Blazers on the Oregon Arena Project.

c: Metro Council
Marshall Glickman
Harry Glickman
Sherry Oeser
Pam Erickson
Casey Short
Don Carlson
Rena Cusma
Neil Saling
MERC (Dominic Buffetta)

METRO COUNCIL MEETING VERBATIM TRANSCRIPTION

MEETING DATE: October 24, 1991

Agenda Item No. 3.1; Presentation by the Portland Trail Blazers
on the Oregon Arena Project

BEGINNING OF TRANSCRIPTION:

David Knowles: Thank you very much. Several, actually more than a month ago, the Blazers offered to come and brief us on the financial portion of their plan. They had addressed the Council Regional Facilities Committee on the master plan portion of their proposal and because of our last Council agenda, the date for the briefing on the financial proposal was delayed until today. As it turned out, it's two days after the Arena Task Force voted to recommend to both the Metro Council and to the City Council adoption of a Memorandum of Understanding. The Memorandum of Understanding--it's intent is to set forth the outlines of a final agreement between the two governments and the Portland Trail Blazers toward development of the Oregon Arena. I just wanted to let the Council know before the Blazers got started on their presentation what the process is going to be for consideration of the proposed Memorandum of Understanding. There is a single issue remaining to be resolved having to do with the impact of the construction on the Memorial Coliseum. When that issue is resolved, we'll have a final agreement and I believe that will be distributed to you not later than the week of November 4. That same week, I've asked Casey to contact each of the members of the Council to schedule some individual briefing sessions so that I can walk through with you what the terms are of this Memorandum and what its legal effect would be for Metro. On November 12, which is the next scheduled meeting of the Regional Facilities Committee, that committee will take up discussion of the Memorandum, and if it recommends Council approval of the MOU, the Council will consider it on November 14. I want to mention that it is a complicated proposal, but Metro's involvement in this is important but it's limited. As you know, it is really the City that is stepping up with most of the financial commitments, providing the land, doing a lot of the public infrastructure in that area. Our role in this agreement is important, but it is limited to our responsibility as manager of regional facilities and specifically, of the Memorial Coliseum. So with that preface, I'd like to introduce Marshall Glickman who will make the presentation of the financial proposal.

Harry Glickman: Thank you very much for this opportunity to visit with you. On May 6, I had the pleasure to announce that the Trail Blazers were going to explore the possibility of a new arena to be developed for our community. This Council and the City Council appointed an Arena Task Force to look after the public's interest in this project. The Arena Task Force established a set of guidelines and I'm happy to report, and I think without fear of contradiction, that we have met every

single one of those guidelines. As Mr. Knowles mentioned last Tuesday night, the Arena Task Force unanimously adopted the Memorandum of Understanding. And it now will come before the City Council and before this Council and obviously, we hope for the same response. This will be an exciting project, and we think a great one for our community in that with an arena that will be second to none that modern technology can design anywhere in the world, in combination with the Memorial Coliseum and the proximity of the Convention Center, we'll give our community the finest venue for sports entertainment and conventions to be found anywhere in the country. With that, I'll turn it over to Marshall.

Marshall Glickman: Thank you. I'm just going to take a few minutes and try to, we sort of stole our thunder a month ago when we were going to be here to present our financial proposal which is now turned into a Memorandum of Understanding along with the initial proposals that we had made to the Arena Task Force. And since the time that we made those proposals to the Arena Task Force and the Memorandum of Understanding being recommended by the Task Force on Tuesday night, we have spent literally hundreds of hours in discussion and negotiations with Metro, Neil Saling from Metro, and the Portland Development Commission. And they have been really very good in interactive discussions and I think have resulted in an excellent document that is going to formulate a very positive kind of development agreement and operational agreement as we move forward in the months ahead. Some of the key highlights that I wanted to tell you about from our perspective--and I know David will be reviewing with you in detail--that are contained in the Memorandum and really came out of all our proposals in further discussions. One is all the properties on the Oregon Arena project master planning site, which includes the Memorial Coliseum, much of the property adjacent to the Coliseum, and parts of the current Williams Avenue; and the future re-aligned Williams Avenue, all of those properties will remain in public ownership. The Trail Blazers will be entering into a long-term lease for the properties above where the new arena is going to go and for the property where an adjacent entertainment complex is going to go which is going to be a really exciting and neat part of this project that's going to have a lot of synergy and positive impacts I think on our convention business in Portland. So the ownership will remain with the City, the lease that the Trail Blazers will be entering into will be at a nominal rate for the Arena and the attached parking itself, and at market rate for the commercial portion of the project. That lease will be for a 30-year period of time and that will include in addition to that, an irrevocable lease for the Trail Blazers to remain in this community over that period of time; the ownership happens to be at that given time. After the 30-year period there are three consecutive 10-year options to renew that, so there could be as long as a 60-year lease on this property which includes the Trail Blazers remaining in Portland. The Trail Blazers, to try to expedite this process and move it forward in a coordinated fashion, are acting as the master

developer for all of the private and public improvements. And we will provide all of the design services, not only for our improvements, but for the public service improvements as well. And we intend to keep moving and working with the City of Portland, particularly the Portland Department of Transportation, the Bureau of Planning, and of course with Metro as we move that project forward. As I think you're aware, part of these agreements also include a commitment by the Trail Blazers or as it's going to be called, the Oregon Arena Corporation, initially to design and renovate the capital improvements program to the Memorial Coliseum and then to operate the Memorial Coliseum for a period of 20 years. There will be a number of changes, by the way, to the infrastructure and street systems in the area; all positive changes we think. We've spent a lot of time and a lot of money to try to put together a master planning effort that is very positive in terms of the organization of street systems in the area. And those things are all being designed as well by the Trail Blazers, of course, in consultation with the appropriate public agencies. The agreement also calls for mitigation of environmental concerns. Obviously that's a potential concern. Level I environmental assessments have been done and Level II environmental assessments will be done. There is capacity in the agreement to provide for any environmental problems that may come up down the line. The way this is going to be financed is that the Trail Blazers have agreed to enact a user fee which will be equivalent to 6 percent of the gross ticket rentals of all the events coming through both the Memorial Coliseum and the new arena. And that user fee will provide the capacity for the City of Portland to put out revenue bonds which will pay back the public improvements with the addition of a \$3 million investment from the Portland Department of Transportation because really that \$3 million is specified to acceleration of certain street improvements that were already planned for the district. So that's the primary source of revenues that's going to pay back those revenue bonds. Those are based, we think, on very conservative event mixed projections and we have a lot of optimism frankly, that those event-mixed projections will be exceeded and thereby that there will be additional revenues flowing through the project from sources, direct sources like user fees. Additionally of course these projects, these private developments, will pay full and complete property taxes on a site of course which now pays no property taxes, because you're basically talking a parking lot and a street, which is estimated in the first year to be \$2 million so it will have a significant property tax impact. And also, part of our proposal as you may recall earlier, was a joint marketing effort with P/OVA. It's very important to us in the operations both of the Coliseum and

the new arena, that we make both those facilities available for our convention business here and that's what the joint marketing agreement with P/OVA will address and we've already begun those discussions very positively. P/OVA has estimated as a result of the joint operations of the facilities, thereby opening dates in the Coliseum particularly, that plenary session conventions that need plenary session space, that we're now not able to bring to Portland will be coming to Portland. And they estimated that at least eight new major convention dates and five new minor will come which is, you know, an impact incremental on the hotel-motel taxes of about \$450,000 we think with using really very conservative estimates. Obviously a major part of the plan is that we would commence management, operations, and marketing of the Memorial Coliseum as of July 1, 1994 and that would then be for a period of 20 years. The Coliseum operations would be fully integrated into the operations of the new arena and that doesn't just include management integration, it includes actual physical integration as you'll see coming forward in the schematic design phase that we're involved in now. It's a really exciting situation wherein underground, the shared service facilities between these two great public facilities will really be something special and make it marketable so both arenas can be packaged and marketed together and of course, provided to the conventions as well. The capital improvements program for the Coliseum will be \$7 million which will come out of, be paid for, out of the user fee revenues, \$7 million initially. And then at the end of the first five years there will be a review period where we will talk with Metro and with the City of Portland about what the future, how we met the public objectives in the first five years of operations. And by mutual consent, we would assume that that would go forward for the next 15 years. And what I mean by that by the way is we can't just walk away from that. It means mutually we decide--is this meeting all the public objectives? If so, if that's determined, which we all think it will be, an additional \$2.25 million in capital improvements would then be spent at that time. We would be doing a number of things. There will be Coliseum and operational agreements as a part of this and we will be agreeing to a number of things in those agreements to make sure that the Coliseum is still a facility that is accessible and affordable for events, community events, high school basketball, the Portland Winterhawks and things like that. And there are a number of provisions that are contained in the Memorandum of Understanding and will be contained in the development agreement that address that. There will also be a number of topics that deal with transportation management which is going to be a very important situation when you have two facilities side by side, but one that indeed we

think will very much work. It includes the Trail Blazers implementing a shuttle system to the private parking facilities primarily controlled by Pacific Development just to the east of the Memorial Coliseum about five minutes away. And it also includes a lot of things that are going to try to encourage increased ridership with Tri-Met and their system. The management agreement that we enter into with the Coliseum also will include a lot of things that have to do with working with the neighborhoods which is something that we've been up to now for the last really eight months, trying to work with the neighborhoods and understand what the impacts could potentially be and trying to minimize and mitigate those impacts. The way the costs of the public investment, the total public investment here is \$34.5 million; the way that breaks out is \$7 million in Coliseum capital improvements, \$14.5 million for a public parking garage, contingency for up to \$1.5 million for environmental concerns, clean-up if that was to be needed, and infrastructure improvements including roads, transit, pedestrian and other facilities for \$11.5 million. As I mentioned, that will be paid for primarily out of the user fees and also some additional parking revenues. I've mentioned the 6 percent user fee. Also part of the financing will be a 50/50 split of the net revenues from the Memorial Coliseum. And that's another one of the potential upsides here. Twenty percent of the net revenues will be put aside for an on-going contingency in case there is major capital needs for the Coliseum down the line, those dollars don't have to be spent, they'll simply be put aside in the event that they do need to be spent down the line and what's remaining would be split on a 50/50 basis. So that's the basics that are in the agreement. I've got a note from my father. What does it say? I can't read his writing.

Ruth McFarland: Only if it's on a check.

Marshall Glickman: Only if it's on a check, that's right. Got that right.

Tanya Collier: That happens to me all time in negotiations. My team members pass me this note and I can't...

Marshall Glickman: I know, thanks a lot. I should also mention to you that the Coliseum agreement will specify a number of standards and guidelines so that we're meeting the public objectives in operating the facility in the right way and will include provisions for public oversight. I should also mention to you what David referred to which is the issue that the Trail Blazers are intending to provide a proposal to sometime the week

of November 4 pertaining to trying to mitigate potential revenue losses during the two years of construction and I would just say to you at this point we are awaiting actually this Friday a very detailed construction phasing plan and at that time we can get a better handle and we'll be working directly with MERC on really what those impacts potentially might be. When we do that, we're really optimistic that we can quickly work out a plan to try to mitigate those revenue losses so that the Coliseum can be a self-sustaining operation for the two years during construction and get that language entered into the MOU before it comes before the City Council and the Metro Council. Again the total project, this is a \$178 million project, with the Trail Blazers privately financing \$144 million and the public \$34.5 million in public improvements. We think that's a heck of a deal particularly since the capacity to pay for that is within the deal, in other words, the users are the primary people who will be making, funding those public improvements. So we're looking forward to seeing you again in the middle of November and I'd be happy to take any of your questions.

Tanya Collier: Thank you. Questions from the Council?
Councilor McFarland.

Ruth McFarland: Madame Chair. I asked this question before and I don't know whether it's rightly for them or for somebody else, but we got our report on our previous relationship with the Blazers and the bottom of that financial report was in red ink. Do you remember my question on that? Does anybody remember my asking that question about that and I got an answer that I really didn't understand and other things intervened and George, I really didn't understand and still don't. But I also have been getting calls from constituents in mid-county and I don't have any doubt but what we're going to go forward with the project. And it sounds to me like you're working very hard to be a fair person to deal with. But you know that everybody knows that Clyde's going to pass the ball more and that Kersey's worked on his outside jump shot and that Ainge is now hitting his three pointers and Pack is pushing Danny Young and, you know. I could go on and on. We all, we know all these things and they like to talk about that but they also want to know, and I've had more than one call from the people in mid-East Multnomah County who are having to pay a mint to have their own sewers put in. They've been on septic tanks for years and I want to know how I answer their question that we are going to step and take at least...

END OF TAPE ONE

Marshall Glickman: ...We all had on our minds during the negotiating process and it's the very reason I think why we tried to come up and both the PDC and Metro's negotiators try to come up, with funding mechanisms that were not going to cost your constituents in East County money. The people that are going to be paying for this are the people that are going to be using the facilities. They will be paying a user fee and parking fees and those are going to be how the public investment for all of it including the Coliseum and the streets are going to be paid for. We think that's a pretty good win-win situation.

Ruth McFarland: Well are we going to end up with a bottom-line deal with you now that shows us black ink instead of red ink? I know, you tried to answer it before.

Tanya Collier: Councilor Knowles.

David Knowles: Maybe I could just, what you're referring to was an analysis that was prepared by the MERC staff with respect to the existing relationship between the Trail Blazers and the Memorial Coliseum. When this new arena is built there will no longer be a rental agreement between the Trail Blazers and MERC or any other public body.

Ruth McFarland: Okay. But will our ultimate agreement have black ink then?

David Knowles: Well the, yeah, I guess the answer is...

Tanya Collier: That's larger in terms of the regional facilities...

David Knowles: That's right. With respect to Metro, we do not have a financial investment in this new arena. We do have some concerns because of the management responsibilities we have through MERC. So we have some operational issues we need to solve.

Harry Glickman: I think maybe the best way to answer the question is, I can't guarantee you there will be no black ink, or there will be black ink, I can absolutely guarantee you there will be no red ink because the Trail Blazers will assume any responsibility for any operational deficits in the Memorial Coliseum.

David Knowles: Is that what you wanted to know?

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Tanya Collier: Further questions from the Council? Councilor Bauer.

Larry Bauer: I have a real quick question. Do I have this straight? The arena itself and much of the associated infrastructure will be on the tax roll?

Marshall Glickman: Yes. The private, where the private improvements are, the land underneath the private improvements will be on the tax rolls. That's the arena and the attached parking and the adjacent commercial district which takes up the vast majority of the site.

Larry Bauer: And once again, what would be the approximate value of all of that?

Marshall Glickman: We're estimating, and the City agrees with this, that in the first year it'll generate \$2 million in property taxes.

Larry Bauer: But I mean the true cash value or the appraised value of the facility?

Marshall Glickman: That I don't know, I can't answer that. Or are you asking what is going to be the construction cost of the facility.

David Knowles: But I think they estimated the assessed value would be somewhere in the \$90 million range.

Marshall Glickman: Yeah. That's just the arena itself. It's going to be substantially over \$100 million.

Larry Bauer: I just raised that question...

Marshall Glickman: Right.

Larry Bauer: ...particularly in light of the Commissioners' testifying a little while ago on all the County shortfalls, that's pretty, pretty major impact in the tax base.

Marshall Glickman: Sure.

Tanya Collier: Councilor Gardner.

Jim Gardner: Thank you. Mr. Glickman, I can certainly agree with Councilor McFarland that the entire package that's being

represented here in my mind presents a very fair split between the public contribution and the private contribution and the public benefits and the private benefits. And really, the only ways that there's direct impact on Metro have to do with our management responsibilities for this whole system right now of regional facilities, one of which is going to now in the future be out of that regional system. A related issue is the fact that that regional system as a whole does not make money. It requires an operating subsidy and that the user fee, ticket tax, whatever it may be called, was at least a potential source of revenue for that regional system to try to support the facilities that on their own don't make money. And I sense really that that potential source of revenue is no longer going to be available and we're going to have to look elsewhere, as Councilor Van Bergen said, and we're going to have to look to some new and imaginative and creative ways of raising money and I haven't heard of many of those in the future or in the past myself. So, I think that's, we have to understand that that's one impact on our responsibilities to that regional system. I have a question though, a specific question that has to do with another piece of the overall funding package that you didn't mention, because it's probably a fairly small piece. I recall some references to the Trail Blazers having an exclusive right to promotions and advertising within those facilities including the Metro Washington Park Zoo. I've never quite really understood what that means and how it's going to work.

Marshall Glickman: First of all, that was a proposal that was outside of the framework of the agreement that is in the MOU and in fact, that isn't even mentioned in the MOU. What we wanted to do is really be sensitive to what you were just talking about which is the future funding of all of our regional facilities, the entire family of them. And you know, we've gained a pretty good expertise in how to deal with advertising and we think deal with it in a very tasteful and beneficial way and we wanted to simply provide Metro with something to at least take a look at. And we made a proposal to Metro which I just two days ago received a response from in terms of an additional list of questions that are very good and thoughtful questions that we'll be dealing with over the next couple of weeks. What that proposal is, is an offer to purchase the rights to place advertising in the Metro public facilities, meaning the Convention Center, Performing Arts Center and the Metro Zoo, in exchange for \$500,000 annually, guaranteed and accelerated by inflation, plus 30 percent of the net revenues after we receive a return on our investment. We think, as that's examined more closely, that it's going to be thought to be a very, very good

and innovative proposal, particularly because of the way we approach advertising. We do not look at advertising as a way to plaster logos everywhere you look, we look at a, we think it can be done very tastefully within those facilities and we think it can be done to provide certain enhancements to those facilities as well. And we're working with your staff towards that end and we'll look at it over time, but it is not the acceptance, or not of that proposal is not dependent, the other part of this agreement does not depend on that.

Tanya Collier: Councilor Devlin.

Richard Devlin: Thank you Madame Presiding Officer. I'm not any of the committees that have been dealing with this. I'm not on the Council standing committee on regional facilities. I just wanted to indicate to you that in looking at this proposal from a regional standpoint, that in my perspective, I think it's a very beneficial proposal for the region as a whole. But I wanted you to recognize that I view this as almost as a triangular-type situation. There's the Blazers, the City of Portland and Metro. And some of my concerns are going to be more towards issues with the City of Portland than actually with the Trail Blazer organization and I'm going to want to make sure prior to our final adoption of this that those issues are at least resolved to my satisfaction with the City of Portland.

Tanya Collier: Further questions? Councilor Van Bergen.

George Van Bergen: I'm very much in line, I think, with Mr. Devlin on this. I've been listening as attentively as I can and there's a lot of facts here that I don't think quite that quickly about. You gentlemen have faster minds than I am. And that's one reason why I'm going to ask that this testimony be transcribed so that I can compare it to the Memorandum of Understanding at my pleasure in a quiet moment because it brings forward to my mind some specific things immediately as to what happens to the partnership agreement that we have with the City of Portland. That's kind of what Mr. Devlin may be referring to. You've talked twice about this would be great for conventions and our primary responsibility here is the Convention Center. Are you folks going to be very kind to us on conventions, or are we going to be in direct competition, and how much are we going to apply to P/OVA for the functions that you're talking about? So, will we be in a favorable position on-going with the County of Multnomah for the hotel-motel tax which is our operating fund deficit pick-up for the Convention Center which is frankly, only a handshake right now.

Marshall Glickman: Right.

George Van Bergen: I don't want answers to any of these because these are the type of questions I'm going to want to be able to develop as a result of this, the transcription. So will the MERC thing be a novation totally or a novation part of our agreement with the City of Portland and what we will have left from MERC? Will we have any on-going responsibilities for the Performing Arts group down there? Or will the \$2 million in taxes that you'll pay for real property in effect pick it up and pay for them and our only function will be perhaps a part of MERC, just a supervisor, and the funding deficit that they have will be picked up in that fashion. I'm very concerned that way because the people that I talk to in Clackamas County have only the newspapers and television for their information and they say, "Well, what's it going to cost me, George?" and I say, "Well, frankly these people seem to have a good plan and on surface what I'm able to read like you is it's not to cost us anything." But that's going to need to be the confidence, it's going to have to be built within me frankly to support it because if it becomes a duty upon Clackamas County, there may be a little different attitude about it because we've got a lot of things on the plate right now for money. We're talking here tonight, and you sat and listened to it, they talked about a \$24 million deficit at Multnomah County, with a \$4 million comeback and so a \$20 million spread, and how much of that are we going to have? And this is all over the place for getting this kind of a call that regional government should pick up this kind of dough. We don't have it.

Marshall Glickman: If I could just make one comment and that is that this facility nor the Coliseum will at all be in competition with the Convention Center. Very, very different kinds of facilities. And what the joint marketing agreement is all about is so that the two facilities can work together and be complementary with each other.

Tanya Collier: Further questions. Mr. Glickman, Mr. Glickman, I have one. I want to take what Councilor Gardner said and what Councilor Van Bergen said and Councilor Devlin and I'm going to try to do it in a little bit different of a way and tell you what it is that I'm worried about. At the risk of copping a saying from Martin Luther King, when I got on this Council five or six years ago I had a dream, and that dream was a) building the Convention Center and b) managing all of the facilities to best take advantage of all of the facilities. Because whereas they were managed from different spots before, the facilities were in competition. And I've had this conversation at length with Mr.

Barney so this shouldn't be a surprise to anyone. As Councilor Knowles' committee started up about a year ago now, the Regional Facilities Committee, what we were trying to do and what this vision was, was to take all of the facilities and get a regional funding base for them. What happened because the Blazers interjected themselves in the middle of that planning process, which is okay, I think everyone can cope with that, that's not the issue. But when that happened, what the dream was is that we would go out on a regional basis for funding for all of the facilities. Now, each person, if they're in Beaverton or Tualatin or they're in Oregon City, has a favorite facility be it the Coliseum or be it whatever. And if you remove a favorite facility from that, you remove your chances of getting a popular vote from the region to support all of the regional facilities. And I don't know how the Metropolitan-ERC fits into this, and maybe we were making a mistake, before you were interjected, in putting our eggs in that basket to have the Metro-ERC managing the facilities. Maybe we should contract with you to manage all of the facilities. But what scares me to death, frankly, is to have the facilities split up where they're not, not that you won't appropriately manage them, but where we can't appropriately go out for a regional vote and carry that in. Do you understand what I'm saying?

Marshall Glickman: Sure.

Tanya Collier: And I hope you've taken it into consideration because I...

Harry Glickman: Let me try and respond by saying this. It was not our suggestion that we take over the management of the Memorial Coliseum. It was suggested to the Trail Blazers that we do that.

Tanya Collier: By when?

Marshall Glickman: By the Arena Task Force.

Harry Glickman: By the Arena Task Force guidelines. And frankly, when this proposal was made, I was very, very reluctant to look at it. I think we have enough on our plate just trying to build and construct and manage a new arena. But the more it came together, the more it seemed to make sense that there be a joint management of those two facilities. But I've got to underscore it was not our suggestion in the first place, it was proposed to us.

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Tanya Collier: Do you have a suggestion? I'm not being critical about this, okay. What I'm worried about is the regional funding of all of the facilities. Do you have a suggestion where they can all be brought under an umbrella or whether we can do something to get regional support for all of the facilities.

Harry Glickman: Well, I don't think the Trail Blazers are qualified to manage the Performing Arts Center. We would be qualified to manage Multnomah Stadiums. As a matter of fact, I used to manage the Stadium when it was owned by the Multnomah Athletic Club for a period of time. But I think we have enough on our plate right now without accepting those others.

Tanya Collier: Other questions, comments? Thank you very much for your presentation. We appreciate it.

Harry Glickman: Thank you very much.

Marshall Glickman: Thank you.

David Knowles: Madame Presiding Officer.

Tanya Collier: Yes, Councilor Knowles.

David Knowles: Let me just remind the Council that written information on the financial proposal was made available at our last Council meeting during Councilor Communications so you should all have copies. Essentially what was said, and the Memorandum of Understanding will be distributed as soon as we get a revision in hand. Thank you.

Tanya Collier: Thank you.

END OF AGENDA ITEM NO. 3.1 TRANSCRIPTION

FINANCE COMMITTEE REPORT

RESOLUTION NO. 91-1497, CONFIRMING THE APPOINTMENT OF CYNTHIA R. MEYER AND WILLIAM J. GLASGOW TO THE INVESTMENT ADVISORY BOARD

Date: October 21, 1991 Presented By: Councilor Van Bergen

COMMITTEE RECOMMENDATION: At its October 17, 1991 meeting the Committee voted unanimously to recommend Council approval of Resolution No. 91-1497. Voting in favor of the motion were Councilors Buchanan, Hansen, Van Bergen and Wyers. Councilor Devlin was excused.

COMMITTEE DISCUSSION/ISSUES: Mr. Howard Hansen, Associate Management Analyst, presented the Staff Report. He indicated that he serves as the day to day investment manager for the District. The Metro Code has established an Investment Advisory Board to assist the District in conducting its cash investment program. Recently two vacancies have occurred. Mr. Roger Meier has resigned and Mr. Bill Naito's term will expire on October 31, 1991 and he does not want to be reappointed. Ms. Meyer is recommended to fill out the unexpired term of Mr. Meier (to October 31, 1993) and Mr. Glasgow is recommended to a full term which will expire on October 31, 1994. He indicated both appointees have the necessary experience to provide good advice to the District.

Councilor Van Bergen asked whether or not Mr. Glasgow had a conflict of interest because of his employment with Pacific Corp Financial Services. Mr. Hansen indicated that based on a memo provided by Mr. Shaw from the Office of General Counsel setting forth guidelines for service on the Advisory Board there does not appear to be a conflict of interest in appointing Mr. Glasgow to the Advisory Board.

FINANCE COMMITTEE REPORT

ORDINANCE NO. 91-411A AMENDING METRO CODE CHAPTER 2.09, BUILDERS
BUSINESS LICENSE PROGRAM

Date: October 21, 1991

Presented By: Councilor Wyers

COMMITTEE RECOMMENDATION: At its October 17, 1991 meeting the Committee voted unanimously to recommend Council approval of Ordinance No. 91-411 as amended. Voting in favor of the motion were Councilors Buchanan, Hansen, Van Bergen and Wyers. Councilor Devlin was excused.

COMMITTEE DISCUSSION/ISSUES: Mr. Larry Shapiro, Labor Compliance Manager, presented the Staff Report. He indicated that since the inception of the Builder's Business License program in July 1988 there have been several legislative changes which have not been incorporated into the Metro Code. The first change altered the formula which for distribution of fees to participating cities; the second change expanded coverage by the program to landscape contractors; and, the third change provides for a name change from "Builder's" to "Contractors". In response to Council Staff questions Mr. Shapiro indicated 1) the Code section requiring a fee for a duplicate license is proposed to be deleted because in the three years of experience only one duplicate license has been requested and the \$20 fee appears to be excessive for the service provided, and 2) the change in the dollar level for eligibility of a license from \$100,000 to \$125,000 in Section 7 of the Ordinance is a result of a change in the state statute.

Council Staff presented a proposed amendment for the purpose of attaching a proper emergency clause to the ordinance. The amendment approved by the Committee is attached as Exhibit A to this Committee Report.



METRO

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

Memorandum

EXHIBIT A

(Fin. Committee Rpt/Ord. 91-411A)

DATE: October 17, 1991

TO: Finance Committee

FROM: Donald E. Carlson, Council Administrator *DEC*

RE: Proposed Amendment to Ordinance No. 91-411

Please find below a proposed amendment to this ordinance which is suggested in order to attach a proper emergency clause to the ordinance. This amendment has been prepared in consultation with General Counsel Cooper.

On page 13 delete Section 20 in its entirety. On page 14 renumber Section 21 to Section 20 and after the word "Section" insert the following language 2.09.190 and. On page 14 add the following language: Section 21. This ordinance being for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this ordinance takes effect upon passage.

DEC/ord91-411.mem

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
CHAPTER 2.09, BUILDER'S)
BUSINESS LICENSE PROGRAM OF)
THE METRO CODE)
ORDINANCE NO. 91-411A
Introduced by Rena Cusma,
Executive Officer

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Chapter 2.09 of the Metro Code is hereby amended
as follows:

CHAPTER 2.09

~~BUILDER'S~~ **CONTRACTOR'S** BUSINESS LICENSE PROGRAM

SECTIONS:

| | |
|---------------------|---|
| 2.08-09.010 | Purpose and Authority |
| 2.09.020 | Definitions |
| 2.09.030 | Eligibility and License Issuance |
| 2.09.040 | Denial of Issuance |
| 2.09.050 | Exemptions |
| 2.09.060 | License Applicability |
| 2.09.070 | Application for License |
| 2.09.080 | Application Contents |
| 2.09.090 | Validity of the License |
| 2.09.100 | Fee |
| 2.09.110 | License |
| 2.09.120 | Replacement License |
| 2.09.130 120 | Renewal |
| 2.09.140 130 | Revocation |
| 2.09.150 140 | Appeal of a Revoked License or Denied Application |
| 2.09.160 150 | Penalty |
| 2.09.170 160 | Distribution of Fees |
| 2.09.180 170 | Regulations |
| 2.09.190 180 | Operative Date |
| 2.09.200 | Effective Date |

Section 2. Section 2.08-09.010 is hereby amended as
follows:

"2.08.09.010 Purpose and Authority:

(a) The purpose of this Ordinance is to provide a procedure for the District to issue Builder's a Contractor's Business License, establish a fee for the license, and distribute to participating jurisdictions the fees collected by the District.

(b) The authority for the Metropolitan Service District to issue Builder's a Contractor's Business License, establish requirements for the issuance of the license, charge a fee for the license, receive reimbursement for administrative expenses incurred in carrying out this program, determine the dollar amount of residential building permits issued within the District and distribute the fees to participating jurisdictions is granted by Oregon Revised Statutes 701.015.

Section 3. Section 2.09.20 is hereby amended as follows:

2.09.020 Definitions:

(a) "Builder" "Contractor" or "Landscape Contractor" has the meaning given under ORS ~~701.055~~, 701.005, and ORS 701.015(6)(d), respectively.

(b) "Builder's "Contractor" Business License" means a document issued by the District to a builder contractor or landscape contractor that permits the builder contractor or landscape contractor to conduct business in participating jurisdictions.

(c) "Builder's "Contractor's Business License Fee" means any fee paid to the District for the issuance of a Builder's Contractor's Business License.

(d) "Business License Tax" means any fee paid by a builder contractor or landscape contractor to a city or county for any form of license that is required by the city or county to conduct business in that jurisdiction. The term does not include any franchise fee or privilege tax imposed by a participating jurisdiction upon a public utility under ORS 221.420 or 221.450 or any provision of a city charter.

(e) "Conducting Business" means to engage in any activity in pursuit of gain including activities carried on by a builder contractor or landscape contractor through officers, agents and employees as well as activities carried on by a builder contractor or landscape contractor on that builder's contractor's or landscape contractor's own behalf.

(f) "Participating Jurisdiction" means any city or county located wholly or partly within the boundaries of the District that has a requirement for a builder contractor or landscape contractor to obtain a business license to conduct business in that jurisdiction, and the fee for this license is not based on or measured by adjusted net income.

(g) "Principal Place of Business" means the location of the central administrative office in this state of a builder contractor or landscape contractor conducting business in this District.

(h) "Residential Building Permit" means any permit issued for the construction or alteration of a residential structure issued by a governing body authorized under ORS 455.150."

Section 4. Section 2.09.030 is hereby amended as follows:

"2.09.030 Eligibility and License Issuance: Any builder contractor or landscape contractor wishing to conduct business in any participating jurisdiction shall be issued a Builder's Contractor's Business License if subsections (a) and (b) are met by the builder contractor or landscape contractor:

~~(a) (1) Presents proof to the district that the builder has paid the business license tax imposed by each participating jurisdiction in which the builder has an office; or~~

(a) Presents proof to the District that the contractor or landscape contractor has paid the business license tax imposed by the city when:

(1) The principal place of business of the contractor or landscape contractor is within the city; or

~~(2) Presents proof that the builder has an office only outside the boundaries of a participating jurisdiction; and~~

(2) Presents proof that contractor or landscape contractor has paid the business tax imposed by city because the contractor or landscape contractor derives gross receipts of \$125,000 or more from business conducted within the boundaries of the city during the calendar year for which the business license tax is owed.

- (b) (1) Presents proof that builder contractor or landscape contractor is currently registered with the State of Oregon Builder's Construction Contractor's Board, or the State of Oregon Landscape Contractor's Board.
- (2) Completes an application as required by Section 2.09.070 of this chapter;
- (3) Pays the Builder's Contractor's Business License fee established in Section 2.09.100 of this chapter; and
- (4) Meets all other license requirements provided under this chapter."

Section 5. Section 2.09.040 is hereby amended as follows:

"2.09.040 Denial of Issuance:

(a) The District shall refuse to issue a license for any one of the following reasons:

- (1) Fraud, misrepresentation or false statement made in the applications at the time of application.
- (2) Failure to present proof at the time of application that the applicant has met all other license requirements provided under this chapter.
- (3) Failure to pay the Builder's Contractor's Business License fee established under Section 2.09.100 of this chapter.

(b) Notice of denial of a application shall be given in writing to the applicant setting forth the grounds of the denial.

Such notice shall be mailed to the applicant at the address that appears on the application for the license. This action of denial may be appealed as provided in Section 2.09.150 140 of this chapter."

Section 6. Section 2.09.050 is hereby amended as follows:

"2.09.050 Exemptions: ~~A builder that is required to be licensed by a city within the boundaries of the District that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city may not obtain and possess a Builder's Business License in lieu of that jurisdiction's business license tax or business license.~~

(a) ~~A contractor or landscape contractor that is required to be licensed by a city within the boundaries of the District that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city may not obtain and possess a Contractor's Business License in lieu of that jurisdiction's business license tax or business license.~~

(b) ~~Certain persons furnishing materials, improving personal property, owner builders, or persons otherwise licensed may be exempt from registration under this chapter under ORS 701.010."~~

Section 7. Section 2.09.060 is hereby amended as follows:

"2.09.060 License Applicability:

(a) If a builder ~~contractor or landscape contractor~~ has paid any business license tax imposed by participating

jurisdictions in which the builder contractor or landscape contractor has an office the builder contractor or landscape contractor may apply for a Builder's Contractor's Business License from the District.

(b) If a builder contractor or landscape contractor has been issued a Builder's Contractor's Business License by the District, the builder contractor or landscape contractor may conduct business without any other business license in participating jurisdictions in which the builder:

- (1) Has no office;
- (2) Has not derived gross receipts of \$100,000 \$125,000 or more from business conducted within the boundary of the participating jurisdiction during the calendar year for which the business license is owed."

Section 8. Section 2.09.070 is hereby amended as follows:

"2.09.070 Application for License: To obtain a Builder's Contractor's Business License, a builder contractor or landscape contractor must make application in person or by mail to the District upon forms provided and prescribed by the District. The completed application shall be filed with the fee described in Section 2.09.100 of this chapter with the District before a builder contractor or landscape contractor is issued a Builder's Contractor's Business License."

Section 9. Section 2.09.080 is hereby amended as follows:

"2.09.080 Application Contents: Each application for a Builder's Contractor's Business License received by the District shall contain:

- (a) The name of the business making application.
- (b) The name of a contact person in the business.
- (c) The address of the principal place of business.
- (d) The telephone number of the business.
- (e) State of Oregon Builder's Construction Contractor's Board registration number, or State Landscape Contractor's Board.
- (f) Date of application.
- (g) The signature of the builder contractor or landscape contractor making the application.
- (h) Such other information as the District shall determine."

Section 10. Section 2.09.090 is hereby amended as follows:

"2.09.090 Validity of the License:

(a) The license shall be valid from the date of issuance to ~~the day immediately preceding the date of issuance in the following year.~~ first day of the month in the following year; if issued after the middle of any month, the license shall be valid to the first day of the of the following month of that year. The license shall not be issued for a portion of a year.

(b) Before the expiration of the Builder's Contractor's Business License, the District shall notify the builder

~~contractor or landscape contractor~~ to whom the license was issued of the approaching expiration. Within 90 days prior to the expiration date, the notice shall be mailed to the ~~builder contractor or landscape contractor~~ to whom the license was issued at the address shown on the original application for the license maintained by the District.

(c) The District is not required to notify the ~~builder contractor or landscape contractor~~ of an approaching expiration if the ~~builder's contractor's or landscape contractor's~~ license has been revoked under Section 2.09.140 ~~130~~ of this chapter, or if the ~~builder contractor or landscape contractor~~ has failed to notify the District of a change of address."

Section 11. Section 2.09.100 is hereby amended as follows:
"2.09.100 Fee: The fee to be paid by any ~~builder contractor or landscape contractor~~ for a ~~Builder's Contractor's~~ Business License is \$110 and is non-refundable."

Section 12. Section 2.09.110 is hereby amended as follows:
"2.09.110 License: Each ~~Builder's Contractor's~~ Business License issued under this chapter shall state upon its face the following:

- (a) The name of the licensee.
- (b) The address of the licensee.
- (c) A unique license number established by the District.
- (d) The date of issuance.
- (e) The date of expiration.

(f) Such other information as the District shall determine."

Section 13. Section 2.09.120 is hereby deleted:

~~"2.09.120 Replacement License:~~

~~(a) A replacement Builder's Business License shall be issued upon receipt by the District of a completed application for a replacement license and payment of a \$20 fee to replace any otherwise valid license previously issued which has been lost, destroyed or mutilated. The expiration date for the replacement license shall be the same date as provided on the original license issued to the builder.~~

~~(b) Each application for a replacement shall contain:~~

- ~~(1) The name of the business making application.~~
- ~~(2) The name of a contact person in the business.~~
- ~~(3) The address of the principal place of business.~~
- ~~(4) The telephone number of the business.~~
- ~~(5) State of Oregon Builder's Board registration number.~~
- ~~(6) Date of application.~~
- ~~(7) Such other information as the District shall determine.~~

~~(Ordinance No. 88-248, Sec. 1)~~

Section 14. Section 2.09.130 ~~120~~ is hereby amended as follows:

"2.09.130 120 Renewal: Each builder contractor or landscape contractor requesting renewal of a license must make application, as described in Section 2.09.070 of this chapter, to the District upon forms provided and prescribed by the District. The completed application for renewal of the Builder's Contractor's Business License shall be filed with the fee described in Section 2.09.100 of this chapter with the District before a renewal license is issued."

Section 15. Section 2.09.140 is hereby amended as follows:

"2.09.140 130 Revocation:

- (a) A license issued under this chapter may be revoked by the District, after notice, for any of the following reasons:
- (1) Fraud, misrepresentation or false statement contained in the application for the license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying out the licensed activity.
 - (3) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
 - (4) Failure to comply with the ordinances and resolutions of a jurisdiction within the boundaries of the District in which the license holder is conducting business authorized by this license.

(b) Notice of revocation of a license shall be given in writing to the licensee setting forth the grounds of the complaint. Such notice shall be mailed by certified mail at least ten (10) working days before the date of revocation to the licensee at the address that appears on the application for the license being revoked. Revocation shall be effective ten (10) working days after notice of revocation."

Section 16. Section 2.09.150 ~~140~~ is hereby amended as follows:

"2.09.150 ~~140~~ Appeal of a Revoked License or Denied Application:

Any ~~builder contractor or landscape contractor~~ aggrieved by the action of the District in denying an application for or revocation of a ~~Builder's Contractor's~~ Business License is entitled to appeal action under the provisions of Metro Code Chapter 2.05."

Section 17. Section 2.09.160 ~~150~~ is hereby amended as follows:

"2.09.160 ~~150~~ Penalty: Any ~~builder contractor or landscape contractor~~ who fails to comply with or violates any provision of this Chapter is subject to penalties under Section 1.01.110 of this Code. In the event that a provision of this Chapter is violated by a firm or corporation, the officer or ~~builder contractor or landscape contractor~~ responsible for the violation shall be subject to the penalty provided in Section 1.01.110 of this Code."

Section 18. Section 2.09.170 160 is hereby amended as follows:

"2.09.170 160 Distribution of Fees: The District shall distribute the Builder's Contractor's Business License fees collected by the District under this chapter to participating jurisdictions after the District has received reimbursement for administrative expenses incurred in carrying out the provisions of this chapter. At least once a year, each participating jurisdiction shall receive a share of the Builder's Contractor's Business License fees collected by the District based on a ratio of the ~~total of the dollar amount~~ number of residential building permits issued by all ~~each~~ participating jurisdictions to the total ~~dollar amount~~ number of residential building permits issued during that year by ~~each~~ all participating jurisdictions."

Section 19. Section 2.09.180 170 is hereby amended as follows:

"2.09.180 170 Regulations: The Executive Officer may establish such other Builder's Contractor's Business License regulations, not inconsistent with this chapter, as may be necessary and expedient."

Section 20. Section 2.09.190 and 2.09.200 are hereby deleted:

~~"2.09.190 Operative Date: For the purpose of administering this program, entering into intergovernmental agreements with participating jurisdictions, collecting fees and issuing licenses, this ordinance is operative immediately upon passage."~~

~~"2.09.200 Effective Date: No Builder's Business License shall be effective before July 1, 1988."~~

~~(Ordinance No. 88-248, Sec. 1)~~

Section 21. This ordinance being for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this ordinance takes effect upon passage.

Adopted by the Council of the Metropolitan Service District
this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

mgs\FIN\OR91-411.AMD

Council
10/24/1991
7.4



Housing Planning Workplan

October 1991

Planning and Development
Department

METRO

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I. Purpose

The purpose of the proposed Housing Planning Work Program is to explore and develop the foundation for Metro's contribution to the region's affordable housing strategy. The work program will guide Metro in the further identification of regional housing issues and the development of regional housing strategies in cooperation with local governments. The foundation for Metro's contribution will be based on a thorough understanding and analysis of existing housing conditions and the relationship of housing, specifically affordable housing, to employment opportunities, transportation, and the general urban form of the region. This document outlines the tasks that will enable Metro to assist with the effort to understand and develop strategies to meet regional housing needs.

II. Metro's Housing Objectives

The Regional Urban Growth Goals and Objectives (RUGGO) state:

"Objective 11. Housing"

"There should be a diverse range of housing types available inside the UGB, for rent or purchase at costs in balance with the range of household incomes in the region. Low and moderate income housing needs should be addressed throughout the region. Housing densities should be supportive of adopted public policy for the development of the regional transportation system and designated mixed use urban centers."

The RUGGO's also propose planning activities which lead to a new regional housing policy as follows:

- "1) Strategies should be developed to preserve the region's supply of special needs housing and existing low and moderate income housing."
- "2) ... Upon identification of unmet housing needs, a region-wide strategy shall be developed which takes into account subregional opportunities and constraints, and the relationship of market dynamics to the management of the overall supply of housing. In addition, that strategy shall address the "fair share" distribution of housing responsibilities among the jurisdictions of the region, including the provision of supporting social services."
- "3) If, following ... (a) needs analysis, certain income groups in the region are found to not have affordable housing available to them, strategies shall be developed to focus land use policy and public and private investment towards meeting that goal."

- "4) The uses of public policy and investment to encourage the development of housing in locations near employment that is affordable to employees in those enterprises shall be evaluated and, where feasible, implemented."

III. Housing Planning in the Region

City and County Policies

Housing policies are some of the key factors that shape the existing housing situation in this region. Some local governments have policies but no strategies, while some have both but no housing program. Some examples of local government housing policies are provided below as examples of existing housing policies in the region. A summary of State and Federal housing policies are also provided in this section.

As required by State law all cities and counties must prepare a comprehensive plan, zoning ordinances (or development code) and building codes. These documents form the basis for local policies that affect housing activities and conditions. Some cities have more specific housing policies.

For example, the City of Portland has adopted many housing policies and has an ongoing Housing Advisory Committee, a citizen committee charged with advising the City on housing policy issues. Some of the City's housing policies are: 1) the Mayor's "12 Point Program for the Homeless"; 2) assisting in planning for lower income or subsidized housing opportunities; 3) support for public and private actions which increase housing choice and neighborhood stability; 4) "no net loss" (an ordinance calling for the replacement of lost or converted dwelling units within zones where gentrification is occurring); 5) fair housing (i.e., encouraging and supporting equal access to housing throughout the City for all people regardless of race, color, sex, marital status, religion, national origin or physical or mental handicap); and 6) encouraging and assisting the continuing maintenance and rehabilitation of housing.

In Washington County, the Comprehensive Framework Plan contains housing policies such as policies 21 (Housing Affordability - encouraging the housing industry to provide an adequate supply of affordable housing for all households in the unincorporated urban county area), 22 (Housing Choice and Availability), 23 (Housing Condition) and 24 (Housing Discrimination).

The County's plan also identified seven implementing strategies that will be used to achieve these policies. These strategies include: 1) provision for an average density of at least 8 units per net buildable acre; 2) streamlining the development review process to reduce the regulatory costs associated with land development, while improving the quality of review; 3) use of the regulatory process in the Community Development Code to permit the creation of a second dwelling unit within detached dwellings where possible; 4) review design and development standards for residential projects as part of an effort to reduce unnecessary housing costs while maintaining housing and neighborhood quality; 5) review the utilization of residential planned

densities on a periodic basis to determine if any Plan changes are required; 6) encourage compatible development in partially developed residential areas to make optimal use of existing urban service facility capacities and maximize use of the supply of residential land; and 7) assist state and local public housing agencies in the development of subsidized housing opportunities.

Other examples of local housing policies may be found in the cities of Troutdale and Happy Valley. The Troutdale Comprehensive Plan has many policies which are aimed towards maintaining affordable housing. For example, fees and charges which may impact housing are supposed to be reviewed regularly, the process of issuing permits for land development will be streamlined as necessary in order to reduce delays that translate into higher development costs, encouraging a mix of housing types, and improving the quality of deteriorated housing stock.

The Happy Valley Comprehensive Plan encourages the development of secondary residential units on existing single family lots. These units have been defined as

"...an auxiliary dwelling unit within an existing single-family dwelling, or a detached dwelling unit with separate plumbing and kitchen facilities. These units are intended to provide housing for single persons, elderly couples and others who wish to or must restrict homemaking activities and/or those on limited incomes who otherwise may not be able or willing to support a full-sized dwelling, yet shun the more crowded apartment or condominium style of housing".

As of 1987, approximately 10 percent of the existing housing stock was determined to be easily converted into secondary units. An additional 5 percent of the housing stock was in use as secondary units.

State Policies

Perhaps the best known state housing policy is the Oregon land use planning system comprising Goals, state planning statutes, and administrative rules for which cities and counties, who have land use planning jurisdiction, must show compliance. The first of these, the Statewide Planning Goals, includes Goal 10 - Housing, which broadly states how land use plans are to accommodate housing. Further, the land use plans are to

"...encourage the availability of adequate numbers of housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density."

Another major State land use goal, Goal 14 - Urbanization, calls for an inventory of lands realistically available for residential development to be completed by cities and counties.

The Oregon Revised Statutes (ORS 197.295-197.313) has several requirements which relate to needed housing in Urban Growth Areas. Land inventory available for development within the urban growth boundary must address how housing types will be determined to meet the need

shown for housing within the boundary at particular price ranges and rent levels, including projected unmet need.

However, in the greater Portland metropolitan area, the Metropolitan Housing Rule, is substituted for compliance with the above guidelines of Goal 10. The Metropolitan Housing Rule is intended to improve the efficient use of land within the urban growth boundary, increase the development process certainty, and reduce housing costs.

Accordingly, the cities and counties in the region must make sure that their plans and zoning provide for at least 50 percent of new residential units to be something other than single family detached housing, and, the average density as calculated from their plans and zoning must be either 6, 8 or 10 units to the acre.

Other State housing policies affecting this region are the Unified State Building Code and Oregon Benchmarks. The building code is adopted wholly, or in portion, by cities and counties. The basic reason for the code is to insure that structures are constructed so that they are safe. The State has not stated how the current Oregon Benchmarks will be implemented. The benchmark document sets measurable standards for progress throughout the State. For housing, several benchmarks have been proposed. One of the critical benchmarks is to make housing more affordable. The state, in 1980 had 53% of households below median income spending less than 30 percent of their household income (including utilities) on housing. By 1995, the goal is to increase this to 75 percent, and by the year 2000, to 90 percent. In addition, it is also proposed that the ratio of the price of a home that a median income Oregon household can afford, to the median price of Oregon homes for sale be no greater than 1.2 to 1. As a longer-term goal, the document recommends reducing the number of Oregonian who are homeless from 30,000 (1990) to 20,000 in 1995, and 5,000 in the year 2010.

Federal Policies

Many federal housing policies affects local housing conditions because they are tied to the federal funding of local programs. However, there are few policies which affect housing regardless of whether federal funding is involved. These include the Fair Housing Act (prohibiting housing discrimination on the basis of race, color, religion, national origin, sex, handicapped or family composition), the Americans with Disabilities Act of 1990 (making buildings, including housing, more accessible to those who may be disabled), and the Community Reinvestment Act (encouraging financial institutions such as banks and savings and loans to help meet the credit needs of their local community, including low and moderate-income neighborhoods).

Some of the federal funding that affect local housing policies and conditions include Community Development Block Grants, the Secretary's Discretionary Fund, Rental Rehabilitation loans (section 312), Urban Homesteading, Emergency Shelter Grants, Enterprise Zone Development, Supportive Housing Demonstration projects (transitional and permanent), Supplemental Assistance for Facilities to Assist the Homeless, Mortgage insurance (Low and Moderate Income

Families section 221(d)2), Housing in Declining Neighborhoods, section 223(e), Special Risks (section 237), Multi-family Rental Housing for Moderate-Income Families (section 221(d)3) and (4)), Assistance to Nonprofit Sponsors of Low and Moderate Income Housing (section 106b), Lower-Income Rental Assistance and Moderate Rehabilitation Program (section 8), and Direct Loans for Housing the Elderly or Handicapped (section 202).

In addition, Congress recently adopted the National Affordable Housing Act of 1990 and its related HOME Program which will allocate funds for urban and rural communities. For local jurisdictions to receive assistance within the provisions of this Act, a "Comprehensive Housing Affordability Strategy" (CHAS) addressing housing needs and assessing how local policies impact housing must be submitted to the Secretary of HUD.

IV. Affordable Housing Issues and Challenge

Metro's Housing Issues Report, completed in March 1991, contains a preliminary analysis of regional housing issues. Based on information from local housing experts and published materials there are three major issues of concern.

First, there is the issue of whether housing production in this region should be more compact or spread out. There were arguments that if the urban growth boundary is not expanded growth will be restricted for housing and transportation. The implications of development densities for the provision of transit services is also a concern to some people. Arguments in support of no expansion of the urban growth boundary and high density development claim that there is high economic and environmental costs associated with urban sprawl. Tri-Met is currently studying the relationship between transit and urban form. The 1000 Friends of Oregon and Homebuilders Association of Metropolitan Portland recently completed a study which concluded that not all local governments in the region complied with the density mandate in the Metropolitan Housing Rule.

The second issue is that there is a wide gap between median household income and the median housing price. According to local housing experts the magnitude of the gap varies among communities. The three counties (and their local governments) applying for HUD's HOME Program fund are currently analyzing the unmet housing needs in their respective jurisdictions through the CHAS process.

Finally, some communities are not providing enough housing of a cost and type to match the type and number of jobs created in their areas. Some of the impacts of this imbalance include traffic congestion, air quality degradation and concentration of low-income housing in one jurisdiction and moderate or high-income housing in another jurisdiction. Some local housing experts also claim that some local governments do not consider housing availability simultaneously with the consideration of the creation of new jobs.

The workplan recommends a compilation of the three CHAS analyses in order to determine the

regional context of the unmet affordable housing need. The compilation and synthesis of the CHAS and the job/housing balance analysis will provide a framework to begin regional discussions about the "fair share" distribution of affordable housing. In addition, case studies of housing cost and housing financing are recommended to determine innovative ways of reducing overall cost of housing production and increasing financing tools for public and private developers of affordable housing in the region. In order to determine whether an imbalance exists between a community's job pool and housing inventory the workplan recommends a job/housing balance analysis.

V. Regional Housing Work Program

In order to fulfill the goals, objectives and planning activities included within the RUGGO, the following housing activities are recommended:

- Task 1. Compile the three CHAS now being completed for the three counties, assess how they "fit together", and identify regional issues, if any, that emerge.
- Task 2. Complete a jobs/housing balance analysis, to examine whether there are regional issues which need to be addressed.
- Task 3. Prepare case studies of: A) housing costs, B) innovative housing programs throughout the country, and C) financing mechanisms. The purpose would be to see whether there are steps that the region should take to address housing issues.
- Task 4. Maintain coordination between housing issues and other Metro projects, especially the Region 2040 and Infill and Redevelopment projects.
- Task 5. Improve and maintain Metro's housing data base.
- Task 6. Pursue quarterly regional housing forums, addressing all of the issues listed above.
- Task 7. Publish a quarterly information piece called the Metropolitan Housing Network.

TASK 1. Regional Housing Needs Analysis Coordination

Purpose: The purpose of compilation and analysis of the three counties' CHASs is to determine the regional context of unmet housing needs and to further explore Metro's possible contribution to the region's affordable housing strategies. This regional look at affordable housing and demand will also provide a starting point from which to begin discussions about "fair share" distribution of affordable

housing.

Definition: The National Affordable Housing Act of 1990 and its related HOME Program will allocate funds for urban and rural communities. Funding for HOME and other HUD programs requires qualifying local governments to develop a CHAS. HUD guidelines for the development of a CHAS include the following:

1. The estimated housing needs for the next 5 years for very low-income, low-income and moderate income families, including special subcategories such as the elderly, large families, persons with AIDS, and others, and the number projected to be served;
2. A description of the nature and extent of homelessness;
3. A description of the significant characteristics of the jurisdiction's housing market;
4. An explanation of whether public polices such as "...land use controls, zoning ordinances, building codes, fees and charges, growth limits and policies that affect the return of residential investment..." affect the cost of housing or efforts to improve affordable housing, and if they do, means of minimizing these impacts;
5. A description of the institutions, including private industry as well as nonprofit organizations and public institutions, as well as the means of coordination, by which the housing strategy will be implemented;
6. An accounting of the resources, private and non-Federal, that will be made available;
7. An explanation of an investment plan for the Federal funds to be used;
8. A description of the means for cooperation and coordination among the State and general purpose local governments;
9. An accounting of the number, condition and restoration needs of public housing units; and,
10. A description of activities to encourage public housing residents to become more involved in the management of their housing projects or participate in home ownership.

Work Elements:

- 1a. Review and synthesize the three CHASs in a regional context.
- 1b. Depict general differences in housing conditions and markets for present and projected population in different parts of the region, including the availability of affordable housing for special needs and low and moderate income households.
- 1c. Determine subregional opportunities and constraints, and the relationship of market dynamics to the management of the overall supply of housing.
- 1d. Identify and evaluate proposed and alternative strategies for addressing regional housing needs, taking into account: a) preservation of the region's supply of special needs and existing low and moderate income housing; and b) subregional opportunities and constraints, and the relationship of market dynamics to the management of the overall supply of housing.

Product: Report describing the condition and amount of unmet affordable housing needs in relation to projected population and subregional constraints and market dynamics, and an assessment of strategies for increasing the supply and improving the distribution of affordable housing in the region.

Timeline: October 1991 to February 1992.

TASK 2. Jobs/Housing Balance Analysis

Purpose: To design and conduct a jobs/housing balance analysis to determine the balance/imbalance of job location and affordable housing in the region and in the region's employment areas. A balance is desired to reduce commute distances, to reduce transportation caused air pollution, and to ensure an accessible labor force for employers. An area is said to have a balance of jobs and housing if housing is available to workers at a near commute distance at a price affordable to workers' households. The analysis is designed as a pilot study. The analysis will begin the examination of job creation (location and type), the definition of employment centers and the housing pool that supports those centers. The job/housing balance analysis is intended as one source of information to guide policy development pertaining to affordable housing and job creation. In addition, this work will add to the information needed to begin discussions about "fair share" distribution of affordable housing.

Definition: The study will utilize a jobs/housing range indicator. The jobs/housing range indicator is the comparison of the quantity of housing units demanded at an affordable price to the quantity of housing units available at the same price level. This analysis will require the identification of employment centers in the region.

Definition of the housing pool that supports the employment centers must be also be determined. The housing pool can be defined using either commute time or distance from the employment center or by other measures. Wage rates, distribution of wages and the number of jobs generated by an employment center must be converted to household income and jobs per household. A jobs/housing balance analysis will provide one piece of information to consider as the region begins to look at job creation and the existence or lack of housing at a price level to match jobs created. The jobs/housing range should indicate the balance/imbalance in a regional context and within concentrated employment areas.

Work Elements:

- 2a. Prepare an RFP for economic consulting services to assist in the following tasks: 1) assist Metro staff in the further development of a jobs/housing analysis for the region and the pilot study areas; 2) develop a definition of affordable housing; 3) identification of the housing pool for the region and for the pilot study areas - estimate the cost and supply of housing in these areas; and 4) identification of employment centers.
- 2b. Using the data resources of Metro, identify a jobs/housing range for the region and the pilot study areas.
- 2c. Gather anecdotal information from major employers in the region regarding employees housing needs.

Product: A method for considering jobs/housing balance in the region and in subregions based on employment centers. Pilot studies completed for the region and several of the region's employment centers.

Timeline: This work effort is expected to be initiated near the end of the calendar year with the selection of an economic consultant. The completion date is expected to occur by June 1992.

Task 3. CASE STUDIES

TASK 3a. Analysis of Housing Costs

Purpose: Housing cost is a function of many elements of housing production, directly and indirectly related to the building itself. Examples of direct costs are land, interest rates, building materials, labor and development fees. Examples of indirect costs are environmental restrictions, labor laws, regulations relating to water quality

and impervious surfaces, erosion, and flooding. The intent is to analyze these elements and determine how cost savings can be achieved by substituting the cost variables associated with housing production elements. Results of the analysis will be used to educate government, private and public developers, lenders, the real estate community and the general public.

Definition: Housing cost is all the costs associated with the production of single family and multifamily (rental and ownership) housing. These costs include land acquisition, land development (including permit fees), construction, marketing and closing.

Work Elements:

- a1. Work with the development community to determine the various components that constitute the cost of producing a dwelling.
- a2. Develop a list of housing factors substitutes and use them to design housing cost scenarios that can be used to build affordable and good quality housing in this region.
- a3. Develop technical assistance program and/or manual to assist public and private developers and local government in building affordable housing.

Product: Report that outlines comparable costs of housing.

Timeline: October 1991 to June 1992.

TASK 3b. Assessment of Public/Private Housing Partnership Models to Meet Unmet Needs

Purpose: Explore potential for public/private sector partnership in this region.

Definition: Public/Private housing partnerships are formalized, permanent or nonpermanent arrangements created with the intent to increase the production of affordable housing. These arrangements are typically made among local or state governments, private funding sources, and private development agencies, usually non-profits.

Work Elements:

- b1. Report that describes local housing initiatives in this region and other parts of the country.
- b2. Report that analyzes regional housing partnerships showing the critical political,

social, economic and financial elements that are required.

Product: Assessment of public/private sector partnerships in other parts of the country and conditions for developing them in this region.

Timeline: August 1991 to February 1992.

TASK 3c. Assessment of Financing Mechanisms to Meet Unmet Housing Needs

Purpose: Find ways of getting funds for housing organizations in this region (i.e., funds not currently available to them).

Definition: Financing comes in different forms depending on the type financier, developer, or buyer. Both public and private organizations finance housing development in the form of tax-credits, market and low interest (or reduced-rate mortgage) loans, grants and debt financing. Buyers receive housing financing in the form of market rate mortgages, low interest mortgages and mortgage credit certificates.

Work Elements:

- c1. Report that describes and analyzes housing financing tools used by public and private developers including non-profits, and showing how these tools can be secured and used to meet unmet housing needs.

Product: Housing financing strategies.

Timeline: August 1991 to February 1992.

TASK 4. Coordination of Housing and Other Related Projects

Purpose: To assure that the housing products are available and consistent with other Metro planning efforts including the Urban Infill and Redevelopment Project, Region 2040, Urban Reserves Project, Metro Greenspaces and the projects and computer models to be completed solely by the Transportation Department

Definition: This task includes communicating with the project leaders so that the housing projects listed in this work program reflect Metro policies. In addition, this task will include having the housing work understood by the other project leaders.

Work Elements:

- 4a. Review list of projects with department management.

- 4b. Review housing work program with project leaders review their work programs.
- 4c. Establish a method to track other projects and communicate with project leaders.

Product: Metro projects which are consistent with each other. Minimizing the duplication of data gathering, other work efforts.

Timeline: Ongoing.

TASK 5. Regional Housing Database

Purpose: Provide a more complete and easily assessable database that planners and analysts need to understand and analyze changes in housing needs, support existing programs and develop new programs which address the housing needs of this region.

Work Elements:

- 5a. Work with Metro's Data Resource Center, state and local governments to assemble housing information and data relevant to this region. The data will include, at a minimum, total existing units by type, developer (public or private), geographic areas, price and rental information by type of units and geographic areas, total and type of households in need of housing, and homebuyer and renter assistance information.
- 5b. Develop an annual Regional Housing Information Report.

Product: Computer database of housing information for the Portland metropolitan area and a regional housing information bulletin.

Timeline: October 1991 to June 1992 and ongoing.

TASK 6. Regional Housing Forums

Purpose: To provide a means to discuss regional housing issues and foster a comprehensive "housing providers'" network.

Definition: Public, half-day meetings in which critical housing issues are discussed and debated.

Work Elements:

- 6a. Establish place and time for housing forums.
- 6b. Establish speakers, panels, themes for forums. Possible forum topics could include CHAS, cost analyses and case studies.
- 6c. Update mailing list.
- 6d. Distribute flyers.
- 6e. Arrange for meeting place details (refreshments, parking etc.)

Product: Quarterly housing forums

Timeline: Each quarter following approval of this work plan.

TASK 7. Metropolitan Housing Network

Purpose: To provide an additional means of communicating housing information to the region.

Definition: A section of the Metro Planning News focusing on the region and its housing issues.

Work Elements:

7a. Establish theme, design shell.

7b. Write and edit section.

Product: A new/special housing section of the Metro Planning News.

Timeline: Quarterly, after the approval of the work program.